



Wellfleet Selectboard

Note: Start Time of 7pm

The Wellfleet Selectboard will hold a public meeting on **Tuesday, July 11, 2023, at 7:00 p.m.** The Chapter 2 of the Acts of 2023, this meeting will be conducted in person and as a courtesy via remote means, per 940 MCR 29.10 and the Town's Remote Participation Policy. While an option for remote attendance and/or participation is provided as a courtesy to the public, the meeting/hearing may not be suspended or terminated if technological problems interrupt the virtual broadcast unless otherwise required by law.

Joining the Meeting:

In-person at the Wellfleet ACC, 715 Old King's Highway, Wellfleet, MA, 02667

Join the meeting hosted in Zoom by using the following link:

<https://us02web.zoom.us/j/85689604806?pwd=blplVFFBZzViQ0xNWkZKMm9iMVdrdz09>

By Phone: **phone to +1 929 205 6099** and enter **Meeting ID: 856 8960 4806** | **Passcode: 611877** Landline callers can participate by dialing *9 to raise their hand.

To Participate during public comment:

- Zoom: Raise hand to be called on to speak.
- Phone: dial *9 to raise your hand.

It is at the Chair's discretion to call on members of the public. All speakers must be recognized to speak. If attending a meeting in person, please find the closest available microphone and confine any personal conversations to the outside of the meeting room. Anyone may record the session but must notify the Chair and may not interfere with the meeting to record it.

Additionally, the meeting will be broadcast live, in real time, via live broadcast on Comcast cable (Wellfleet Government TV Channel 18), also available via livestream or Video on Demand (VOD) recordings at wellfleet-ma.gov

I. *Announcements, Open Session and Public Comments*

Note: *Public comments are limited to no more than two minutes per speaker. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*

II. *Consent Agenda*

III. *Community Updates*

A. Police Department fourth of July weekend update

IV. *Public Hearing*

A. Beach Rules and Regulations ~ Maguire's Landing/Lecount Landing Beach to be a resident and Taxpayer Beach permanently ~ Suzanne Grout Thomas

V. *Use of Town Property*

A. Sacred Surf School, LLC ~ Jay Pawa ~ Whitecrest Beach, surf lessons for groups of no more than 10 people.

- B. Collective Dynamics ~ Leigh Cremin ~ varies sidewalk and grassy areas to do street performances with her 2x2 chalkboard for “Word Play” ~ see application for further details.
- C. Rebecca Arnoldi ~ Nature classes/walks ~ Newcomb Hollow, Mayo Beach August through September.
- VI. ***Board/Committee Appointments and Updates***
 - A. Appointment of Jeffrey Korgen to the Wellfleet Planning Board
- VII. ***Zoning Bylaws for Special Town Meeting Warrants***
 - A. Inclusionary Zoning
 - B. Cottage Colonies
 - C. Intensity of Use of Multi-Family Dwellings
 - D. Developments of Significant Planning Interest and Food Establishments
 - E. Definition of Trees
 - F. Cutting of Timber Amendment
 - G. Landscape and Tree Preservation Bylaw
 - H. Locally Notable Trees
 - I. Zoning Enforcement Penalty
- VIII. ***Special Town Meeting Warrant***
 - A. The board will review and may take votes on articles for the September town meeting.
- IX. ***Business***
 - A. Special Town Election ~ Date to be chosen ~ Selectboard.
- X. ***Selectboard Reports***
- XI. ***Town Administrator’s Report***
- XII. ***Topics for Future Discussion***
- XIII. ***Vacancy Reports***
- XIV. ***Minutes***
 - A. June 20, 2023
- XV. ***Adjournment***



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023

I

ANNOUNCEMENTS, OPEN SESSION, AND PUBLIC COMMENTS

REQUESTED BY:	Wellfleet Selectboard
DESIRED ACTION:	Announcements to the board and public
PROPOSED MOTION: SUMMARY:	NOTE: <i>Public comments are limited to no more than two minutes per speaker.</i> The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023

II

CONSENT AGENDA

REQUESTED BY:	Various Parties
DESIRED ACTION:	To approve the following without objection
SUMMARY:	I move to approve the following items with no objection: There are no items on the consent agenda for this meeting.



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023



COMMUNITY UPDATES

~ A ~

REQUESTED BY:	Kevin LaRocco ~ Deputy Police Chief
DESIRED ACTION:	To update the board on the fourth of July weekend around town and Cahoon Hollow Beach
PROPOSED MOTION:	No action is needed for this agenda item
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition (s):
VOTED:	

To: Deputy Chief Kevin M. LaRocco

From: Lieutenant Michael Turner

Date: July 6, 2023

Subject: July 4th Weekend update

Deputy Chief,

The July 4th weekend drew the normal influx of tourists to the area. We added extra patrol officers for the day and evening shifts on Saturday, Sunday, Monday, and Tuesday for this reason. We also had 6 Officers on ATV's spread out between the beach, the parking lot, and one officer stationed on Ocean View Drive at Cahoon Hollow Road at the drop off point. Between Saturday July 1 through Tuesday July 4th, we responded to 52 calls for service, 3 of which were noise complaints, and the rest were basic low priority calls. We responded to 5 motor vehicle accidents, one of which resulted in the operator being summonsed to court for operating under the influence of alcohol. The parade was a success with the weather being less than perfect, but the heavy rain held off until near the end. Not one parking ticket was issued and no major issues resulted from the traffic delays caused by the road closures.

As for Cahoon Hollow Beach, Saturday, we saw 13 bus drop offs at the top of Cahoon Hollow Road. Officers confiscated one bottle of vodka that was being brought off a bus. 2 over-intoxicated females were asked to leave the beach and soon after left with the group they arrived with. Had a report after the fact of a male party urinating off the dunes in plain sight of beachgoers. An officer found a bus stopped on the side of Long Pond Road with 4 male parties urinating in the woods.

On Sunday, we had 15 bus drop offs. Officers requested 7 different groups of people to dump out various alcoholic beverages with complete compliance.

Monday there were 5 bus drop offs with one intoxicated individual that required police intervention. The individual was escorted off the beach based on his level of intoxication and volatile nature. He was escorted to the top of the hill by officers and was eventually picked up by a ride share company with a responsible party. Another group of beach goers attempted to bring a case of hard cider to the beach and when advised of the alcohol restrictions they decided to leave.

Tuesday 3 buses dropped off beach goers without incident.

The total number of buses for the 4 days was 36, compared to last year when we had just over 100 buses in only 3 days. Last year it was estimated that we had over 500 ride shares, and taxi drop offs, whereas this year that number is estimated to be around 200 for the four days.

I think the restrictions that have been put in place should be considered a huge success. I personally spoke with one person who advised me that he and his family have been coming to Cahoon Hollow beach during the 4th of July weekend for over 20 years and this was the best time they have had in many years. Officer Spigel also spoke with a few people who were very pleased with how the alcohol restrictions have quieted the beach down. I think we need to stay on top of this situation so that we don't fall back to where we were before.

Respectfully submitted,

Lieutenant Michael Turner



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023

III

PUBLIC HEARINGS

~ A ~

REQUESTED BY:	Suzanne Grout Thomas ~ Community Services and Beach Director
DESIRED ACTION:	Vote to make Maguires Landing at LeCount Hollow to be permanent resident and taxpayer beach only.
PROPOSED MOTION:	I move to approve Maguire's Landing at LeCount Hollow to be a resident and taxpayer beach only.
SUMMARY:	
Project	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

TOWN OF WELLFLEET
PUBLIC HEARING

In accordance with M.G.L. Chapter 132A, Section 16; notice is hereby given that a public hearing will be held on Tuesday, July 11, 2023, at 7:00 p.m. both virtually and at the Wellfleet Community Center (715 Old King's Highway) to consider the following:

- Amendment of Wellfleet's Beach Rules and Regulations – to consider making Maguire's Landing/LeCount's Hollow a residential/taxpayer beach.

Join Zoom Meeting

<https://us02web.zoom.us/j/85689604806?pwd=blplVFFBZzViQ0xNWkZKMm9iMVdrdz09>

Meeting ID: 856 8960 4806

Passcode: 611877

Dial by your location

+1 929 205 6099 US (New York)

WELLFLEET SELECTBOARD



SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: July 11, 2023

V

USE OF TOWN PROPERTY

~ A ~

REQUESTED BY:	Sacred Surf LLC, ~ Jay Pawa
DESIRED ACTION:	To approve the use of Whitecrest Beach for surf lessons
PROPOSED MOTION:	I move to approve Jay Pawa of Sacred Surf LLC, to use Whitecrest Beach for surf lessons for small groups. For a fee of \$385.00
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

APPLICATION FOR PERMIT TO USE TOWN OWNED PROPERTY

TOWN OF WELLFLEET
300 MAIN STREET
WELLFLEET, MA 02667

Applicant Jay Pawa Affiliation or Group Sacred Surf School, LLC

Telephone Number 508-514-1555 Mailing Address 4900 State Hwy, Eastham, MA

Email address: sacredsurfschool@gmail.com

Town Property to be used (include specific area) Whitecrest Beach

Date(s) and hours of use: June-Labor Day

Describe activity including purpose, number of persons involved, equipment to be used, parking arrangements, food/beverage service, etc. Also, please indicate if fees will be charged by applicant.

Surf Lessons, 2-10 people, surfboards, wetsuits, \$75-120.

Describe any Town services requested (police details, DPW assistance, etc.)

Beach stickers for handful of instructors.

NOTE TO APPLICANTS: All applications must be accompanied by a non-refundable \$50.00 processing fee. Applications must be received at least 30 days prior to the first event date to ensure that all reviews can be completed prior to the event. This application is only for permission to use Town property. Any additional licenses, such as food service permit, etc., may be required and it is the applicant's responsibility to secure the same.

Action by the Board of Selectmen:

Approved as submitted

Approved with the following condition(s):

Disapproved for following reason(s):

Date:

Processing Fee: \$50.00

Fee:

APPLICANT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSPECTIONS

Health/Conservation Agent: <i>ok - Meredith Ballinger</i> Comments/Conditions: Permits/Inspections needed:	Inspector of Buildings: <i>N/A</i> Comments/Conditions: Permits/Inspections needed:
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Police Department: <i>ok - Kevin Labacco</i> Comments/Conditions:	Fire Department: <i>Chief Pauley - ok</i> Comments/Conditions:
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DPW: <i>ok - Jay Norton</i> Comments/Conditions:	Community Services Director: <i>ok Suzanne Thomas</i> Comments/Conditions:
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Harbormaster: Comments/Conditions	Shellfish: Comments/Conditions
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Recreation: <i>N/A</i> Comments/Conditions	Town Administrator: Comments/Conditions
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/27/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Frazier Insurance Agency, Inc. P O. Box 1250 Midlothian, VA 23113-1250	CONTACT NAME:		FAX
	PHONE (A/C, No, Ext) (804) 754-7610		(A/C, No): (804) 754-7613
	E-MAIL ADDRESS:		
	INSURER(S) AFFORDING COVERAGE		
INSURED Sacred Surf School LLC 4900 State Hwy. Eastham, MA 02642	INSURER A: Fortegra Specialty Insurance Company		NAIC # 16823
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
	INSURER F:		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> INCLUDES ATHLETIC PARTICIPANTS GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			Policy #: KSG2000000-01 Cert #: CMA-S-0008	05/15/2023	09/16/2023 12:01 AM	EACH OCCURRENCE \$ 1,000,000.00 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000.00 MED EXP (Any one person) \$ 5,000.00 PERSONAL & ADV INJURY \$ 1,000,000.00 GENERAL AGGREGATE \$ 2,000,000.00 PRODUCTS - COM/PROP AGG \$ 2,000,000.00 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

Sacred Surf School LLC
4900 State Hwy.
Eastham, MA 02642

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

John W. Frazier



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	E-MAIL ADDRESS: 	
INSURER(S) AFFORDING COVERAGE INSURER A: Fortegra Specialty Insurance Company		NAIC # 16823
INSURED Sacred Surf School LLC 4900 State Hwy. Eastham, MA 02642	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

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	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is An Additional Insured, But Only As Regards The Operations Of The Named Insured.

CERTIFICATE HOLDER
 Cape Cod National Seashore
 99 Marconi Site Rd.
 Wellfleet, MA 02667
CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

John W. Frazier



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DATE (MM/DD/YYYY)

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COVERAGES

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	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000.00
	<input checked="" type="checkbox"/> INCLUDES ATHLETIC PARTICIPANTS						MED EXP (Any one person) \$ 5,000.00
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						PERSONAL & ADV INJURY \$ 1,000,000.00 GENERAL AGGREGATE \$ 2,000,000.00 PRODUCTS - COMP/OP AGG \$ 2,000,000.00
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> OWNED AUTOS ONLY						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS ONLY						PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS						\$
	<input type="checkbox"/> NON-OWNED AUTOS ONLY						\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	<input type="checkbox"/> OCCUR						AGGREGATE \$
	EXCESS LIAB						\$
	<input type="checkbox"/> CLAIMS-MADE						\$
	DED RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is An Additional Insured, But Only As Regards The Operations Of The Named Insured.

CERTIFICATE HOLDER

CANCELLATION

Town of Wellfleet
300 Main St.
Wellfleet, MA 02667

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

John W. Frazier

"NOTICE TO INSURED

THE INSURANCE POLICY THAT YOU HAVE APPLIED FOR HAS BEEN PLACED WITH OR IS BEING OBTAINED FROM AN INSURER APPROVED BY THE STATE CORPORATION COMMISSION FOR ISSUANCE OF SURPLUS LINES INSURANCE IN THE COMMONWEALTH, BUT NOT LICENSED BY OR REGULATED BY THE STATE CORPORATION COMMISSION OF THE COMMONWEALTH OF VIRGINIA. THEREFORE, YOU, THE POLICYHOLDER, AND PERSONS FILING A CLAIM AGAINST YOU ARE NOT PROTECTED UNDER THE VIRGINIA PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION ACT (§§ 38.2-1600 et seq.) OF THE CODE OF VIRGINIA AGAINST DEFAULT OF THE COMPANY DUE TO INSOLVENCY. IN THE EVENT OF INSURANCE COMPANY INSOLVENCY YOU MAY BE UNABLE TO COLLECT ANY AMOUNT OWED TO YOU BY THE COMPANY REGARDLESS OF THE TERMS OF THE INSURANCE POLICY. AND YOU MAY HAVE TO PAY FOR ANY CLAIMS MADE AGAINST YOU.

_____ (Name of Surplus Lines Broker);

_____ (License Number);

_____ (Broker's Mailing Address)."



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023

V

USE OF TOWN PROPERTY

~ B ~

REQUESTED BY:	Leigh Cremin ~ Collective Dynamics
DESIRED ACTION:	To approve the use of various places throughout Wellfleet to do street performing with a chalkboard
PROPOSED MOTION:	I move to approve the use of various places throughout Wellfleet to perform "Word Play" with a chalkboard and chalk.
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

APPLICATION FOR PERMIT TO USE TOWN OWNED PROPERTY

TOWN OF WELLFLEET
300 MAIN STREET
WELLFLEET, MA 02667

Applicant LEIGH I CREMIN

Affiliation or Group

COLLECTIVE DYNAMICS CORP
(UNDER FORMATION) DOING
BUSINESS AS HYDRO PUNK

Telephone Number (203) 710-1527

Mailing Address

POB 1614

Email address leigh.cremin@gmail.com

No. EASTHAM, MA 02561

Town Property to be used (include specific area)

Wellfleet public areas incl.

Sidewalks, grassy area perimeter of public parking lots

w/o incurring
any obstruction
to pedestrian or
vehicular
traffic

Date(s) and hours of use:

daily 7am - 9pm usually 2-4 hours at a time

Describe activity including purpose, number of persons involved, equipment to be used, parking arrangements, food/beverage service, etc. Also, please indicate if fees will be charged by applicant.

STREET PERFORMANCE (I USE A 2' X 2' CHALKBOARD
AND CHALK AND PERFORM "WORD PLAY.")

Describe any Town services requested (police details, DPW assistance, etc.)

access to potable water and restroom

NOTE TO APPLICANTS: All applications must be accompanied by a non-refundable \$50.00 processing fee. Applications must be received at least 30 days prior to the first event date to ensure that all reviews can be completed prior to the event. This application is only for permission to use Town property. Any additional licenses, such as food service permit, etc., may be required and it is the applicant's responsibility to secure the same.

Action by the Board of Selectmen:

_____ Approved as submitted.

_____ Approved with the following condition(s): _____

_____ Disapproved for following reason(s): _____

Date: _____

Processing Fee: \$50.00

Fee: _____

(over)

APPLICANT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSPECTIONS

Health/Conservation Agent: OK - Meredith Balling Comments/Conditions: Permits/Inspections needed:	Inspector of Buildings: N/A Comments/Conditions: Permits/Inspections needed:
---	--

Police Department: OK - Kevin Palumbo Comments/Conditions:	Fire Department: OK - Chief Pauley Comments/Conditions:
---	--

DPW: OK - Jay Norton Comments/Conditions:	Community Services Director: OK - Suzanne Thomas Comments/Conditions:
--	--

Harbormaster: N/A Comments/Conditions:	Shellfish: N/A Comments/Conditions:
---	--

Recreation: N/A Comments/Conditions:	Town Administrator: Comments/Conditions:
---	--



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023

V

USE OF TOWN PROPERTY

~ C ~

REQUESTED BY:	Rebecca Arnoldi ~
DESIRED ACTION:	To approve the use of Cahoon Hollow and Mayo Beach for nature walks and calming classes
PROPOSED MOTION:	I move to approve the use of Cahoon Hollow and Mayo Beach for nature walks and calming classes for a fee to be negotiated with the Community Service Director.
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

APPLICATION FOR PERMIT TO USE TOWN OWNED PROPERTY

TOWN OF WELLFLEET
300 MAIN STREET
WELLFLEET, MA 02667

Applicant Rebecca Arnoldi Affiliation or Group Be Body & Earth

Telephone Number 617-935-1548 Mailing Address 1527 Baker Ave

Email address rebecca.arnoldi@yahoo.com Wellfleet, MA

Town Property to be used (include specific area) programs - Newcomb Hollow,
Mayo Beach, Uncle Tim's / Duck Creek

Date(s) and hours of use: July - September 2023

Describe activity including purpose, number of persons involved, equipment to be used, parking arrangements, food/beverage service, etc. Also, please indicate if fees will be charged by applicant.

yoga on the beach, nature walks, different
nature programs, various hours and locations.
(Have spoken with Suzanne & Becky)
mindful marsh walks.

Describe any Town services requested (police details, DPW assistance, etc.)

no services needed

NOTE TO APPLICANTS: All applications must be accompanied by a non-refundable \$50.00 processing fee. Applications must be received at least 30 days prior to the first event date to ensure that all reviews can be completed prior to the event. This application is only for permission to use Town property. Any additional licenses, such as food service permit, etc., may be required and it is the applicant's responsibility to secure the same.

Action by the Board of Selectmen:

_____ Approved as submitted.

_____ Approved with the following condition(s): _____

_____ Disapproved for following reason(s): _____

Date: July 5, 2023

Processing Fee: \$50.00

Fee: _____

APPLICANT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND INSPECTIONS

Health/Conservation Agent: <i>ok - Meredith Ballenger</i> Comments/Conditions: Permits/Inspections needed:	Inspector of Buildings: <i>N/A</i> Comments/Conditions: Permits/Inspections needed:
--	---

Police Department: <i>ok - Chief Kevin Palocco</i> Comments/Conditions:	Fire Department: <i>ok - Rich Fauley</i> Comments/Conditions:
--	--

DPW: <i>ok - Jay Norton</i> Comments/Conditions:	Community Services Director: <i>ok - Suzanne Thomas</i> Comments/Conditions:
---	---

Harbormaster: <i>N/A</i> Comments/Conditions:	Shellfish: <i>N/A</i> Comments/Conditions:
--	---

Recreation: Comments/Conditions	Town Administrator: Comments/Conditions
---	---

BE Body and Earth- Yoga Nature & Art Adventures!
(Rebecca Arnoldi DBA be body and earth)

Mission: Deepen body awareness, ecological awareness & creativity to promote health & wellbeing of participants and the life that surrounds us.

Promotes:

- **connection** with self, community and the natural world
- **health** and wellbeing
- **grounding** and calm
- **strength, stability** and flexibility
- **creativity**
- **positive ecological choices & protection** of the natural world

Programs:

Yoga: Gentle Kripalu style trauma-sensitive yoga

Nature Walks: guided nature explorations

•**Beach walk** :A peaceful walk along the beach to explore the flora and fauna we see and find. Explore traits of resiliency that help these beings survive harsh conditions. Our exploration will be guided by the interests and findings of participants.

•**Marsh Walk:** Explore a tidal salt marsh and the flora and fauna we see there. Explore traits of resiliency that allow these beings to survive harsh conditions. Stretches breath awareness, and mindful walking to connect more deeply with our surroundings and ourselves. Our walk will be guided by the interests and findings of participants.

•**Tree ID Walk:** Explore branching patterns, bark, buds, leaves, flowers and fruits of the trees we see and the cultural and natural history of the different species that surround us. Participants will learn how to identify several common trees.

Art: Observational expressive drawing & watercolor open to all levels. Beginners welcome!

BE Body and Earth Adventures:

*BE Beach: Yoga+ Nature + Art +optional free write

*BE Marsh: Nature walk+ Art +optional

free write

*BE Tree: Yoga/Mindfulness+ Nature +Art + optional free

write



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/17/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Citadel Insurance Services, LC 2600 W Executive Pkwy, Ste 500 Lehi UT 84043	CONTACT NAME: Alternative Balance LLC PHONE (A/C No, Ext): 1-800-871-3848 FAX (A/C No): 1-800-871-3848 E-MAIL ADDRESS: contact@alternativebalance.com	
	INSURER(S) AFFORDING COVERAGE INSURER A : Hudson Excess Insurance Company INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :	NAIC # 14484
INSURED Rebecca Arnoldi, DBA DBA Be Body and Earth 89 Naples Road Brookline MA 02446		

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY			WELL-00003-AH147618	05/17/2022	05/17/2023	EACH OCCURRENCE \$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	<input checked="" type="checkbox"/>					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 5,000
	<input checked="" type="checkbox"/> Professional Liability (Claims Made)						PERSONAL & ADV INJURY \$ included
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						GENERAL AGGREGATE \$ 3,000,000
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR						EACH OCCURRENCE \$
	EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE						AGGREGATE \$
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y/N	<input type="checkbox"/> N/A				E.L. EACH ACCIDENT \$
	Professional Liability (Claims Made)			WELL-00003-AH147618	05/17/2022	05/17/2023	Included

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

It is understood and agreed that the Certificate Holder is named as Additional Insured per attached CG 20 26 - Additional Insured - Managers or Lessors of Premises subject to all policy terms, conditions, and exclusions.

CERTIFICATE HOLDER United States of America, DOI, NPS- Cape Cod National Seashore 99 Marconi Site Road Wellfleet MA 02667	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Anthony Eardley
---	---

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Schedule

Name of Additional Insured Person(s) or Organization(s):

Per individual Certificate of Coverage.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. SECTION II - WHO IS AN INSURED is amended to include as an Additional Insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. in the performance of your ongoing operations; or
2. in connection with your premises owned by or rented to you.

However:

1. the insurance afforded to such additional insured only applies to the extent permitted by law; and
2. if coverage provided to the Additional Insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these Additional Insureds, the following is added to SECTION III – LIMITS OF INSURANCE:

If coverage provided to the Additional Insured is required by a contract or agreement, the most we will pay on behalf of the Additional Insured is the amount of insurance:

1. required by the contract or agreement; or
2. available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023



BOARD/COMMITTEE APPOINTMENTS AND UPDATES

~ A ~

REQUESTED BY:	Jeffry Korgen
DESIRED ACTION:	To be appointed to the Planning Board as a voting member
PROPOSED MOTION: SUMMARY:	I move to approve the appointment of Jeffry Korgen to the Wellfleet Planning Board as a voting member, to be sworn in by the town clerk and to take the required ethics class on line before voting at a public meeting.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____



**TOWN OF WELLFLEET
APPLICATION FOR TOWN BOARDS & COMMITTEES MEMBERSHIP**

Wellfleet depends on its citizens to carry out many of our government's activities. Your community needs your help. *Please volunteer.*

FILL OUT THE FORM BELOW and mail it to:

Wellfleet Selectmen's Office, Town Hall, 300 Main Street, Wellfleet, MA 02667

Name Jeffry Korgen Date 6-20-2023

Mailing Address 20 Ryder Ct.
Wellfleet, MA 02667

Phone (Home) _____ (cell) 862-485-5807

E-mail jkorgen@gmail.com

Please describe briefly any work experience, including volunteer service, that you feel would be useful to the Town: _____

In my 32 career in ministry, I focused the latter 15 years of my career on planning and evaluation, working six years as executive director for diocesan planning for the Catholic Diocese of Metuchen and nine years as a consultant working with church and churchy organizations on special projects related to planning and evaluation. This experience has helped me develop skills transferable to the municipal scene. I also did evaluation for church community development grants including grants focused on affordable home ownership.

Please add any other information that you think may be useful, including education or other formal training, specialized courses, professional licenses or certifications, etc.:

MSW as well as MA in Pastoral Ministry from Boston College.

Committees/Boards of Interest: 1) Planning Board
2) _____
3) _____

Town of Wellfleet Boards and Committees

Bike & Walkway Committee	3 year term
Board of Assessors	3 year term
Board of Health	3 year term
Board of Water Commissioners	3 year term
Building and Needs Assessment	3 year term
* Bylaw Committee	3 year term
Cable Advisory Committee	1 year term
Cape Cod Commission	3 year term
*Cape Cod Regional Technical High School	(ATM)
*Charter Review Committee	(ATM)
Commission on Disabilities	3 year term
Community Preservation Committee	3 year term
Comprehensive Wastewater Management	3 year term
Conservation Commission	3 year term
Council on Aging	3 year term
Cultural Council	3 year term
Energy Committee	3 year term
* Finance Committee	3 year term (ATM)
Health Care Campus Committee	Indefinite
Historical Commission	3 year term
Housing Authority	5 year term (ATM)
Local Housing Partnership	1 year term
Marina Advisory Committee	2 year term
Natural Resources Advisory Committee	3 year term
Open Space Committee	1 year term
Personnel Board	3 year term
Planning Board	5 year term
Recreation Committee	3 year term
Recycling Committee	3 year term
Shellfish Advisory Board	3 year term
* Social and Human Services Committee	3 year term
Zoning Board of Appeals	3 year term

VACANCIES IN BOLD

* *Appointed by Moderator*

09/16/19



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023

VII

ZONING BYLAWS

~ A ~

REQUESTED BY:	Selectboard ~ Inclusionary Zoning
DESIRED ACTION:	To review and amend inclusionary bylaw to be placed on the special town meeting warrant
PROPOSED MOTION:	I move to approve and recommend the Inclusionary Zoning Bylaw as amended and send it to the Planning Board to hold a public hearing.
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

ARTICLE NO. ## INCLUSIONARY ZONING BYLAW

To amend Chapter 235, Article II DEFINITIONS by inserting the following definitions in alphabetical order and to amend Chapter II by adding a new Section 6.28 Inclusionary Zoning Bylaw as follows:

§235 - 2.1 Definitions

Affordability Gap – the difference between the appraised value of a market-rate dwelling units within the proposed development and the appraised value of an affordable housing unit in Wellfleet comparable to the market-rate unit in terms of type, size and number of bedrooms and calculated at the time of sale or issuance of a certificate of occupancy, whichever occurs sooner, for any market-rate unit in the proposed development . Affordable Housing Unit - a dwelling unit that is affordable to and occupied by a Low- or Moderate- Income Household and meets the requirements for inclusion on the Subsidized Housing Inventory maintained by the Department of Housing and Community Development.

Affordable Housing Restriction – A deed restriction entered into and enforceable under G.L. c. 184, §§31-33 in a form acceptable to the Town that restricts occupancy of an affordable housing unit to a low- or moderate- income-eligible purchaser or renter and which provides for the administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period allowed by law.

§235 – 6.28 INCLUSIONARY ZONING BYLAW

§235 – 6.28.1 Purpose and Intent

The purpose of this bylaw is to encourage development of housing that is affordable to persons of various age and income levels in accordance with Massachusetts General Law, Chapter 40A, Section 9, which allows municipalities to adopt “incentive” bylaws for the creation of affordable year-round housing, and for the purposes of:

- A. Helping people who, because of rising land prices, have been unable to obtain suitable housing at an affordable price; and,
- B. Encouraging the creation of a range of housing opportunities for households of all incomes, ages and sizes in order to support a strong, stable and diverse year-round community and a viable and healthy local workforce and to prevent the displacement of Wellfleet residents;
- C. Mitigating the negative impact of residential development on the availability and cost of housing;
- D. Protecting the long-term affordability of such housing through appropriate, enforceable restrictions that run with the land;
- E. Creating dwelling units eligible for inclusion on the Town’s Chapter 40B Subsidized Housing Inventory as maintained by the Department of Housing and Community Development (DHCD).

§235 6.28.2 Applicability

In the CD, R1, R2, C and C2 zoning districts, the inclusionary zoning provisions of this section shall apply to any project that results in a net increase of three or more dwelling units as part of a single application, whether by new construction, a change in use, or by the alteration or rehabilitation of existing structures, provided, however, this bylaw shall not apply to nursing homes

§235 6.28.3 Mandatory Provision of Affordable Housing for Development of New Residential Units

In order to contribute to the local stock of Affordable Housing, any residential project that results in a net increase of three or more dwelling units as part of a single application as described in Section 6.28.2 shall provide a percentage of the dwelling units as deed restricted Affordable Housing units. This Affordable Housing requirement shall be one-sixth (16.67%) of the number of new dwelling units to be developed rounded up to the nearest whole number and shall be made a condition of a Special Permit, or the applicant shall meet the requirement in accordance with the following:

- A. Development of 3 to 6 new dwelling units shall require the granting of a Special Permit by the Zoning Board of Appeals per §235 8.4.2 and a Payment in Lieu of providing the required number of affordable units to be made to the Wellfleet Affordable Housing Trust Fund to fulfill the Affordable Housing requirement.
 - (1) Payment shall be made in accordance with the following formula:
 - For 3-4 new dwelling units, the Payment in Lieu= (total # of new dwelling units)x(16.67%)x(affordability gap)x(67%)
 - For 4-6 new dwelling units, the Payment in Lieu= (total # of new dwelling units)x(16.67%)x(affordability gap)x(100%)
 - (2) The applicant shall pay for all appraisals, and the Town shall approve the applicant's chosen appraiser
 - (3) The Payment in Lieu shall be due:
 - a. upon the issuance of a certificate of occupancy of any unit in the development; or
 - b. The total Payment in Lieu shall be divided by the total number of market rate units in the development, and the resulting quotient shall be payable upon the closing of each market rate unit
- B. Development of 7 or more new dwelling units shall require the granting of a Special Permit by the Zoning Board of Appeals per §235 8.4.2 and at least one-sixth (16.67%) of the new units created shall be established as Affordable Housing units in any one or combination of methods provided for below:
 - (1) The Affordable Housing units shall be constructed or rehabilitated on the site subject to the Special Permit, in accordance with **§235 Section 6.28.4**; or
 - (2) The Affordable Housing units shall be constructed or rehabilitated on a site other than the one subject to the Special Permit, in accordance with **§235 6.28.4**, provided justification is provided that on-site development of units is not feasible and off-site development of units is beneficial to the Town, and applicable Building or Zoning Permits are granted contemporaneously for both developments; or

- (3) A Payment in Lieu of providing Affordable Housing units shall be made to the Wellfleet Affordable Housing Trust Fund. Payment shall be made in accordance with the following formula:
- a) For 7 or more new dwelling units, the Payment in Lieu = (total # of new dwelling units)x(16.67%)x(affordability gap)x(150%)
 - b) The applicant shall pay for all appraisals, and the Town shall approve the applicant's chosen appraiser
 - c) The Payment in Lieu shall be made at and upon the sale or certificate of occupancy of each unit, whichever occurs sooner. When the development consists of year-round rental units, memorialized in the affordable deed restriction which states that the Payment in Lieu shall be deferred until such time as the year-round rental use ceases, with the full balance due upon change of use at current market rate; or
- (4) A Land Donation in Lieu of providing Affordable Housing units shall be provided to the Wellfleet Affordable Housing Trust, provided that:
- a) The receiving organization agrees in writing to accept the land; and
 - b) The applicant demonstrates to the Zoning Board of Appeals' satisfaction that the land serves the future development of Affordable Housing; and
 - c) The value of donated land shall be equivalent to or greater than the value of the required Payment in Lieu. The Zoning Board of Appeals may require, prior to accepting land as satisfaction of the requirements of this bylaw, that the applicant submit an appraisal of the land in question that was prepared by a licensed appraiser using professionally accepted methods, as well as other data relevant to the determination of equivalent value, and the Zoning Board of Appeals may obtain expert peer review of the appraisal at the applicant's expense; and
 - d) Closing on the land donation shall occur before the issuance of the first building permit.

§235 6.28.4 Provisions Applicable to Affordable Housing Units Located On-Site and/or Off-Site

- A. Affordable Housing units created in accordance with this bylaw shall have a deed restriction and Regulatory Agreement to regulate the future re-sale or rental of the unit and that requires the units to remain income restricted in perpetuity or the longest period allowed by law. Said deed restriction and Regulatory Agreement shall be consistent with the forms used in the Local Initiative Program and Regulatory Agreement approved by DHCD. The Regulatory Agreement shall be prepared in a form acceptable to Town Counsel by the Applicant and submitted for review and approval. The Regulatory Agreement will be executed by the Applicant, the Town of Wellfleet and DHCD and shall be recorded with the Barnstable County Registry of Deeds or and
- B. The applicant shall be responsible for preparing and submitting any documentation that may be required to receive Local Action Unit approval from DHCD and to qualify the Affordable Housing Units for listing on the SHI. The applicant shall also be responsible for providing annual compliance monitoring and certification to the Town or its monitoring agent and to pay for the costs of the Town for providing such compliance monitoring.

- C. No Building Permit shall be issued for any units in the development until the Zoning Board of Appeals receives evidence that the Affordable Housing deed restriction has been approved by DHCD or by Town Counsel.
- D. No Certificate of Occupancy shall be issued for any units in the development until the Building Commissioner receives evidence that the Affordable Housing deed restriction has been executed and recorded at the Barnstable County Registry of Deeds or that the Payment in Lieu has been made in accordance with this bylaw or as modified by the Special Permit conditions.
- E. Affordable Housing units shall be integrated with the rest of the development or with the off-site location and shall be comparable to and indistinguishable from market rate units in exterior design, including appearance, construction and quality of materials, and in energy efficiency.
- F. The number of bedrooms in each Affordable Housing unit shall be made a part of the Special Permit and shall be based on local need as determined by the Zoning Board of Appeals in consultation with the Wellfleet Housing Authority.
- G. Owners and tenants of on-site Affordable Housing units and market rate units shall have the same rights and privileges to access and use any of the development's amenities and facilities.
- H. The development of Affordable Housing units shall take place at the same rate and timeframe as the development of market rate units.
 - 1) Building Permits for any phased development shall be issued at a ratio of no greater than five (5) market rate units to one (1) Affordable Housing unit. Building Permits for subsequent phases shall not be issued unless all the required Affordable Housing units in the preceding phase are constructed and the deed restrictions recorded. The last unit permitted, constructed and occupied shall be a market rate unit.
 - 2) The project may also be constructed in its entirety with all permits issued at once, provided that the occupancy permits are issued at a ratio of five (5) market rate units to one (1) Affordable Housing unit. The last certificate of occupancy to be issued shall be for a market rate unit and shall not be issued unless and until all Affordable Housing units are occupied.

§235 6.28.5 Maximum Incomes and Selling Price; Affordable Housing Inventory

Maximum rents and/or sale price shall not exceed 30% of an occupant's or tenant's annual income for a household at or below 80% of Area Median Income adjusted by household size.

§235 6.28.6. Segmentation Prohibition

Developments shall not be phased or segmented to avoid compliance with conditions or provisions of this bylaw. "Segmentation" shall be defined as subdividing one parcel of land into two or more parcels of land in such a manner that each parcel can support only a single dwelling unit or phased development that cumulatively results in a net increase of three or more dwelling units above the number existing thirty-six (36) months earlier on any parcel or set of contiguous parcels held in common ownership or under common control on or after the effective date of this Section.

§235 6.28.7 Conflict with Other Bylaws

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

§235 6.28.8 Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of Wellfleet's Zoning Bylaws.



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023

VII

ZONING BYLAWS

~ B ~

REQUESTED BY:	Selectboard ~ Cottage Colonies
DESIRED ACTION:	To review and amend if needed the cottage colonies zoning bylaw
PROPOSED MOTION: Summary:	I move to approve and recommend the cottage colonies zoning bylaw as amended and send it to the Planning Board to hold a public hearing.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

Black pre-existing language in Wellfleet's Zoning Bylaws

Strikethrough is where a delation is being made in the current language, underlined is additions.

ARTICLE XX Amending Wellfleet Zoning By-Laws, Cottage Colony

To see if the Town will amend the Wellfleet Zoning By-Laws by amending Chapter 235, Article II DEFINITIONS as follows:

§235 - 2.1 Definitions

Cottage Colony - A group of two or more detached dwellings located on the same lot not within the NSP, each containing one dwelling unit only which is designed for independent family living including cooking facilities. Each unit shall contain not less than ~~550~~ 300 sq. ft. of floor area and not more than ~~768~~ 800 sq. ft.

Cottage Colony NSP - A group of two or more detached dwellings located on the same lot within the NSP, each containing one dwelling unit only which is designed for independent family living including cooking facilities. and occupied on a seasonal basis only. Seasonal shall be defined as a period commencing April 1 of each calendar year and terminating November 30 of the same calendar year. Each unit shall contain not less than ~~550~~ 300 sq. ft. of floor area and not more than ~~768~~ 800 sq. ft

Summary: The changes in floor area bring a number of the pre-existing cottage colonies into compliance with zoning. 250 sq ft of floor area is the minimum allowed for two people to reside in per state codes. Wellfleet has a number of cottages in colonies that are well below 550 sq. ft. An example is Brownies cabins out of a total of thirteen cottages, nine are below 550 sq. ft. This would also enable a property owner to build a cottage colony with modest structures that could serve as homes for those just starting on their own or are looking to downsize. The change from 768 sq ft to 800 sq ft is a reflection that there are cottage colonies where there are units that are slightly over 768 sq. ft. 800 sq ft also is a standardized size that is easy to measure. Cottage Colilys would remain permitted by special permit only in the districts they are currently allowed in.



SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: July 11, 2023

VII

ZONING BYLAWS

~ C ~

REQUESTED BY:	Selectboard
DESIRED ACTION:	The review, approve and amend if needed the Intensity of Use of Multi-Family Dwellings
PROPOSED MOTION:	I move to approve and recommend the Intensity of Use of Multi-Family Dwellings zoning bylaw as amended and send it to the Planning Board to hold a public hearing.
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

Intensity of Use of Multi-Family Dwellings

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by deleting the text that is struck-through as follows, or to do or act on anything thereon:

A. By Amending Chapter 235 Section 5.4.5 Intensity of Use Application to Multiple Family Dwellings by striking the section:

~~5.4.5 Intensity of Use Application to Multiple Family Dwellings~~

~~The first unit of a multiple family dwelling or of an apartment building shall require a minimum land area equal to the lot requirements of the district in which located. Each additional unit will require 8,000 square feet of land area. Front, side and rear yard and maximum building coverage requirements of the district in which the structures located shall apply. (Amended 4/30/85 ATM, Art. 64.~~

Summary: Multifamily Dwellings are allowed by special permit in the Commercial District. The minimum lot size in the commercial district is 40,000 square feet. The requirement to have an additional 8,000 sq ft effectively prohibits multifamily housing on a significant proportion of lots in the Commercial District and limits the number of potential dwellings as well. This does not change the number of bedrooms allowed on a parcel, just how they are configured. The intent here is to provide a greater opportunity for diversity in Wellfleet's housing stock to better suit the needs of our population.



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023



ZONING BYLAWS

~ D ~

REQUESTED BY:	Selectboard
DESIRED ACTION:	To review, approve and amend if needed the Developments of Significant Planning Interest and Food Establishment Zoning Bylaw
PROPOSED MOTION:	I move to approve and recommend the Developments of Significant Planning Interest and Food Establishment Zoning Bylaw as amended and send it to the Planning Board to hold a public hearing.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

Developments of Significant Planning Interest and Food Establishments

To see if the Town will amend the Wellfleet Zoning By-Laws by repealing the existing Chapter 235 - Section 6.29, Fast Food & Formula Restaurant Prohibition and replacing it with a new Chapter 235 - Section 6.29, Development of Significant Planning Interest and Food Service Establishments and by amending Chapter 235 -Sections 2.1, 5.3, and 8.4.2. by inserting text shown as underlined and deleting text that is ~~struck through~~ as follows, or take any action related thereto:

A. By amending Chapter 235 – Article II – Section 2.1 DEFINITIONS by inserting in alphabetical order new definitions for “Development of Significant Planning Interest,” “Food Establishment: Bakery,” “Food Establishment: Full-Service Restaurant,” “Food Establishment: Take-Out Restaurant,” “Food Establishment: Fast Food Restaurant,” and “Food Establishment: Drive-through Facility” and deleting the definitions of “Restaurant,” “Restaurant Drive-In,” “Restaurant Fast Food” and “Restaurant, Formula” as follows:

Development of Significant Planning Interest: Any of the Food Establishment categories defined in this By-law, Boat House, Commercial; Bulk Storage, Open; Bulk Storage, Tanks; Filling Station; Motor Vehicle Repair Shop; Motor Vehicle Sales; and Warehouse, or Other Commercial Developments involving more than 2,500 square feet of floor area, or Commercial Developments in the Central District.

Food Establishment: Bakery - A commercial food service establishment primarily engaged in the preparation and retail sale of baked goods for consumption on or off the premises. A bakery may include, as an accessory use, wholesale distribution of goods prepared on the site.

Food Establishment: Ice Cream Parlor - An establishment where the primary activity is the retail sale of ice cream, frozen yogurt and/or similar products for consumption on or off the premises; provided, however, that this definition shall not apply to restaurants where such ice cream, ices, or beverages are sold and consumed in connection with the serving of meals.

Food Establishment: Full-Service Restaurant – A commercial food service establishment where (1) meals are primarily freshly cooked and prepared to order on-premises and are served primarily for consumption on the premises, either indoors or outdoors; (2) customers may be provided with individual menus; (3) a restaurant employee serves the customers at the same table or counter where the meals are consumed. For purposes of this definition, “prepared” does not include warming or re-heating food that was assembled off-site. A Full-Service

Restaurant operation may include ancillary bakery, delivery service and/or take-out service but may not include a drive-through facility.

Food Establishment: Take-Out Restaurant – A commercial food service establishment where (1) food is primarily freshly cooked or prepared on site by employees; (2) food and beverages are sold in disposable containers for off-premises consumption only; (3) the customers pick up their orders either at a counter inside the building or at a walk-up window. For purposes of this definition, “prepared” does not include warming or re-heating food that was assembled off-site. A Take-Out Restaurant operation may include an ancillary delivery service but may not include a Drive-through facility.

Food Establishment: Fast Food Restaurant – A commercial food service establishment whose principal business is the sale of food and beverages served pre-packaged and ready-to-eat or quickly prepared upon a short waiting time and packaged and presented in such a manner that it can readily be eaten on or off the premises, characterized by high sales volume and frequent customer turnover. Meals and beverages that are not cooked or prepared fresh on the premises are served, principally in disposable containers. For purposes of this definition, “prepared” does not include warming or reheating food that was assembled off-site. For purposes of this bylaw, Food Establishment: Fast Food Restaurant shall not include Food Establishment: Bakeries or Food Establishment: Ice Cream Parlor as defined herein.

Food Establishment: Drive-through Facility – A drive-up window or a mechanical device where customers waiting in motor vehicles may order and/or pick up prepared food and beverages from a food service establishment.

~~**Restaurant** – A building or part thereof to be used for the preparation, indoor sale, and consumption of meals and refreshments on the premises. Seating area for a restaurant may include open or outdoor terrace or patio upon issuance of a Special Permit. ATM 4/23/90~~

~~**Restaurant, Drive-In** – Premises where meals and other items of nourishment and refreshment are offered for sale, and where any portion of these are consumed or intended to be consumed off premises or within cars parked on the premises. ATM 4/23/90.~~

~~**Restaurant, Fast Food** – A restaurant with drive-up window service, or that otherwise receives payment and/or dispenses products to patrons while in their vehicles. (ATM 4/25/11)~~

~~**Restaurant, Formula** – A restaurant that stands alone or with other use(s), and which prepares food and beverage on site for sale to the public, and which is required by contractual or other arrangement or as a franchise to offer any of the following features: Standardized menu, trademark or service mark, defined as a word, phrase, symbol, design or logo, or a combination of words, phrases, symbols, designs and/or architecture, façade, or color scheme that identifies the restaurant as one (1) of twenty five (25) or more other restaurants worldwide. (ATM 4/25/11)~~

B. By amending Chapter 235, Section V – Uses, Table 5.3.2 – Commercial, by striking from the table the uses of “~~Restaurant, Indoor,~~” “~~Restaurant Drive-In,~~” “~~Restaurant Fast Food,~~” and “~~Restaurant Formula~~” and inserting the uses of “Food Establishment: Bakery”; “Food Establishment: Full-Service Restaurant”; “Food Establishment: Take Out Restaurant”; “Food Establishment: Fast Food Restaurant”; and “Food Establishment: Drive-Through Facility”, which shall be allowed by special permit (A) or prohibited (O) as follows in the various zoning districts:

5.3.2 Use Regulations:

5.3.2 Commercial	CD	R1	R2	NSP	C	C2
<u>Food Establishment: Bakery</u>	<u>A</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>A</u>	<u>O</u>
<u>Food Establishment: Full-Service Restaurant</u>	<u>A</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>A</u>	<u>O</u>
<u>Food Establishment: Take-Out Restaurant</u>	<u>A</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>A</u>	<u>O</u>
<u>Food Establishment: Fast Food Restaurant</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>
<u>Food Establishment: Drive-through Facility</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>
<u>Food Establishment: Ice Cream Parlor</u>	A	O	O	O	A	
Restaurant, Indoor ⁸	A	Ø	Ø	Ø	A	Ø
Restaurant, Drive-In ⁹	Ø	Ø	Ø	Ø	A	Ø
Restaurant, Fast Food ¹⁰	Ø	Ø	Ø	Ø	Ø	Ø
Restaurant, Formula ¹¹	Ø	Ø	Ø	Ø	Ø	Ø

C. By repealing Chapter 235-Section 6.29 – Fast Food & Formula Restaurant Prohibition in its entirety and replacing it with a new Chapter 235, Section 6.29 - Developments of Significant Planning Interest by inserting the following underlined text:

6.29.1-Purpose:

The purpose of this bylaw is to regulate the location, traffic, scale, impacts, and visual features of Developments of Significant Planning Interest in Wellfleet to maintain the unique, small-scale, small-town character and the quality of life for all Wellfleet residents by preserving the individuality and distinctive appeal which are among the Town’s most recognized features. Preservation of the existing character, diversity, variety, and scale of commercial activities is vital to the continuation of Wellfleet’s ability to attract both residents and visitors. Wellfleet

must retain its distinctive Cape Cod character, general welfare, and historical and cultural relevance.

This bylaw incorporates by reference and shall be construed consistently with the policy direction of the Town's Comprehensive Plan, the Cape Cod Commission Act, the enabling act of the Cape Cod National Seashore, and Wellfleet's designated historic districts, with which Wellfleet is intimately and intricately associated.

6.29.2 Application Requirements

Applicants for Special Permits for uses so controlled as **Developments of Significant Planning Interest** shall submit to the Zoning Board of Appeals three copies of the following:

- a) An application identifying the intended use and narrative description of the proposed use;
- b) A site plan prepared by a licensed architect, licensed landscape architect, or Registered Professional Engineer, showing proposed structures, building design, lighting, drives, parking, landscaping, screening, dust mitigation, and provision for stormwater management and drainage;
- c) A floor plan for all floors, an elevation plan of all sides of the proposed building and a plan or rendering showing the proposed building in relation to adjoining structures and abutting properties;
- d) A plan showing the dimensions, type, location and elevations of all proposed signs; and
- e) photographs of the premises in its current condition and all adjoining structures.

Forthwith upon receipt of the above materials, the Board of Appeals shall transmit one set of them to the Planning Board for their review and recommendation.

6.29.3 Special Permits for Development of Significant Planning Interest

6.29.3.1 Boat House, Commercial; Bulk Storage, Open; Bulk Storage, Tanks; Filling Station; Motor Vehicle Repair Shop; Motor Vehicle Sales; and Warehouse.

In addition to Sections 8.4.2.1, 8.4.2.2, and 8.4.2.3 of this Bylaw, the following shall be considered by the Special Permit Granting Authority prior to the issuance of a special permit for the following uses, **Boat House, Commercial; Bulk Storage, Open; Bulk Storage, Tanks; Filling Station; Motor Vehicle Repair Shop; Motor Vehicle Sales; and Warehouse.**

- (a) whether the proposed use will increase the intensity of use on the site so as to adversely impact land uses in the area, pedestrian or motor vehicle traffic or the public welfare;
- (b) whether the proposed design and any other improvements to the site are compatible with the existing architecture and unique aesthetic appearance of the zoning district;

(c) whether the proposed design retains the historic characteristics if located within a designated historic district.

(d) whether the proposed design preserves the character-defining elements of an historic building, if applicable, and its setting when adapting to a new use.

(e) the use of permeable pavement or pavers for parking areas and walkways ;

(f) whether the proposed use will generate noise, dust, odor, glare, fumes, vibration, risk of fire or explosion or similar noxious impacts to surrounding properties and whether these impacts can be sufficiently mitigated;

(g) whether the proposed use includes the storage or presence of hazardous and/or combustible materials;

(h) the overall impact of the proposed use on the health and safety of area residents.

6.29.4 Food Service Establishments (all) or Other Commercial Developments involving more than 2,500 square feet of floor area, or Any Commercial Developments in the Central District

In addition to Sections 8.4.2.1, 8.4.2.2, and 8.4.2.3 of this Bylaw, the following shall be considered by the Special Permit Granting Authority prior to the issuance of a special permit; provided, however, that the Special Permit Granting Authority shall not require strict compliance with the design criteria contained in this section with respect to pre-existing nonconforming structures as of the date of adopting this zoning amendment at the Spring 2023 Annual Town Meeting but may grant waivers when the Special Permit Granting Authority finds such waiver(s) to be in the best interests of the Town or that strict compliance would cause an undue financial hardship to the food service establishment or that strict application of the design criteria would not be consistent with the existing style or character of the pre-existing nonconforming food service establishment:

(a) Whether the proposed use is designed and operated in a manner that preserves the community's distinctive small-town character, including the following:

- (1) the use of natural shingles or clapboards as exterior finishes;
- (2) exterior lighting uses gooseneck or similarly designed fully shielded downward-facing lighting and shall eliminate light trespass onto streets or abutting parcels;
- (3) use of permeable pavement or pavers for parking areas and walkways;
- (4) whether the scale of the building is in keeping with a small-town, coastal setting;
- (5) Preserve the character-defining elements of an historic building, if applicable, and its setting when adapting to a new use.
- (6) whether the façade is broken up in terms of color scheme, use of materials and incorporates segments that protrude forward or are recessed to minimize the appearance of massing;

- (7) whether the design is compatible with the character of surrounding properties or the zoning district;
- (8) use of native plantings of a suitable size, diversity and hardiness to survive Cape Cod's climate and minimize use of water, herbicides and pesticides;
- (9) use of small-scale, painted wooden signs that are externally illuminated;
- (10) Whether the business model includes curb-side pick-up or delivery of food or goods to patrons in their vehicles; and
- (11) Accessibility of the development for disabled individuals.

(b) whether the proposed use contributes to the diversity of uses to assure a balanced mix of businesses available to serve residents and visitors;

(c) whether the proposed building design and any other improvements to the site are compatible with the existing architecture and unique aesthetic appearance of the zoning district;

(d) whether the proposed use will increase the intensity of use on the site so as adversely impact land uses in the area, pedestrian or motor vehicle traffic or the public welfare;

(e) whether the size, style and design of signage is appropriate to maintain the scale and character of Wellfleet;

(f) whether the proposed use will generate noise, dust, odor, glare, fumes, vibration, risk of fire or explosion or similar noxious impacts to surrounding properties and whether these impacts can be sufficiently mitigated;

(g) whether the proposed use includes the storage or presence of hazardous or combustible materials; and

(h) the overall impact of the proposed use on the health and safety of area residents.

6.29.5 Floor Area Applicability

Any increase in floor area shall be cumulative upon the adoption of this bylaw (ATM 2023).

~~**6.29 FAST FOOD & FORMULA RESTAURANT PROHIBITION (ATM 4/25/11)** Purpose: The Cape Cod seaside character of Wellfleet is unique, and is important to the people of the community and their collective identity as a community, as well as to the visiting public. Far more than most Cape Cod towns, Wellfleet retains its rural village character, which is integral to the fabric of the community. Wellfleet is also traditionally home to small, locally owned and operated businesses. In these senses, Wellfleet has maintained its identity in a manner rare in the region. The purpose and intent of the Formula Based Restaurant Prohibition is to address the adverse impact (in terms of noise, litter, traffic, and aesthetically inappropriate development) that standardized fast food and formula restaurants would have on Wellfleet's distinctive Cape Cod~~

~~character, general welfare, and historical and cultural relevance as a rural community. These uses are therefore prohibited in order to preserve and protect the unique and locally oriented community experience of Wellfleet, and all that this offers to its citizens and tourists alike as a treasured destination. This policy is also consistent with the policy direction of the Town's Comprehensive Plan, the Cape Cod 77 Commission Act, and the enabling act of the Cape Cod National Seashore, with which Wellfleet is intimately and intricately associated.~~

Summary: When Wellfleet adopted both the Formula Business and Fast Food & Formula Restaurant provisions in 2011, the Attorney General warned the Town that both provisions but noted that at the time, no court rulings had been made. Both provisions used substantially the same language and definitions. The following year, Cumberland Farms, Inc. v. Board of Appeals of the Town of Wellfleet and the Town of Wellfleet challenged the validity of Section 6.30 Formula Business. In 2015 a ruling was made invalidating Wellfleet's Formula Business provisions on the grounds that they (1) violated G.L. c.40A, §4, which requires that zoning regulations be uniform within a zoning district for each class or kind of structure or use permitted, and (2) imposed impermissibly vague and subjective special permit standards. We have also been advised that the definitions of Drive-In Restaurants and Fast Food Restaurants are likely too similar to prohibit one and allow the other. We have been informed by Town Counsel that the Fast Food and Formula Restaurants is similarly vulnerable to challenge. In order to protect the Town from development that it considers deleterious, we need to amend our Zoning Bylaw. This proposal retains the prohibition on Fast Food Restaurants, strengthens our definitions, and gives the Zoning Board of Appeals additional tools to protect the character of Wellfleet and extends them to some other commercial uses of particular concern. It also defines certain light industrial uses or scales as activities that require additional considerations to be taken into account.



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023

VII

ZONING BYLAWS

~ E ~

REQUESTED BY:	Selectboard
DESIRED ACTION:	To approve and recommend the Definition of Trees Zoning Bylaw
PROPOSED MOTION:	I move to approve and recommend the Definition of Trees Zoning Bylaw and to send it to the Planning Board to hold a public hearing.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

Article XX DEFINITIONS OF TREES

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending **§235 2.1** as follows:**§235 2.1 Definitions:**

Community Wildfire Protection Plan: A plan developed in the collaborative framework established by the Wildland Fire Leadership Council and agreed to by the local government, local fire department, federal land management agencies managing land in the vicinity of the planning area, and other stakeholders. A CWPP may address issues such as wildfire response, hazard mitigation, community preparedness, or structure protection - or all the above.

Invasive Plants: Plant species identified by the Massachusetts Invasive Plant Advisory Group as Invasive, Likely Invasive, or Potentially Invasive. [Link for reference]

Locally Notable Trees: Native trees with a girth of 120 inches or greater measured at breast height (4.5') or below the lowest branching trunk, whichever is less. Or tree species listed as Endangered, Threatened, or of Special Concern by Massachusetts

Timber: Woody plants and trees with a girth of sixteen (16) inches measured at breast height (4.5') or below the lowest branching trunk, whichever is less.

Tree Thinning: Tree removal in an immature forest stand that reduces tree density and between-tree competition performed by a certified arborist.

Summery: This adds definitions to the Zoning Bylaws in regards to trees and timber. This contains no applications of the definitions in and of themselves, but the definitions can be utilized by other bylaws.



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023

VII

ZONING BYLAWS

~ F ~

REQUESTED BY:	Selectboard
DESIRED ACTION:	To approve and recommend the Cutting of Timber Amendment Zoning Bylaw
PROPOSED MOTION:	I move to approve and recommend the Cutting of Timber Amendment Zoning Bylaw and to send it to the Planning Board to hold a public hearing.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

Article XX2 CUTTING OF TIMBER AMENDMENT

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending §235 6.9 as follows:

§235 6.9.1 CUTTING OF TIMBER WITHIN NSP

Within the National Seashore Park District, there shall be no cutting of timber except permitted by the Building Commissioner following reasons:

- (a) By an owner for the purpose of reasonably controlling brush or trees;
- (b) Maintenance cutting in pastures;
- (c) Cutting for clearance or maintenance on right-of-way including those pertaining to public utilities or public highways.
- (d) as specified in a **Community Wildfire Protection Plan** by the Wellfleet Fire Department or the National Park Service.
- (e) the removal of Invasive Plants as determined by a certified arborist.

Exemptions:

This section shall not apply to municipal projects.

Summary: This updates the “Cutting of Timber”. The assumption is that the current bylaw dates to the 1960s, and there was not much of an awareness of the detrimental impacts of most invasive species, and fewer were considered invasive. A Community Wildfire Protection Plan [CWPP] is seeks to mitigate some of the risks of a wildfire to life and property and would be developed under the aegis of the Town and the Park. As of now, there is not a CWPP but the park does issue fire safety recommendations to property owners, so this provision is future looking.



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023

VII

ZONING BYLAWS

~ G ~

REQUESTED BY:	Selectboard
DESIRED ACTION:	To review and recommend the Landscape and Tree Preservation Bylaw
PROPOSED MOTION:	I move to approve and recommend the Landscape and Tree Preservation Bylaw and send it to the Planning Board to hold a public hearing.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

Article XX3 Landscape and Tree Preservation Bylaw

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by inserting a new **§235 6.9.2** as follows:

§235 6.9.2 Landscape and Tree Preservation Bylaw

§235 6.9.2.1 Purpose: A wide variety of landscapes are necessary to provide a richness of habit required to support a diverse variety of species. Planting of native species in disturbed areas prevents those areas from being colonized by invasive species. Massachusetts General Law, Chapter 40A, Section 9, Fourth paragraph as amended by 2021, 24, Sec. 20 effective July 1, 2021. See 2021, 24, Sec. 149. allows municipalities to adopt “incentive” ordinances in a manner that protects open space.

§235 6.9.2.2

No construction or site preparation work shall be done on any land, resulting in the removal of greater than twenty percent (20%) of existing vegetation or **Timber** or a maximum area of disturbance of 10,000 sq ft, whichever is less or the grading of the site until any necessary permits and approvals have been obtained. If the total area of disturbance is greater than 12,500 sq ft, a special permit shall be required in all districts.

At the conclusion of all site work, including but not limited to the construction of structures, grading, and grubbing, the disturbed area must be re-vegetated with native species. In the absence of re-vegetation with native species of the disturbed area, a fee determined by the table [Table 6.9.2.3] shall be applied to be paid to the **Environmental Betterment Fund**. Landscaping with **Invasive Plants** is hereby prohibited.

Table 6.9.2.3

<u>Area not re-vegetated</u>	<u>Base Fee</u>	<u>Fee for area not re-vegetated</u>
<u>5,000-9,999 sq ft</u>	<u>\$100</u>	<u>25 ¢/sq ft</u>
<u>10,000-19,999 sq ft</u>	<u>\$100</u>	<u>50 ¢/sq ft</u>
<u>> 20,000 sq ft</u>	<u>\$100</u>	<u>75 ¢/sq ft</u>

Exemptions:

This section shall not apply to the removal of Invasive Plants as determined by a certified arborist, trees that are diseased in the opinion of a certified arborist, or the removal of trees threatening people, structures, roadways, or utilities.

This section shall not apply to municipal projects.

If Wellfleet adopts a Community Wildfire Protection Plan, the specifications contained therein shall supersede those herein.

This section shall not prohibit site work reasonably necessary for conducting land survey or tests required as a condition precedent to the issuance of any permit or approval. If, after obtaining all necessary permits and approvals, such work is commenced and then abandoned, all areas of the site which were disturbed during construction or site preparation shall be re-vegetated with native species in a manner sufficient to avoid erosion.

Deed-restricted affordable housing or housing deed restricted to year-round residency shall be exempt from payments in lieu of re-vegetation.

Tree Thinning may be permitted by the Building Commissioner where the total canopy cover is retained, and disturbance to the ground and other vegetation is minimized. Tree thinning may be exempt from payments in lieu of re-vegetation.

Whereas Wellfleet is a Right to Farm Community land clearance in association with agriculture, provided all necessary permits and approvals have been obtained, shall be exempt from payment in lieu of re-vegetating so long as the land is re-vegetated within three years of the cessation of agriculture operations.

§235 8.4.4 Special Permits for Under §235 6.9.2

The Board of Appeals acting as the SPGA, shall grant a special permit unless it finds that the proposal shall have adverse effects on the Town of the vicinity outweighing any benefits, taking into consideration the stated district objectives (Section 3.2) and, where germane, the following matters:

- (a) Whether the site is more sensitive than are most similarly zoned sites to environmental damage from a proposal such as this, considering erosion, siltation potential groundwater or surface water contamination, habitat disturbance, or loss of valuable natural vegetation
- (b) Whether scenic views from public ways and developed properties have been considerately treated.
- (c) Whether any traditional public access to or along the shoreline has been maintained

Summary: At the 2022 Annual town meeting, the petitioned Article 48 "Tree Preservation Resolution," passed with an overwhelming majority. The Selectboard was charged with causing a tree preservation bylaw to be drafted. Girth(circumference) is the standard forest

measurement of a tree as is breast height. The petitioned article made no provision for cutting trees not associated with construction or demolition activities. The bylaw before you prohibits large scale removal of trees and ground cover unless all permits have been issued as well as protecting other forms of vegetation. A payment in lieu of re-vegetation, as requested in the Tree Preservation referendum at the 2022 Town Meeting in the instance of large-scale disturbance, requires the bylaw to operate under Massachusetts General Law, Chapter 40A, Section 9, Fourth paragraph, which requires a Special Permit, this establishes the presumption that a special permit would be granted unless the SPGA reaches a finding that the proposed clearing is unusually detrimental. Additionally, a payment in lieu of re-vegetation is required and the receipts are placed into the Environmental Betterment Fund as a means to offset the environmental disturbance



SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: July 11, 2023

VII

ZONING BYLAWS

~ H ~

REQUESTED BY:	Selectboard
DESIRED ACTION:	To approve and recommend the Locally Notable trees Zoning Bylaw
PROPOSED MOTION:	I move to approve and recommend the Locally Notable Trees Zoning Bylaw and send it to the Planning Board to hold a public hearing.
ACTION TAKEN:	Moved by: _____ Seconded By: _____ Condition(s):
VOTED:	Yes: ___ No: ___ Abstain: _____

Article XX4 Locally Notable Trees

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending **§235 2.1**, and **§235 6.9** and inserting a new Section **§235 6.9.3** as follows:

§235 6.9.3 Locally Notable Trees

Recognizing the value large older trees provide to wildlife and the unique role they play in the ecosystem they should be preserved whenever possible. No removal of or trimming of **Locally Notable Trees** shall be permitted until all necessary permits and approvals have been obtained unless there is an immediate threat to public safety, structures, or utilities.

§235 6.9.3.1 Removal of **Locally Notable Trees** shall require a special permit from the **Special Permit Granting Authority**. Any application for the removal of a **Locally Notable Trees** shall be referred to the **Conservation Commission** for comment prior a hearing per Ch. 40A, Sec. 11 before the Special Permit Granting Authority. A priority shall be placed on retaining these trees during the course of any construction activities or site plan and or landscaping.

§235 6.9.3.2 Applications for the trimming of a **Locally Notable Tree** must include a letter from a certified arborist that the trimming poses little risk to the health of the tree prior to any such work being performed and are subject to the approval of The Tree Warden. Said Trimming includes that of the Tree's root system. If the Tree Warden or Arborist determines that the trimming of a **Locally Notable Tree** poses a threat to its health, they shall refer the matter to the Special Permitting Authority, who will refer it to the Conservation Commission for comment prior to the hearing.

§235 6.9.3.3 EXEMPTIONS

This section shall not apply to the removal of **Invasive Plants**, diseased trees, or those posing an imminent threat to people, structures, roadways, or utilities.

This section shall not apply to municipal projects.

235 8.4.4 Special Permits for Under §235 6.9.3

The Board of Appeals acting as the SPGA, may grant a special permit for the removal of a **Locally Notable Tree** if it reaches a finding that there is no viable alternative to said removal.

Summary: It also requires a special remit to remove or for the trimming that may pose a risk to the health of very large trees. Very large trees provide extensive ecosystem benefits as well as often natural playgrounds. This also clarifies and strengthens the prohibition of the cutting of timber in the NSP.

FOR REFERENCE CH 40 S 9

"Zoning ordinances or by-laws may provide for special permits authorizing the transfer of development rights of land within or between districts. These zoning ordinances or by-laws shall include incentives, such as increases in density of population, intensity of use, amount of floor space or percentage of lot coverage, that encourage the transfer of development rights in a manner that protects open space, preserves farmland, promotes housing for persons of low and moderate income or further other community interests; provided, however, that nothing herein shall prohibit a zoning ordinance or by-law from allowing transfer of development rights to be permitted as of right, without the need for a special permit or other discretionary zoning approval. "

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40a/Section9>

FOR REFERENCE ATM 2022

For the Tree Preservation :

ARTICLE NO. 48 - TREE PRESERVATION RESOLUTION:

To see if the Town will vote to adopt the following **TREE PRESERVATION RESOLUTION:**

WHERE AS, trees are recognized for their abilities to improve air quality, protect from glare and heat, reduce noise, aid in the stabilization of soil, provide natural flood and drainage control, create habitats for wildlife, enhance aesthetics and property values, contribute to the distinct character of certain neighborhoods and roadways, provide natural privacy to neighbors, and reduce ambient carbon in the atmosphere; and

WHERE AS, the preservation and protection of certain trees on private property, the requirement to replant trees to replace those removed, and the collection of financial contributions to support the Town's tree planting and maintenance efforts are public purposes that protect the public health, welfare, environment, and aesthetics; and

WHERE AS, at our 2021 Town Meeting, the voters of Wellfleet passed a resolution declaring a climate emergency and committing to eliminate the town's carbon emissions by or before 2050; and in order to achieve that goal, we will need not only to maintain, but also to *increase* our net number of trees, to compensate for emissions we are not able to eliminate.

Now, therefore, be it RESOLVED: That the Town vote to authorize the Select Board to cause to be prepared for consideration at the next Town Meeting, a Tree Preservation ByLaw supporting the preservation and protection of trees on residential, municipal and *commercial* lots *preceding or during* significant demolition and/or construction

activity, by designating areas of a lot where trees must be protected, and requiring mitigation for trees removed via replanting or collection of fees to support the Town's tree planting and maintenance efforts; and

FURTHER RESOLVED: That in order to effectuate the purposes of the resolution, the Town of Wellfleet's Select Board appoint a committee of five (5) members (Tree Preservation Bylaw Committee), with a recommendation to include one member of the Wellfleet Conservation Commission, and one member of the Wellfleet *Zoning Board*, to be charged with the drafting of the Bylaw for the Select Board's review and approval prior to submission for the Town's approval at the 2023 Town Meeting; and;

FINALLY

RESOLVED: That the Tree Preservation Bylaw Committee *consider* the following non-binding recommendations:

1. The Tree Preservation Bylaw only apply to trees that are six (6) inches in diameter or greater and located within a lot's twenty-five (25) foot setback area (Protected Trees);
2. The Tree Preservation Bylaw will prohibit the removal of Protected Trees during construction, or for a period of time not to exceed fifteen (15) months prior to an application for a demolition or building permit for:
 - a. demolition of an existing structure of 250 gross square feet or greater, (b) construction of any building or structure on a vacant lot, or (c) construction of one or more structures or additions to structures on a lot that increases the Gross Floor Area by 50% or greater.
3. The Tree Preservation Bylaw will provide an option, if it is not practical to save a Protected Tree, for it to be removed and replaced with new trees elsewhere, or pay into a tree fund, which the Town will use to buy and plant trees in residential areas.
4. The Tree Preservation Bylaw will not apply to the subdivision of land under the Town's Subdivision Rules and Regulations, those areas of a property under the jurisdiction of the Wetlands Protection Act, public shade trees pursuant to M.G.L. Chapter 87, emergency projects necessary for public safety, health, and welfare, trees severely damaged as the direct result of a natural disaster, or trees that are hazardous.
5. The Tree Preservation Bylaw will require that mitigation be based upon the DBH (diameter at breast height) of Protected Tree(s) removed. For each inch of DBH of the Protected Tree(s) removed, no less than one half (½) inch caliper of a new native tree(s) shall be replanted with each new tree having a minimum caliper of two (2) inches. If the Protected Tree to be removed is an overstory tree species, the replacement tree(s) to mitigate the removal shall be a native overstory tree species; or to take any other action relative thereto:

(Citizens Petition)

Majority Vote Required

Recommendations:

Selectboard: Yes - 0, No - 5, Abstain - 0.

Bylaw Committee: Yes – 0, No – 3, Abstain -0.

Ms. Harriet Korim moved, and it was seconded, that Article No. 48, Tree Preservation Resolution, be adopted as printed in the warrant except in paragraph four to correct, Select Board to one word, the word By-law to only have the B be capitalized, line three include no italics, and treeson is two words. Line five reads, and by requiring mitigation for trees removed by via replanting or collection, ect. Line six ends with efforts and a period and most importantly the last paragraphs five and six, beginning with further resolved and finally resolved be removed.

Mr. Devasto moved, and it was seconded to amend the motion where in the fourth paragraph to end after the word By-law.

The Moderator called for a vote of Mr. Devasto's amendment, and declared that carried on a majority vote.

The Moderator called for a vote on Ms. Korim's motion as amended and declared it carried on a majority vote.



SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: July 11, 2023

VII

ZONING BYLAWS

~ I ~

REQUESTED BY:	Selectboard
DESIRED ACTION:	To Approve and recommend the Zoning Enforcement Penalty Zoning Bylaw
PROPOSED MOTION:	I move to approve and recommend the Zoning Enforcement Penalty Zoning Bylaw and send it to the Planning Board to hold a public hearing.
VOTED:	Yea _____ Nay _____ Abstain _____

To see if the Town will amend the Wellfleet Zoning By-Laws by amending Chapter 235, section 8.3 Penalty by deleting the language struck through and adding the language underlined.

[Amended 6-26-2021 ATM by Art. 45]8.3 PENALTY

~~8.3 Penalty Any person violating any of the provisions of these Bylaws may be fined not more than \$50.00 for each offense, except in the case of violations of Section 6.21 Accessory Dwelling Units, the fine shall be \$300.00 for each offense. Each day that such violation continues shall constitute a separate offense.~~

§ 235-8.3 Penalty.

- A. Any person, association, firm or corporation violating any of the provisions of this bylaw may be fined not more than \$300 for each offense. Each day that such a violation continues shall constitute a separate offense.
- B. Accessory Dwelling Units: Any person, association, firm or corporation violating § 235-6.21
- C. Accessory dwelling units (ADU), the fine shall be \$300.00 for each offense. Each Accessory Dwelling Unit in violation shall be a separate violation. Each day that such violation continues shall constitute a separate offense.

Summary: The maximum allowed fine under MGL Ch 40a Section 7 for zoning infractions is \$300 dollars per violation. Most Massachusetts municipalities have adopted the maximum allowable fine. This does not mean that the fine is always \$300. With the exception of ADUs, the fine is at the discretion of the building commissioner. Enforcing zoning is expensive, and this provides both a means to recapture some of the costs based on the level of the infraction as well as providing the commissioner with additional leverage to address zoning infractions. ADUs are required to be occupied on a year-round basis, and clarifies that the fine is applied to each ADU out of compliance.



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023

VIII

SPECIAL TOWN MEETING WARRANT

~ A ~

REQUESTED BY:	Selectboard & Rich Waldo ~ Town Administrator
DESIRED ACTION:	To review, approve, place, and recommend warrant articles for the Special Town Meeting, September 18, 2023.
PROPOSED MOTION: Summary:	I
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____



SPECIAL TOWN MEETING

Monday September 18, 2023

6:00 PM

at

Wellfleet Elementary School

100 Lawrence Road, Wellfleet, MA

&

SPECIAL TOWN ELECTION

Tuesday September 26, 2023

at

12:00 Noon to 7:00 PM

Wellfleet Senior Center

715 Old King's Highway

v.1

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FINANCIAL & PROPOSITION 2½ TERMS

Chapter 59, section 21C of the Massachusetts General Laws is commonly referred to as Proposition 2½ (Prop. 2½) or the Tax Limiting Law for Cities and Towns in Massachusetts.

LEVY: The property tax levy is the revenue a Town can raise through real and personal property taxes. The property tax levy is the largest source of revenue for the Town.

LEVY CEILING: This is the maximum the levy can be. The ceiling equals 2.5% of the Town's full and fair cash value. The levy ceiling is equivalent to a tax rate of \$25.00.

LEVY LIMIT: The maximum the levy can be in a given year. The limit is based on the previous year's levy limit plus certain allowable increases, such as debt exclusions.

LEVY LIMIT INCREASE: The levy limit automatically increases each year by 2.5% of the previous year's levy limit.

NEW GROWTH: New construction and new parcel subdivision may also increase the Town's levy limit.

OVERRIDE: A community can permanently increase its levy limit by successfully voting at a referendum to exceed the limits. A community may take this action as long as it is below the levy ceiling.

DEBT EXCLUSION: This type of override ballot question can be placed on a referendum by a two-thirds vote of the Selectboard. If a majority of the voters approve the ballot question, the Town's levy limit is increased only for the amount voted at the referendum for the life of that debt only. The levy limit increase may exceed the Town's levy ceiling.

DEBT SERVICE: The repayment cost, usually stated in annual terms and based on an amortization schedule, of the principal and interest owed on any particular bond issue.

ENCUMBRANCE: A reservation of funds to cover obligations chargeable to but not yet paid from a specific appropriation account.

CAPITAL OUTLAY EXPENDITURES EXCLUSION: This type of override ballot question can be placed on a referendum by a two-thirds vote of the Selectboard. If a majority of the voters approve the ballot question, the additional amount for the payment of the capital project cost is added to the levy limit or levy ceiling only for the year in which the project is being undertaken.

CONTINGENT VOTES: Chapter 59, section 21C (m) permits a Town Meeting to appropriate funds contingent upon passage of a referendum question (OVERRIDE/DEBT EXCLUSION). A contingent vote does not automatically result in an override referendum. An override referendum can only be called by the Selectboard. If a referendum is called by the Selectmen, it must take place within forty-five days of the Town Meeting vote.

TOWN MEETING PROCEDURES

A quorum of 6% of the Town's registered voters must be present to conduct business (Charter: Sect. 2-1-3).

Voters are identified by voter cards issued when they check in with the registrars at the beginning of the meeting.

Only voters may participate in voice votes. In case of a counted vote, voters will be identified by their voter cards.

Non-voters who have been admitted to the meeting must sit in the section designated for them. Non-voters who may wish to speak must identify themselves and may address the meeting only by permission of the Moderator (Charter: Sect. 2-1-2).

No voter will be allowed to speak until recognized by the Moderator.

Voters and others recognized to address Town Meeting may only speak twice to any motion or amendment unless authorized by the Moderator (Charter: Sect. 2-7-8).

All motions or amendments must be in writing and be legible. Exceptions for very simple motions or amendments are at the discretion of the Moderator (General Bylaws: Sect. II-2).

The order of consideration of the Articles as printed in the Warrant may be changed only by a 2/3 majority vote (Charter: Sect. 2-7-4).

A motion for indefinite postponement, if passed, ends any action on the motion currently being debated. It may only be made after a voter has been recognized and may not come at the end of a speaker's remarks. It is fully debatable to the same extent as the main motion under consideration.

A motion to end debate (known as a "motion for the previous question") may only be made by a voter who has been recognized. Anonymous calls from voters to "call the question" are out of order and will be ignored by the Moderator. A motion to end debate requires a separate 2/3 majority vote, so it may be more efficient to hear from one or two more speakers and then proceed to a vote on the main motion itself.

A motion to reconsider must be made at the same session as the vote it seeks to reconsider. It can only be made after some intervening business and must be made within one hour of the vote to be reconsidered (Charter: Sect. 2-7-9). It is debatable to the same extent as the motion it seeks to reconsider and requires a majority vote. A motion to reconsider will only be allowed if there is new information that was not available at the time of the original debate. A motion to reconsider will be ruled out of order if, in the judgment of the Moderator, it is simply an attempt at "another bite at the apple."

Some other common motions which require more than a simple majority to pass:

Zoning bylaws	2/3 majority (with some statutory exceptions)
Zoning bylaws subject to Housing Choice Act	majority
To authorize borrowing or incur debt	2/3 majority
To transfer or sell Town land	2/3 majority
To approve proposed Charter amendments	2/3 majority
To pay unpaid bills of a prior fiscal year	4/5 majority at an Annual Town Meeting 9/10 majority at a Special Town meeting

FINANCE COMMITTEE STATEMENT

XXXX

SPECIAL TOWN MEETING WARRANT

Monday, September 18, 2023

The Commonwealth of Massachusetts

To either of the Constables in the Town of Wellfleet in the County of Barnstable:

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the inhabitants of the Town of Wellfleet qualified to vote in Town Affairs, to meet in the Wellfleet Elementary School, 100 Lawrence Road in Wellfleet on the 18th day of September 2023, at **six** o'clock in the evening, then and there to vote upon the following Articles:

SECTION I: BUDGET ARTICLES

ARTICLE NO. 1 – PRIOR YEAR INVOICES:

To see what sum the Town will vote to transfer from available funds for the purpose of paying prior year unpaid bills listed below:

	Vendor	Source	Line-item	Amount
a.	XXX	xxx	xxx	\$0.00
	Grand-total			\$0.00

or to do or act on anything thereon.

(Requested by the Selectboard)

Nine-Tenths Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

Finance Committee: Yes – 0, No – 0, Abstain – 0.

SUMMARY: Invoices received after the close of the fiscal year for services rendered or goods received prior to July 1 are considered prior year bills. Per MGL Chapter 44 Section 64, prior year bills to be paid from the Town’s general operating fund may only be paid by a vote of Town Meeting.

ARTICLE NO. 2 – FY 2024 BUDGETARY TRANSFERS:

To see if the Town will vote to transfer from available funds and/or authorize the transfer from various line items within FY 2024 appropriations such sums of money necessary to supplement the operating budgets of the various Town Departments as follows:

	From (Decrease)	Line Item	To (Increase)	Line Item	Amount
a.	XXX	###	xxx	###	\$ 0.00
	Grand-Total				\$ 0.00

or to do or act on anything thereon.

(Requested by the Selectboard)

Majority Vote Required

Recommendations:

Selectboard:

Insert Yes- 0, No – 0, Abstain – 0.

Recommend Yes – 0, No – 0, Abstain – 0.

Finance Committee: Yes – 0, No – 0, Abstain – 0.

SUMMARY: This article is seeking permission to transfer funding within the FY 2024 operating budget ending June 30, 2024. We have shortfalls in various departmental budgets that will be remedied by transferring monies from those areas within the budget that have surpluses.

ARTICLE NO. 3 – 95 LAWRENCE ROAD – WASTEWATER TREATMENT FACILITY – PHASE I:

To see if the Town will vote to appropriate a sum of money, not to exceed \$3,500,000 for the purpose of, designing, permitting, and constructing of wastewater facilities in conjunction with an Affordable Housing Project at 95 Lawrence Road, including connecting nearby Town buildings in Phase I, and for the payment of all other costs incidental and related thereto, and that to meet this appropriation the Town Treasurer, with the approval of the Selectmen be and hereby is authorized to borrow said amount under and pursuant to Chapter 44, Section 8 of the General Laws, or pursuant to any other enabling authority including the Massachusetts Clean Water Trust, and to issue bonds or notes of the Town therefore; provided, however that no sums shall be borrowed or expended hereunder unless and until the Town shall have voted to exclude the amounts necessary to pay debt service on any bonds or notes issued pursuant to this vote from the limits of Chapter 59, Section 21C of the Massachusetts General Laws (Proposition 2 ½) or take any other action in relation thereto.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

Finance Committee: Yes – 0, No – 0, Abstain – 0.

SUMMARY: The Town is contractually obligated as part of the 95 Lawrence Rd Housing Project’s Request For Proposals to provide for advanced wastewater treatment facilities located at this site. The plan is to install a cluster system servicing both the housing project and the Wellfleet Elementary School, the Police Station, and Fire Station in Phase I. Connecting these town-owned buildings will result in a net improvement of water quality in the neighborhood even after accounting for the housing project. Phase II is planned to connect a number of the surrounding properties to this system which will cost significantly less money than individual septic system upgrades, a centralized sewer system, or any other means evaluated.

There is already borrowing authorization of \$1.932 million dollars from Annual Town Meeting in June of 2021. This borrowing request will supersede the previous borrowing authorization allowing the Town to seek competitive borrowing from the State Revolving Fund and open the door for grant subsidies from

the Cape and Island Water Protection Fund (CIWPF). The CIWPF allows for grant subsidies up to 25% of the project cost.

ARTICLE NO. 4 – ENHANCED INNOVATIVE & ALTERNATIVE SEPTIC PROGRAM:

To see if the Town will vote to appropriate a sum of money, not to exceed \$450,000 to assist in the installation of high performance, so called “enhanced” Innovative & Alternative (I&A) Septic Systems within the Wellfleet Harbor Watershed,, and for the payment of all other costs incidental and related thereto, and that to meet this appropriation the Town Treasurer, with the approval of the Selectmen be and hereby is authorized to borrow said amount under and pursuant to Chapter 44, Section 8 of the General Laws, or pursuant to any other enabling authority including the Massachusetts Clean Water Trust, and to issue bonds or notes of the Town therefore; provided, however that no sums shall be borrowed or expended hereunder unless and until the Town shall have voted to exclude the amounts necessary to pay debt service on any bonds or notes issued pursuant to this vote from the limits of Chapter 59, Section 21C of the Massachusetts General Laws (Proposition 2 ½) or take any other action in relation thereto.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

Finance Committee: Yes – 0, No – 0, Abstain – 0.

SUMMARY: This would allow the Board Health to provide assistance to homeowners who need to replace their septic system. This Assistance corresponds with the incremental cost of enhancement to upgrade to an “enhanced” IA system. Upgrading these systems to high performance I&A systems can reduce nitrogen similar to the levels obtained with a wastewater treatment plant, thereby improving the groundwater quality and reducing the nutrient loading of Wellfleet Harbor at a significantly reduced cost compared with sewer connection. The funding sought is a \$12,500 grant to property owners to pay for the additional costs to upgrade to one of these “enhanced” IA systems when their pre-existing system is required to be upgraded. This grant would keep the cost of the septic the same as what is already required under title 5 and will encourage the use of an enhanced IA system. Upgrading septic systems will be a critical element in addressing the Town’s wastewater needs.

There is already a total borrowing authorization of \$450,000 dollars from Annual Town Meeting in June of 2021 and April of 2022. This borrowing request will supersede the previous borrowing authorization adding language that allows the Town to seek competitive borrowing from the State Revolving Fund and open the door for grant subsidies from the Cape and Island Water Protection Fund (CIWPF). The CIWPF allows for grant subsidies up to 50% for projects costing less than \$1 million dollars.

ARTICLE NO. 5 – MAURICE’S CAMPGROUND – HOUSING PLANNING FUNDS:

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of \$xx,xxx.00, or any other sum, for the purpose of hiring a consultant to assist the Maurice Planning Committee in Housing related services including preparing a scope of work, bid documentation, and an estimated project cost associated with the development of Maurice’s Campground, or to do or act on anything thereon.

(Requested by the Selectboard)

Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

Finance Committee: Yes – 0, No – 0, Abstain – 0.

SUMMARY: XXX

SECTION II: BYLAWS, INITIATIVE PETITIONS

ARTICLE NO. 6 – ZONING BYLAW AMENDMENT – INCLUSIONARY ZONING:

To amend Chapter 235, Article II DEFINITIONS by inserting the following definitions in alphabetical order and to amend Chapter II by adding a new Section 6.28 Inclusionary Zoning Bylaw as follows:

§235 - 2.1 Definitions

Affordability Gap – the difference between the appraised value of a market-rate dwelling units within the proposed development and the appraised value of an affordable housing unit in Wellfleet comparable to the market-rate unit in terms of type, size and number of bedrooms and calculated at the time of sale or issuance of a certificate of occupancy, whichever occurs sooner, for any market-rate unit in the proposed development .

Affordable Housing Unit - a dwelling unit that is affordable to and occupied by a Low- or Moderate- Income Household and meets the requirements for inclusion on the Subsidized Housing Inventory maintained by the Department of Housing and Community Development.

Affordable Housing Restriction – A deed restriction entered into and enforceable under G.L. c. 184, §§31-33 in a form acceptable to the Town that restricts occupancy of an affordable housing unit to a low- or moderate- income-eligible purchaser or renter and which provides for the administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period allowed by law.

§235 – 6.28 INCLUSIONARY ZONING BYLAW

§235 – 6.28.1 Purpose and Intent

The purpose of this bylaw is to encourage development of housing that is affordable to persons of various age and income levels in accordance with Massachusetts General Law, Chapter 40A, Section 9, which allows municipalities to adopt “incentive” bylaws for the creation of affordable year-round housing, and for the purposes of:

- A. Helping people who, because of rising land prices, have been unable to obtain suitable housing at an affordable price; and,
- B. Encouraging the creation of a range of housing opportunities for households of all incomes, ages and sizes in order to support a strong, stable and diverse year-round community and a viable and healthy local workforce and to prevent the displacement of Wellfleet residents;
- C. Mitigating the negative impact of residential development on the availability and cost of housing;
- D. Protecting the long-term affordability of such housing through appropriate, enforceable restrictions that run with the land;
- E. Creating dwelling units eligible for inclusion on the Town’s Chapter 40B Subsidized Housing Inventory as maintained by the Department of Housing and Community Development (DHCD).

§235 6.28.2 Applicability

In the CD, R1, R2, C and C2 zoning districts, the inclusionary zoning provisions of this section shall apply to any project that results in a net increase of three or more dwelling units as part of a single application, whether by new construction, a change in use, or by the alteration or rehabilitation of existing structures, provided, however, this bylaw shall not apply to nursing homes

§235 6.28.3 Mandatory Provision of Affordable Housing for Development of New Residential Units

In order to contribute to the local stock of Affordable Housing, any residential project that results in a net increase of three or more dwelling units as part of a single application as described in Section 6.28.2 shall provide a percentage of the dwelling units as deed restricted Affordable Housing units. This Affordable Housing requirement shall be one-sixth (16.67%) of the number of new dwelling units to be developed rounded up to the nearest whole number and shall be made a condition of a Special Permit, or the applicant shall meet the requirement in accordance with the following:

- A. Development of 3 to 6 new dwelling units shall require the granting of a Special Permit by the Zoning Board of Appeals per §235 8.4.2 and a Payment in Lieu of providing the required number of affordable units to be made to the Wellfleet Affordable Housing Trust Fund to fulfill the Affordable Housing requirement.
 - (1) Payment shall be made in accordance with the following formula:
 - For 3-4 new dwelling units, the Payment in Lieu= (total # of new dwelling units)x(16.67%)x(affordability gap)x(67%)
 - For 4-6 new dwelling units, the Payment in Lieu= (total # of new dwelling units)x(16.67%)x(affordability gap)x(100%)
 - (2) The applicant shall pay for all appraisals, and the Town shall approve the applicant’s chosen appraiser
 - (3) The Payment in Lieu shall be due:
 - a. upon the issuance of a certificate of occupancy of any unit in the development;
or,
 - b. The total Payment in Lieu shall be divided by the total number of market rate units in the development, and the resulting quotient shall be payable upon the closing of each market rate unit

- B. Development of 7 or more new dwelling units shall require the granting of a Special Permit by the Zoning Board of Appeals per §235 8.4.2 and at least one-sixth (16.67%) of the new units created shall be established as Affordable Housing units in any one or combination of methods provided for below:
- (1) The Affordable Housing units shall be constructed or rehabilitated on the site subject to the Special Permit, in accordance with §235 Section 6.28.4; or
 - (2) The Affordable Housing units shall be constructed or rehabilitated on a site other than the one subject to the Special Permit, in accordance with §235 6.28.4, provided justification is provided that on-site development of units is not feasible and off-site development of units is beneficial to the Town, and applicable Building or Zoning Permits are granted contemporaneously for both developments; or
 - (3) A Payment in Lieu of providing Affordable Housing units shall be made to the Wellfleet Affordable Housing Trust Fund. Payment shall be made in accordance with the following formula:
 - a) For 7 or more new dwelling units, the Payment in Lieu = (total # of new dwelling units)x(16.67%)x(affordability gap)x(150%)
 - b) The applicant shall pay for all appraisals, and the Town shall approve the applicant's chosen appraiser
 - c) The Payment in Lieu shall be made at and upon the sale or certificate of occupancy of each unit, whichever occurs sooner. When the development consists of year-round rental units, memorialized in the affordable deed restriction which states that the Payment in Lieu shall be deferred until such time as the year-round rental use ceases, with the full balance due upon change of use at current market rate; or
 - (4) A Land Donation in Lieu of providing Affordable Housing units shall be provided to the Wellfleet Affordable Housing Trust, provided that:
 - a) The receiving organization agrees in writing to accept the land; and
 - b) The applicant demonstrates to the Zoning Board of Appeals' satisfaction that the land serves the future development of Affordable Housing; and
 - c) The value of donated land shall be equivalent to or greater than the value of the required Payment in Lieu. The Zoning Board of Appeals may require, prior to accepting land as satisfaction of the requirements of this bylaw, that the applicant submit an appraisal of the land in question that was prepared by a licensed appraiser using professionally accepted methods, as well as other data relevant to the determination of equivalent value, and the Zoning Board of Appeals may obtain expert peer review of the appraisal at the applicant's expense; and
 - d) Closing on the land donation shall occur before the issuance of the first building permit.

§235 6.28.4 Provisions Applicable to Affordable Housing Units Located On-Site and/or Off-Site

- A. Affordable Housing units created in accordance with this bylaw shall have a deed restriction and Regulatory Agreement to regulate the future re-sale or rental of the unit and that requires the units to remain income restricted in perpetuity or the longest period allowed by law. Said deed restriction and Regulatory Agreement shall be consistent with the forms used in the Local Initiative Program and Regulatory Agreement approved by DHCD. The Regulatory Agreement shall be prepared in a form acceptable to Town Counsel by the Applicant and submitted for review and approval. The Regulatory Agreement will be executed by the Applicant, the Town of Wellfleet and DHCD and shall be recorded with the Barnstable County Registry of Deeds or and

- B. The applicant shall be responsible for preparing and submitting any documentation that may be required to receive Local Action Unit approval from DHCD and to qualify the Affordable Housing Units for listing on the SHI. The applicant shall also be responsible for providing annual compliance monitoring and certification to the Town or its monitoring agent and to pay for the costs of the Town for providing such compliance monitoring.
- C. No Building Permit shall be issued for any units in the development until the Zoning Board of Appeals receives evidence that the Affordable Housing deed restriction has been approved by DHCD or by Town Counsel.
- D. No Certificate of Occupancy shall be issued for any units in the development until the Building Commissioner receives evidence that the Affordable Housing deed restriction has been executed and recorded at the Barnstable County Registry of Deeds or that the Payment in Lieu has been made in accordance with this bylaw or as modified by the Special Permit conditions.
- E. Affordable Housing units shall be integrated with the rest of the development or with the off-site location and shall be comparable to and indistinguishable from market rate units in exterior design, including appearance, construction and quality of materials, and in energy efficiency.
- F. The number of bedrooms in each Affordable Housing unit shall be made a part of the Special Permit and shall be based on local need as determined by the Zoning Board of Appeals in consultation with the Wellfleet Housing Authority.
- G. Owners and tenants of on-site Affordable Housing units and market rate units shall have the same rights and privileges to access and use any of the development's amenities and facilities.
- H. The development of Affordable Housing units shall take place at the same rate and timeframe as the development of market rate units.
 - 1) Building Permits for any phased development shall be issued at a ratio of no greater than five (5) market rate units to one (1) Affordable Housing unit. Building Permits for subsequent phases shall not be issued unless all the required Affordable Housing units in the preceding phase are constructed and the deed restrictions recorded. The last unit permitted, constructed and occupied shall be a market rate unit.
 - 2) The project may also be constructed in its entirety with all permits issued at once, provided that the occupancy permits are issued at a ratio of five (5) market rate units to one (1) Affordable Housing unit. The last certificate of occupancy to be issued shall be for a market rate unit and shall not be issued unless and until all Affordable Housing units are occupied.

§235 6.28.5 Maximum Incomes and Selling Price; Affordable Housing Inventory

Maximum rents and/or sale price shall not exceed 30% of an occupant's or tenant's annual income for a household at or below 80% of Area Median Income adjusted by household size.

§235 6.28.6. Segmentation Prohibition

Developments shall not be phased or segmented to avoid compliance with conditions or provisions of this bylaw. "Segmentation" shall be defined as subdividing one parcel of land into two or more parcels of land in such a manner that each parcel can support only a single dwelling unit or phased development that cumulatively results in a net increase of three or more dwelling units above the number existing thirty-six (36) months earlier on any parcel or set of contiguous parcels held in common ownership or under common control on or after the effective date of this Section.

§235 6.28.7 Conflict with Other Bylaws

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

§235 6.28.8 Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of Wellfleet’s Zoning Bylaws.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

SUMMARY: XXX

ARTICLE NO. 7 – ZONING BYLAW AMENDMENT – COTTAGE COLONIES:

To see if the Town will amend the Wellfleet Zoning By-Laws by amending Chapter 235, Article II DEFINITIONS as follows:

§235 - 2.1 Definitions

Cottage Colony - A group of two or more detached dwellings located on the same lot not within the NSP, each containing one dwelling unit only which is designed for independent family living including cooking facilities. Each unit shall contain not less than ~~550~~ 300 sq. ft. of floor area and not more than ~~768~~ 800 sq. ft.

Cottage Colony NSP - A group of two or more detached dwellings located on the same lot within the NSP, each containing one dwelling unit only which is designed for independent family living including cooking facilities. and occupied on a seasonal basis only. Seasonal shall be defined as a period commencing April 1 of each calendar year and terminating November 30 of the same calendar year. Each unit shall contain not less than ~~550~~ 300 sq. ft. of floor area and not more than ~~768~~ 800 sq. ft

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

SUMMARY: The changes in floor area bring a number of the pre-existing cottage colonies into compliance with zoning. 250 sq ft of floor area is the minimum allowed for two people to reside in per state codes. Wellfleet has a number of cottages in colonies that are well below 550 sq. ft. An example is Brownies cabins out of a total of thirteen cottages, nine are below 550 sq. ft. This would also enable a property owner to build a cottage colony with modest structures that could serve as homes for those just starting on their own or are looking to downsize. The change from 768 sq ft to 800 sq ft is a reflection that

there are cottage colonies where there are units that are slightly over 768 sq. ft. 800 sq ft also is a standardized size that is easy to measure. Cottage Colonies would remain permitted by special permit only in the districts they are currently allowed in.

ARTICLE NO. 8 – ZONING BYLAW AMENDMENT – INTENSITY OF USE OF MULTI-FAMILY DWELLINGS:

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by deleting the text that is struck-through as follows, or to do or act on anything thereon:

A. By Amending Chapter 235 Section 5.4.5 Intensity of Use Application to Multiple Family Dwellings by striking the section:

~~5.4.5 Intensity of Use Application to Multiple Family Dwellings~~

~~The first unit of a multiple family dwelling or of an apartment building shall require a minimum land area equal to the lot requirements of the district in which located Each additional unit will require 8,000 square feet of land area. Front, side and rear yard and maximum building coverage requirements of the district in which the structures located shall apply. (Amended 4/30/85 ATM, Art. 64.~~

(Requested by the Selectboard)

2/3rd Majority Vote Required

**Recommendations:
Selectboard:**

**Insert Yes – 0, No – 0, Abstain – 0.
Recommend: Yes – 0, No – 0, Abstain – 0.**

SUMMARY: Multifamily Dwellings are allowed by special permit in the Commercial District. The minimum lot size in the commercial district is 40,000 square feet. The requirement to have an additional 8,000 sq ft effectively prohibits multifamily housing on a significant proportion of lots in the Commercial District and limits the number of potential dwellings as well. This does not change the number of bedrooms allowed on a parcel, just how they are configured. The intent here is to provide a greater opportunity for diversity in Wellfleet’s housing stock to better suit the needs of our population.

ARTICLE NO. 9 – ZONING BYLAW AMENDMENT – DEVELOPMENTS OF SIGNIFICANT PLANNING INTEREST AND FOOD ESTABLISHMENTS:

To see if the Town will amend the Wellfleet Zoning By-Laws by repealing the existing Chapter 235 - Section 6.29, Fast Food & Formula Restaurant Prohibition and replacing it with a new Chapter 235 - Section 6.29, Development of Significant Planning Interest and Food Service Establishments and by amending Chapter 235 -Sections 2.1, 5.3, and 8.4.2. by inserting text shown as underlined and deleting text that is ~~struck through~~ as follows, or take any action related thereto:

A. By amending Chapter 235 – Article II – Section 2.1 DEFINITIONS by inserting in alphabetical order new definitions for “Development of Significant Planning Interest.” “Food Establishment: Bakery,”

“Food Establishment: Full-Service Restaurant,” “Food Establishment: Take-Out Restaurant,” “Food Establishment: Fast Food Restaurant,” and “Food Establishment: Drive-through Facility” and deleting the definitions of “Restaurant,” “Restaurant Drive-In,” “Restaurant Fast Food” and “Restaurant, Formula” as follows:

Development of Significant Planning Interest: Any of the Food Establishment categories defined in this By-law, Boat House, Commercial; Bulk Storage, Open; Bulk Storage, Tanks; Filling Station; Motor Vehicle Repair Shop; Motor Vehicle Sales; and Warehouse, or Other Commercial Developments involving more than 2,500 square feet of floor area, or Commercial Developments in the Central District.

Food Establishment: Bakery - A commercial food service establishment primarily engaged in the preparation and retail sale of baked goods for consumption on or off the premises. A bakery may include, as an accessory use, wholesale distribution of goods prepared on the site.

Food Establishment: Ice Cream Parlor - An establishment where the primary activity is the retail sale of ice cream, frozen yogurt and/or similar products for consumption on or off the premises; provided, however, that this definition shall not apply to restaurants where such ice cream, ices, or beverages are sold and consumed in connection with the serving of meals.

Food Establishment: Full-Service Restaurant – A commercial food service establishment where (1) meals are primarily freshly cooked and prepared to order on-premises and are served primarily for consumption on the premises, either indoors or outdoors; (2) customers may be provided with individual menus; (3) a restaurant employee serves the customers at the same table or counter where the meals are consumed. For purposes of this definition, “prepared” does not include warming or re-heating food that was assembled off-site. A Full-Service Restaurant operation may include ancillary bakery, delivery service and/or take-out service but may not include a drive-through facility.

Food Establishment: Take-Out Restaurant – A commercial food service establishment where (1) food is primarily freshly cooked or prepared on site by employees; (2) food and beverages are sold in disposable containers for off-premises consumption only; (3) the customers pick up their orders either at a counter inside the building or at a walk-up window. For purposes of this definition, “prepared” does not include warming or re-heating food that was assembled off-site. A Take-Out Restaurant operation may include an ancillary delivery service but may not include a Drive-through facility.

Food Establishment: Fast Food Restaurant – A commercial food service establishment whose principal business is the sale of food and beverages served pre-packaged and ready-to-eat or quickly prepared upon a short waiting time and packaged and presented in such a manner that it can readily be eaten on or off the premises, characterized by high sales volume and frequent customer turnover. Meals and beverages that are not cooked or prepared fresh on the premises are served, principally in disposable containers. For purposes of this definition, “prepared” does not include warming or reheating food that was assembled off-site. For purposes of this bylaw, Food Establishment: Fast Food Restaurant shall not include Food Establishment: Bakeries or Food Establishment: Ice Cream Parlor as defined herein.

Food Establishment: Drive-through Facility – A drive-up window or a mechanical device where customers waiting in motor vehicles may order and/or pick up prepared food and beverages from a food service establishment.

~~**Restaurant**—A building or part thereof to be used for the preparation, indoor sale, and consumption of meals and refreshments on the premises. Seating area for a restaurant may include open or outdoor terrace or patio upon issuance of a Special Permit. ATM 4/23/90~~

~~**Restaurant, Drive-In**—Premises where meals and other items of nourishment and refreshment are offered for sale, and where any portion of these are consumed or intended to be consumed off-premises or within cars parked on the premises. ATM 4/23/90.~~

~~**Restaurant, Fast Food**—A restaurant with drive-up window service, or that otherwise receives payment and/or dispenses products to patrons while in their vehicles. (ATM 4/25/11)~~

~~**Restaurant, Formula**—A restaurant that stands alone or with other use(s), and which prepares food and beverage on site for sale to the public, and which is required by contractual or other arrangement or as a franchise to offer any of the following features: Standardized menu, trademark or service mark, defined as a word, phrase, symbol, design or logo, or a combination of words, phrases, symbols, designs and/or architecture, façade, or color scheme that identifies the restaurant as one (1) of twenty-five (25) or more other restaurants worldwide. (ATM 4/25/11)~~

B. By amending Chapter 235, Section V – Uses, Table 5.3.2 – Commercial, by striking from the table the uses of “Restaurant, Indoor,” “Restaurant Drive-In,” “Restaurant Fast Food,” and “Restaurant Formula” and inserting the uses of “Food Establishment: Bakery”; “Food Establishment: Full-Service Restaurant”; “Food Establishment: Take Out Restaurant”; “Food Establishment: Fast Food Restaurant”; and “Food Establishment: Drive-Through Facility”, which shall be allowed by special permit (A) or prohibited (O) as follows in the various zoning districts:

5.3.2 Use Regulations:

5.3.2 Commercial	CD	R1	R2	NSP	C	C2
<u>Food Establishment: Bakery</u>	<u>A</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>A</u>	<u>O</u>
<u>Food Establishment: Full-Service Restaurant</u>	<u>A</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>A</u>	<u>O</u>
<u>Food Establishment: Take-Out Restaurant</u>	<u>A</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>A</u>	<u>O</u>
<u>Food Establishment: Fast Food Restaurant</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>

<u>Food Establishment: Drive-through Facility</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>	<u>O</u>
<u>Food Establishment: Ice Cream Parlor</u>	A	O	O	O	A	
Restaurant, Indoor ⁸	A	⊖	⊖	⊖	A	⊖
Restaurant, Drive-In ⁹	⊖	⊖	⊖	⊖	A	⊖
Restaurant, Fast Food ¹⁰	⊖	⊖	⊖	⊖	⊖	⊖
Restaurant, Formula ¹¹	⊖	⊖	⊖	⊖	⊖	⊖

C. By repealing Chapter 235-Section 6.29 – Fast Food & Formula Restaurant Prohibition in its entirety and replacing it with a new Chapter 235, Section 6.29 - Developments of Significant Planning Interest by inserting the following underlined text:

6.29.1-Purpose:

The purpose of this bylaw is to regulate the location, traffic, scale, impacts, and visual features of Developments of Significant Planning Interest in Wellfleet to maintain the unique, small-scale, small-town character and the quality of life for all Wellfleet residents by preserving the individuality and distinctive appeal which are among the Town’s most recognized features. Preservation of the existing character, diversity, variety, and scale of commercial activities is vital to the continuation of Wellfleet’s ability to attract both residents and visitors. Wellfleet must retain its distinctive Cape Cod character, general welfare, and historical and cultural relevance.

This bylaw incorporates by reference and shall be construed consistently with the policy direction of the Town’s Comprehensive Plan, the Cape Cod Commission Act, the enabling act of the Cape Cod National Seashore, and Wellfleet’s designated historic districts, with which Wellfleet is intimately and intricately associated.

6.29.2 Application Requirements

Applicants for Special Permits for uses so controlled as **Developments of Significant Planning Interest** shall submit to the Zoning Board of Appeals three copies of the following:

- a) An application identifying the intended use and narrative description of the proposed use;
- b) A site plan prepared by a licensed architect, licensed landscape architect, or Registered Professional Engineer, showing proposed structures, building design, lighting, drives, parking, landscaping, screening, dust mitigation, and provision for stormwater management and drainage;
- c) A floor plan for all floors, an elevation plan of all sides of the proposed building and a plan or rendering showing the proposed building in relation to adjoining structures and abutting properties;
- d) A plan showing the dimensions, type, location and elevations of all proposed signs; and
- e) photographs of the premises in its current condition and all adjoining structures.

Forthwith upon receipt of the above materials, the Board of Appeals shall transmit one set of them to the Planning Board for their review and recommendation.

6.29.3 Special Permits for Development of Significant Planning Interest

6.29.3.1 Boat House, Commercial; Bulk Storage, Open; Bulk Storage, Tanks; Filling Station; Motor Vehicle Repair Shop; Motor Vehicle Sales; and Warehouse.

In addition to Sections 8.4.2.1, 8.4.2.2, and 8.4.2.3 of this Bylaw, the following shall be considered by the Special Permit Granting Authority prior to the issuance of a special permit for the following uses. Boat House, Commercial; Bulk Storage, Open; Bulk Storage, Tanks; Filling Station; Motor Vehicle Repair Shop; Motor Vehicle Sales; and Warehouse.

- (a) whether the proposed use will increase the intensity of use on the site so as to adversely impact land uses in the area, pedestrian or motor vehicle traffic or the public welfare;
- (b) whether the proposed design and any other improvements to the site are compatible with the existing architecture and unique aesthetic appearance of the zoning district;
- (c) whether the proposed design retains the historic characteristics if located within a designated historic district.
- (d) whether the proposed design preserves the character-defining elements of an historic building, if applicable, and its setting when adapting to a new use.
- (e) the use of permeable pavement or pavers for parking areas and walkways ;
- (f) whether the proposed use will generate noise, dust, odor, glare, fumes, vibration, risk of fire or explosion or similar noxious impacts to surrounding properties and whether these impacts can be sufficiently mitigated;
- (g) whether the proposed use includes the storage or presence of hazardous and/or combustible materials;
- (h) the overall impact of the proposed use on the health and safety of area residents.

6.29.4 Food Service Establishments (all) or Other Commercial Developments involving more than 2,500 square feet of floor area, or Any Commercial Developments in the Central District

In addition to Sections 8.4.2.1, 8.4.2.2, and 8.4.2.3 of this Bylaw, the following shall be considered by the Special Permit Granting Authority prior to the issuance of a special permit; provided, however, that the Special Permit Granting Authority shall not require strict compliance with the design criteria contained in this section with respect to food service establishments that are pre-existing nonconforming as of the date of adopting this zoning amendment at the Spring 2023 Annual Town Meeting but may grant waivers when the Special Permit Granting Authority finds such waiver(s) to be in the best interests of the Town or that strict compliance would cause an undue financial hardship to the food service establishment or that strict application of the design criteria would not be consistent with the existing style or character of the pre-existing nonconforming food service establishment:

- (a) Whether the proposed use is designed and operated in a manner that preserves the community's distinctive small-town character, including the following:
- (1) the use of natural shingles or clapboards as exterior finishes;
 - (2) exterior lighting uses gooseneck or similarly designed fully shielded downward-facing lighting and shall eliminate light trespass onto streets or abutting parcels;
 - (3) use of permeable pavement or pavers for parking areas and walkways;
 - (4) whether the scale of the building is in keeping with a small-town, coastal setting;
 - (5) Preserve the character-defining elements of an historic building, if applicable, and its setting when adapting to a new use.
 - (6) whether the façade is broken up in terms of color scheme, use of materials and incorporates segments that protrude forward or are recessed to minimize the appearance of massing;
 - (7) whether the design is compatible with the character of surrounding properties or the zoning district;
 - (8) use of native plantings of a suitable size, diversity and hardiness to survive Cape Cod's climate and minimize use of water, herbicides and pesticides;
 - (9) use of small-scale, painted wooden signs that are externally illuminated;
 - (10) Whether the business model includes curbside pick-up or delivery of food or goods to patrons in their vehicles; and
 - (11) Accessibility of the development for disabled individuals.

(b) whether the proposed use contributes to the diversity of uses to assure a balanced mix of businesses available to serve residents and visitors;

(c) whether the proposed building design and any other improvements to the site are compatible with the existing architecture and unique aesthetic appearance of the zoning district;

(d) whether the proposed use will increase the intensity of use on the site so as adversely impact land uses in the area, pedestrian or motor vehicle traffic or the public welfare;

(e) whether the size, style and design of signage is appropriate to maintain the scale and character of Wellfleet;

(f) whether the proposed use will generate noise, dust, odor, glare, fumes, vibration, risk of fire or explosion or similar noxious impacts to surrounding properties and whether these impacts can be sufficiently mitigated;

(g) whether the proposed use includes the storage or presence of hazardous or combustible materials; and

(h) the overall impact of the proposed use on the health and safety of area residents.

6.29.5 Floor Area Applicability

Any increase in floor area shall be cumulative upon the adoption of this bylaw (ATM 2023).

~~6.29 FAST FOOD & FORMULA RESTAURANT PROHIBITION (ATM 4/25/11) Purpose: The Cape Cod seaside character of Wellfleet is unique, and is important to the people of the community and their collective identity as a community, as well as to the visiting public. Far more than most Cape Cod towns, Wellfleet retains its rural village character, which is integral to the fabric of the community. Wellfleet is also traditionally home to small, locally owned and operated businesses. In these senses, Wellfleet has maintained its identity in a manner rare in the region. The purpose and intent of the Formula Based Restaurant Prohibition is to address the adverse impact (in terms of noise, litter, traffic, and aesthetically inappropriate development) that standardized fast food and formula restaurants would have on Wellfleet's distinctive Cape Cod character, general welfare, and historical and cultural relevance as a rural community. These uses are therefore prohibited in order to preserve and protect the unique and locally oriented community experience of Wellfleet, and all that this offers to its citizens and tourists alike as a treasured destination. This policy is also consistent with the policy direction of the Town's Comprehensive Plan, the Cape Cod 77 Commission Act, and the enabling act of the Cape Cod National Seashore, with which Wellfleet is intimately and intricately associated.~~

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

SUMMARY: When Wellfleet adopted both the Formula Business and Fast Food & Formula Restaurant provisions in 2011 the Attorney General warned the Town that both provisions but noted that at the time, no court rulings had been made. Both provisions used substantially the same language and definitions. The following year, Cumberland Farms, Inc. v. Board of Appeals of the Town of Wellfleet and the Town of Wellfleet challenged the validity of Section 6.30 Formula Business. In 2015 a ruling was made invalidating Wellfleet's Formula Business provisions on the grounds that they (1) violated G.L. c.40A, §4, which requires that zoning regulations be uniform within a zoning district for each class or kind of structure or use permitted, and (2) imposed impermissibly vague and subjective special permit standards. We have also been advised that the definitions of Drive-In Restaurant and Fast Food Restaurants are likely too similar to prohibit one and allow the other. We have been informed by Town Counsel that the Fast Food and Formula Restaurants is similarly vulnerable to challenge. In order to protect the Town from development that it considers deleterious we need to amend our Zoning Bylaw. This proposal retains the prohibition on Fast Food Restaurants, strengthens our definitions, and gives the Zoning Board of Appeals additional tools to protect the character of Wellfleet and extends them to some other commercial uses of particular concern. It also defines certain light industrial uses or scale as activities that require additional considerations to be taken into account.

ARTICLE NO. 10 – ZONING BYLAW AMENDMENT – DEFINITION OF TREES:

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending §235- 2.1 by inserting the following new definitions in alphabetical order as follows:§235 - 2.1 Definitions:

Community Wildfire Protection Plan (“CWPP”): A plan developed in the collaborative framework established by the Wildland Fire Leadership Council and agreed to by the local government, local fire department, federal land management agencies managing land in the vicinity of the planning area, and other stakeholders. A CWPP may address issues such as wildfire response, hazard mitigation, community preparedness, or structure protection - or all the above.

Invasive Plants: Plant species identified by the Massachusetts Invasive Plant Advisory Group as Invasive, Likely Invasive, or Potentially Invasive.[\[Link for reference\]](#)

Locally Notable Trees: Native trees with a girth of 120 inches or greater measured at breast height (4.5') or below the lowest branching trunk, whichever is less. Or tree species listed as Endangered, Threatened, or of Special Concern by Massachusetts

Timber: Woody plants and trees with a girth of sixteen (16) inches measured at breast height (4.5') or below the lowest branching trunk, whichever is less.

Tree Thinning: Tree removal in an immature forest stand that reduces tree density and between-tree competition performed by a certified arborist.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

SUMMARY: This adds definitions to the Zoning Bylaws in regards to trees and timber. This contains no applications of the definitions in and of themselves, but the definitions can be utilized by other bylaws.

ARTICLE NO. 11 – ZONING BYLAW AMENDMENT – CUTTING OF TIMBER:

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by amending §235 -6.9 as follows:

§235 - 6.9.1 CUTTING OF TIMBER WITHIN NSP

Within the National Seashore Park District, there shall be no cutting of timber except permitted by the Building Commissioner for the following reasons:

- (a) By an owner for the purpose of reasonably controlling brush or trees;
- (b) Maintenance cutting in pastures;

(c) Cutting for clearance or maintenance on right-of-way including those pertaining to public utilities or public highways, provided said clearance or maintenance complies with Chapter 200, the Town’s Scenic Road Bylaw, if applicable;

(d) as specified in a **Community Wildfire Protection Plan** by the Wellfleet Fire Department or the National Park Service; or

(e) the removal of Invasive Plants as determined by a certified arborist.

Exemptions:

This section shall not apply to federal, state or municipal projects.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

SUMMARY: This updates the “Cutting of Timber”. The assumption is that the current bylaw dates to the 1960s, and there was not much of an awareness of the detrimental impacts of most invasive species, and fewer were considered invasive. A Community Wildfire Protection Plan [CWPP] is seeks to mitigate some of the risks of a wildfire to life and property and would be developed under the aegis of the Town and the Park. As of now, there is not a CWPP but the park does issue fire safety recommendations to property owners, so this provision is future looking.

ARTICLE NO. 12 – ZONING BYLAW AMENDMENT – LANDSCAPE AND TREE PRESERVATION:

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by inserting a new §235 -6.9.2 as follows:

§235 6.9.2 Landscape and Tree Preservation Bylaw

§235- 6.9.2.1 Purpose: A wide variety of landscapes are necessary to provide a richness of habit required to support a diverse variety of species. Planting of native species in disturbed areas prevents those areas from being colonized by invasive species.

§235 - 6.9.2.2

Applicability: No construction, site preparation work or grading shall be done in any zoning district on any parcel of land, which will result in the removal of greater than twenty percent (20%) of existing vegetation or Timber or a maximum area of disturbance of 10,000 sq ft, whichever is less, until any necessary permits and approvals have been obtained. If the total area of disturbance is greater than 12,500 sq ft, a special permit shall be required in all districts.

At the conclusion of all site work, including but not limited to the construction of structures, grading, and grubbing, the disturbed area must be re-vegetated with native species. In the absence of re-vegetation with native species of the disturbed area, a fee determined by the table [Table 6.9.2.3) shall be applied to be paid to the Environmental Betterment Fund. Landscaping with Invasive Plants is hereby prohibited.

Table 6.9.2.3 Payment to the Environmental Betterment Fund

<u>Area not re-vegetated</u>	<u>Base Fee</u>	<u>Fee for area not re-vegetated</u>
<u>5,000-9,999 sq ft</u>	<u>\$100</u>	<u>\$0.25 /sq ft</u>
<u>10,000-19,999 sq ft</u>	<u>\$100</u>	<u>\$0.50 /sq ft</u>
<u>> 20,000 sq ft</u>	<u>\$100</u>	<u>\$0.75 /sq ft</u>

§235-6.9.2.4 Exemptions:

This section shall not apply to the removal of Invasive Plants as determined by a certified arborist, trees that are diseased in the opinion of a certified arborist, or the removal of trees threatening the safety of people, structures, roadways, or utilities.

This section shall not apply to any federal, state or municipal projects.

If Wellfleet adopts a Community Wildfire Protection Plan, the specifications contained therein shall supersede those herein.

This section shall not prohibit site work reasonably necessary for conducting land survey or tests required as a condition precedent to the issuance of any permit or approval. If, after obtaining all necessary permits and approvals, such work is commenced and then abandoned, all areas of the site which were disturbed during construction or site preparation shall be re-vegetated with native species in a manner sufficient to avoid erosion.

Deed-restricted affordable housing or housing deed restricted to year-round residency shall be exempt from payments in lieu of re-vegetation.

Tree Thinning may be permitted by the Building Commissioner where the total canopy cover is retained, and disturbance to the ground and other vegetation is minimized. Tree thinning may be exempt from payments in lieu of re-vegetation.

Whereas Wellfleet is a **Right to Farm Community**, land clearance in association with commercial agriculture, as provide under G.L. c. 40A, Section 3, shall be exempt from this bylaw .

§235-6.9.2.5 Special Permits

In addition to the provisions and criteria set forth in §235-8.4.4, the Board of Appeals acting as the SPGA, shall grant a special permit under §235-6.9.2 unless it finds that the proposal shall have an adverse effects on the Town or the vicinity of the subject parcel that outweighs any benefits, taking into consideration the stated district objectives (Section 235-3.2) and, where germane, the following matters:

- (a) Whether the site is more sensitive than are most similarly zoned sites to environmental damage from a proposal such as this, considering erosion, siltation potential groundwater or surface water contamination, habitat disturbance, or loss of valuable natural vegetation;
- (b) Whether scenic views from public ways and developed properties have been considerately treated; and
- (c) Whether any traditional public access to or along the shoreline has been maintained.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

SUMMARY: At the 2022 Annual town meeting, the petitioned Article 48 "Tree Preservation Resolution," passed with an overwhelming majority. The Selectboard was charged with causing a tree preservation bylaw to be drafted. Girth(circumference) is the standard forest measurement of a tree as is breast height. The petitioned article made no provision for cutting trees not associated with construction or demolition activities. The bylaw before you prohibits large scale removal of trees and ground cover unless all permits have been issued as well as protecting other forms of vegetation. A payment in lieu of re-vegetation, as requested in the Tree Preservation referendum at the 2022 Town Meeting in the instance of large-scale disturbance, requires the bylaw to operate under Massachusetts General Law, Chapter 40A, Section 9, Fourth paragraph, which requires a Special Permit, this establishes the presumption that a special permit would be granted unless the SPGA reaches a finding that the proposed clearing is unusually detrimental. Additionally, a payment in lieu of re-vegetation is required and the receipts are placed into the Environmental Betterment Fund as a means to offset the environmental disturbance

ARTICLE NO. 13 – ZONING BYLAW AMENDMENT – LOCALLY NOTABLE TREES:

To see if the Town will vote to amend the Wellfleet Zoning By-Laws by inserting a new Section §235-6.9.3 as follows:

§235- 6.9.3 Purpose and Applicability

Recognizing the value large older trees provide to wildlife and the unique role they play in the ecosystem they should be preserved whenever possible. No removal of or trimming of **Locally Notable Trees** shall be permitted until all necessary permits and approvals have been obtained unless there is an immediate threat to public safety, structures, or utilities.

§235 - 6.9.3.1 Special Permit Required

Removal of **Locally Notable Trees** shall require a special permit from the Zoning Board of Appeals as the **Special Permit Granting Authority**. Any application for the removal of a **Locally Notable Tree(s)** shall be referred to the **Conservation Commission** for comment prior a hearing per Ch. 40A, Sec. 11 before the Special Permit Granting Authority. A priority shall be placed on retaining these trees during the course of any construction activities or site plan and or landscaping.

§235 - 6.9.3.2 Applications for the trimming of a **Locally Notable Tree must include a letter from a certified arborist that the trimming poses little risk to the health of the tree prior to any such work being performed and are subject to the approval of The Tree Warden. Said Trimming includes that of the Tree's root system. If the Tree Warden or Arborist determines that the trimming of a **Locally Notable Tree** poses a threat to its health, they shall refer the matter to the Special Permitting Authority, who will refer it to the Conservation Commission for comment prior to the hearing.**

§235 - 6.9.3.3 EXEMPTIONS

This section shall not apply to the removal of **Invasive Plants**, diseased trees, or those posing an imminent threat to people, structures, roadways, or utilities, as determined by the Tree Warden.

This section shall not apply to federal, state or municipal projects.

§235 6.9.3.4 Special Permit Criteria

In addition to the provisions and criteria set forth in §235-8.4.4, the Board of Appeals acting as the SPGA, may grant a special permit for the removal or trimming of a **Locally Notable Tree** if it reaches a finding that there is no viable alternative to said removal.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

SUMMARY: It also requires a special permit for removal or for the trimming that may pose a risk to the health of very large trees. Very large trees provide extensive ecosystem benefits as well as often natural playgrounds. This also clarifies and strengthens the prohibition of the cutting of timber in the NSP.

ARTICLE NO. 14 – ZONING BYLAW AMENDMENT – ZONING ENFORCEMENT PENALTY:

To see if the Town will amend the Wellfleet Zoning By-Laws by amending Chapter 235, section 8.3 Penalty by deleting the language struck through and adding the language underlined.

[Amended 6-26-2021 ATM by Art. 45]8.3 PENALTY

~~8.3 Penalty Any person violating any of the provisions of these Bylaws may be fined not more than \$50.00 for each offense, except in the case of violations of Section 6.21 Accessory Dwelling Units, the fine shall be \$300.00 for each offense. Each day that such violation continues shall constitute a separate offense.~~

§ 235-8.3 Penalty.

- A. Any person, association, firm or corporation violating any of the provisions of this bylaw may be fined not more than \$300 for each offense. Each day that such a violation continues shall constitute a separate offense.
- B. Accessory Dwelling Units: Any person, association, firm or corporation violating § 235-6.21
- C. Accessory dwelling units (ADU), the fine shall be \$300.00 for each offense. Each Accessory Dwelling Unit in violation shall be a separate violation. Each day that such violation continues shall constitute a separate offense.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

SUMMARY: The maximum allowed fine under MGL Ch 40a Section 7 for zoning infractions is \$300 dollars per violation. Most Massachusetts municipalities have adopted the maximum allowable fine. This does not mean that the fine is always \$300. With the exception of ADUs, the fine is at the discretion of the building commissioner. Enforcing zoning is expensive, and this provides both a means to recapture some of the costs based on the level of the infraction as well as providing the commissioner with additional leverage to address zoning infractions. ADUs are required to be occupied on a year-round basis, and clarifies that the fine is applied to each ADU out of compliance.

ARTICLE NO. 15 – GENERAL BYLAW AMENDMENT – MINIATURE “NIPS” BOTTLE BAN:

To see if the Town will vote to adopt the following as a general bylaw and to insert it into the Code of the Town of Wellfleet, Massachusetts.

General Bylaws
Chapter 187. Plastics and Other Environmental Hazards

Article V Prohibition on Sale of Alcoholic Beverages in Miniature or “Nip” Bottles

Section 1. Sale of

Effective on September 1, 2024, it shall be unlawful to sell or offer for sale alcoholic beverages in containers less than or equal to 100 milliliters within the Town of Wellfleet.

Section 2. Enforcement

Enforcement of this article shall be the responsibility of the Town Administrator or his/her designee. The Town Administrator shall determine the inspection process to be followed, incorporating the process into other Town duties as appropriate.

Any establishment conducting sales in violation of this article shall be subject to a non-criminal disposition fine as specified in G. L. Chapter 40 § 21D. The following penalties apply:

- First violation: Written warning
- Second violation: \$150 fine
- Third and subsequent violations: \$300 fine

Each day a violation continues constitutes a separate violation, incurring additional fines. Any such fines collected shall be payable to the Town of Wellfleet.

All businesses will be routinely inspected until the Town Administrator deems the inspection to no longer be required.

(Requested by the Selectboard)

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

SUMMARY: Nips are miniature single-serve liquor bottles made of plastic or glass. The plastic nip bottles are not recyclable, due to their small size, nor are nips bottles covered by the state bottle redemption law. Nips litter is a pervasive problem, dotting roadsides and beaches. A Falmouth group surveyed litter on that town’s roadways in 2021 and found that nips made up 32% of roadside garbage. The reason nips end up on roadsides is a public health and safety concern. Nip bottles are a convenient way to consume alcohol while driving and dispose of the container out the window. In 2018, data showed Chelsea received 742 alcohol related emergency calls. Chelsea's ban passed that year and by August of 2019, that number had decreased to 128 calls of the same kind. Nips bans are now in effect in Chelsea, Falmouth, Mashpee, Newton, Wareham, and Nantucket. The two Martha’s Vineyard towns that sell nip bottles, Oak Bluffs and Edgartown, passed nip bottle bans earlier this year.

ARTICLE NO. 16 – GENERAL BYLAW AMENDMENT – ANIMAL CONTROL REGULATIONS:

To see if the Town will amend the Wellfleet Zoning By-Laws by amending Chapter 111 by deleting the language struck through and adding the language underlined.

(Requested by the Selectboard)

Article I
Animal Control

[Adopted 6-26-2021 ATM by Art. 47 (Art. XV of the General Bylaws)]

§ 111-1 Purpose.

The purpose of these bylaws is the control of animals to prevent injury to property, persons and animals.

§ 111-2 Administration.

The Selectboard shall appoint an Animal Control Officer who, in addition to any other authorized enforcement officers, shall be responsible for the enforcement of these bylaws.

§ 111-3 Definitions.

For the purposes of this bylaw, the following terms shall have the following definitions:

ADEQUATE SHELTER

Means a structure that is large enough for the animal to stand naturally, turn around and lie down inside of the structure without being exposed to the elements of weather. The roof and walls of the structure are waterproof and windproof. Bedding must be kept dry and changed regularly to preserve insulating qualities. Insulation and an inner wall must be included in shelter for dogs with short fur (example: Pointers, Staffordshire Terriers, Boxers, Labrador Retrievers) to provide adequate protection from cold. During cold weather a moveable flap must be placed over the entrance to a shelter to preserve the animal's body heat. Adequate shelter from sun may be provided by a tarp placed in a manner to provide deep shade and allow air to pass through for ventilation.

BEACH

The zone above the water line at a shore of a body of water, marked by an accumulation of sand, stone, or gravel that has been deposited by the tide or waves.

DOMESTICATED ANIMAL

Any of various animals that have been tamed and made fit for a human environment.

KEEPER

Any person, other than the owner, possessing, harboring, keeping, or having control or custody of a dog either permanently or on a temporary basis. If a person under the age of 18 owns or keeps a dog, that person's custodial parent(s) or legal guardian(s) shall be responsible for complying with the requirements of these bylaws.

KENNEL, COMMERCIAL

A kennel maintained as a business where four or more dogs three months of age or older are kept for the breeding, boarding, sale, in-residence training, grooming or other business purposes, and including any shop where dogs are on sale or a kennel of 10 or more dogs regardless of the purpose for which the kennel is maintained.

KENNEL, RESIDENTIAL

Means a collection of four up to and including nine dogs, three months of age or older, owned or kept on a single premises, maintained for any non-commercial purpose except for the sale of one litter per year; provided, however, that a veterinary hospital shall not be considered a kennel unless it contains an area for the selling or boarding of dogs for other than medical purposes.

DANGEROUS DOG

Any dog that attacks, bites or injures any human or domesticated animal without provocation or which, because of its temperament, conditioning or training, has a propensity to attack, bite or injure humans or domesticated animals.

LICENSING PERIOD

The licensing period means the time between January 1st and the following December 31st of each year, both dates inclusive.

§ 111-4 Dog licensing.

Dogs must be leashed.

All dogs within the territorial limits of the Town of Wellfleet shall be restrained by a leash unless confined to the property of their owners. Any dog found running at large will be removed and impounded. The owner of any dog so removed is also liable for boarding expenses at the pound at the established rate. The Town of Wellfleet Police Department (including special officers), the Animal Control Officer, and any other officials whom the Selectboard may from time to time designate shall have the authority to enforce this section.

- A. Any person residing in the Town of Wellfleet, who at the beginning of the license period (January 1 to December 31), or who during the license period, becomes the owner or keeper of a dog six months old or over, shall cause the dog to be licensed within 30 days. The Town Clerk shall issue dog licenses and tags based on the completion and the approval of the Dog License Application form that is available on the town's website. The completed form along with the required additional documentation can be brought to the Town Clerk's office or sent to the Town Clerk by mail.

- B. An applicant for a dog license will also bring to the Town Clerk's office or send to the Town Clerk by mail the following required additional documentation:
 1. Copy of current rabies certificate
 2. Copy of Spaying/Neutering certificate (if not noted on rabies certificate)
 3. Self-addressed envelope with sufficient postage (license will be held in office if a completed return envelope is not enclosed)
 4. Check made payable to: Town of Wellfleet for the total of the licensing fee.

- C. On the license form, the Town Clerk shall record the name, address, mailing address, email address, phone number and the date of birth of the owner or keeper of the dog, and the name, age, breed, sex, and description of each dog. Each tag shall include the license number, the name of the Town and the year of issue.

- D. The owner or keeper of the dog shall cause each dog to wear around its neck or body a collar or harness to which they shall securely attach the license tags. In the event that any license tag is

lost, defaced or destroyed, substitute tags shall be obtained by the owner or keeper from the Town Clerk at the cost of \$1. Such moneys shall be transmitted to the Town of Wellfleet in the same manner as license fees.

- E. The Town Clerk shall not issue a license for any dog unless the owner or keeper provides the Town Clerk with a veterinarian's certificate verifying that the dog is currently vaccinated against rabies.
- F. Any exemption from the requirements of having to produce a valid rabies certificate in order to obtain a dog license shall be granted if the owner or keeper presents a signed statement from a veterinarian, indicating that because of infirmity, other physical condition or regimen of therapy, inoculation is thereby deemed inadvisable.
- G. The fee for each dog license shall be \$10 unless a certificate from a veterinarian stating that the dog has been spayed or neutered, or a statement from a veterinarian indicating that because of age, infirmity or other physical condition spaying or neutering is deemed inadvisable, is presented to the Clerk, in which case the fee shall be \$5. No fee shall be charged for a dog specially trained to lead or serve a blind, deaf, or handicapped person upon presentation to the Town Clerk of a certificate of such training.
- H. The Clerk shall collect a late fee of \$5 for every dog license issued after the thirty-day period, as defined in § 111-3 of this article.
- I. Any owner or keeper of a dog who moves into the Town of Wellfleet and has a valid dog license for his/her dog from another city or town in the commonwealth shall, within 30 days, obtain a dog license from the Town of Wellfleet.
- J. No license fee or part thereof shall be refunded because of subsequent death, loss, spaying, neutering, or removal from the Town of Wellfleet or any other disposal of said dog.
- K. This section shall not apply to a person to whom a valid kennel license has been issued under § 111-10, or a dog housed in a research institution.
- L. Penalties shall be imposed as per § 111-11B(1).

§ 111-5 Dog waste removal.

- A. All dog owners, keepers or persons having control of a dog are responsible for immediately removing and disposing of all solid wastes produced by said dog on any property (other than the property of the dog owner) in a sanitary manner and where it will not cause pollution, either directly or indirectly.
- B. No written warning shall be given.
- C. Penalties shall be imposed as per § 111-11B(2).

§ 111-6 Barking and other noise caused by dogs.

- A. No person owning, keeping or otherwise responsible for a dog shall allow said animal to annoy another person's reasonable right to peace or privacy by making loud or other continuing noise, where such noise is plainly audible at a distance of 100 feet from the building, premises, vehicle, or other means of conveyance or housing of said dog, or where such noise is continuing for 15 minutes. The fact that such noise is plainly audible at said distance or continuing in excess of 15 minutes on a daily basis shall be prima facie evidence of a violation.
- B. Penalties shall be imposed as per § 111-11B(3).

§ 111-7 Animals in parked vehicles.

No animal may be left unattended in a parked vehicle at any time of year.

Any person owning, keeping, or otherwise responsible for a companion animal or pet or farm animal or livestock who confines said animal in a parked vehicle or trailer where the vehicle confinement has the possibility to endanger or does in fact endanger the health or safety of the animal shall be subject to a fine.

§ 111-8 Licensing and regulation of dangerous dogs.

- A. Determination of a dog being dangerous. The Animal Control Officer shall investigate all complaints made to the Animal Control Officer, the Town of Wellfleet Police Department, the Selectboard, or the Town Administrator that any dog owned or kept within the Town of Wellfleet has attacked, bitten, or injured any person or domesticated animal, or which by its temperament, conditioning or training has a propensity to attack, bite or injure persons or domesticated animals.
- B. The Animal Control Officer is authorized to make whatever inquiry is deemed necessary to determine the accuracy of said complaint, and if the Animal Control Officer determines that the complaint is accurate, the Officer may find that the dog is dangerous and may make such orders as he or she deems necessary to ensure compliance with the provisions of this bylaw and to promote public safety.
- C. Upon determination by the Animal Control Officer that a dog is dangerous, the Animal Control Officer shall issue a written order to the owner or keeper of said dog concerning the restraint or disposal of such dog as they may deem necessary. At a minimum, said order shall state that the dog has been determined to be dangerous and shall require the owner or keeper of such dog to comply with the requirements of this bylaw.
- D. Without limiting the generality of the foregoing, the Animal Control Officer may order that said dog be humanely euthanized in accordance with the provisions of MGL c. 140, § 151A, or that said dog be confined in accordance with such limitations as the Animal Control Officer deems appropriate. If an order to euthanize is issued, a certificate must be provided to the Animal Control Officer confirming the action was carried out. If the Animal Control Officer determines that the dog is to be permanently given or sold to new owner, removed, the new owner or keeper shall provide the Animal Control Officer with the name, address, and telephone number of the new owner or keeper of the dog.
- E. The owner or keeper of any dog determined to be dangerous by the Animal Control Officer may request a hearing before the Selectboard. Said request shall be in writing and received by the Selectboard within five business days of the owner's or keeper's receipt of the Animal Control Officer's order. A copy of the hearing request shall also be delivered to the Animal Control Officer. The hearing request shall include an explanation of the measures that the owner or keeper intends to take to protect public safety pending disposition of the matter by the Selectboard. If the Selectboard determines that the

measures described are inadequate, it may order that said dog be impounded, at the owner's or keeper's expense, until such time as the Selectboard rules otherwise.

F. After a hearing, at which those testifying shall be sworn under oath, the Selectboard may affirm the order, reverse or nullify the order, or issue any such order as it deems necessary to ensure compliance with the provisions of these bylaws and the protection of public safety. The determination of the Selectboard after a hearing shall be final.

G. Nothing in this bylaw is intended to limit or restrict the authority of the Selectboard to act in accordance with MGL c. 140, § 157.

§ 111-9 Control of dangerous dogs.

A. The Animal Control Officer shall notify the Town Clerk of all dogs determined to be dangerous, pursuant to the terms of this bylaw.

B. The owner or keeper of any dog determined to be dangerous in accordance with this bylaw, which has not been ordered euthanized, shall re-license said dog as "dangerous" within 30 days of such determination. A unique licensing number shall be assigned to such a dog by the Town Clerk. That number shall be noted in the Town licensing files.

C. No dangerous dog shall be licensed by the Town of Wellfleet for any licensing period unless the owner or keeper of such vicious dog displays a sign not to exceed one square foot on his or her premises warning that there is a dangerous dog on the premises. The sign shall be visible and capable of being read from the public or private roadway.

D. All dangerous dogs shall be confined in an enclosure approved in writing by the Animal Control Officer. It shall be unlawful for any owner or keeper to maintain a dangerous dog upon any premises which does not have a locked enclosure or for any owner or keeper to allow any such dog to be outside of the dwelling of the owner or outside of the enclosure, unless it is necessary for the owner or keeper to obtain veterinary care for the vicious dog, or to sell or give away the vicious dog or to comply with the orders or directions of the Animal Control Officer and/or the Selectboard with respect to the vicious dog, or to comply with the provisions of these bylaws. In such event, the dangerous dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length, and shall be under the direct control and supervision of the owner or keeper of the vicious dog. Dangerous dogs shall not be permitted to run loose on any public or private way or any area within the Town of Wellfleet that is open to the general public, including but not limited to parks and beaches.

E. License revocation. If the Animal Control Officer determines that a dangerous dog is being kept in the Town in violation of these bylaws or any order issued by the Animal Control Officer, or the Selectboard, or of any court, the Animal Control Officer shall so notify the Selectboard. After giving notice to the owner or keeper of the hearing, the Selectboard shall hold a public hearing on whether to revoke the license of said dog or to take further action, including euthanizing the dog. If the Selectboard revokes the license of said dog and does not order it to be euthanized, they shall notify the owner or keeper of the dog and the Town Clerk within 10 days that said dog will be impounded and euthanized if it is found within the Town after the succeeding seven days. The Animal Control Officer or any Town of Wellfleet police officer shall seize and impound any dangerous dog found outside of its enclosure in violation of this bylaw or any order issued by the Animal Control Officer, Selectboard or any court.

§ 111-10 Kennel licenses, inspection and regulation.

A. Requirement for kennel license. Any owner or keeper of four up to and including nine dogs, three months of age or older, being maintained at a premises, shall secure a Residential Kennel License. The Town Clerk shall not issue a Residential Kennel License unless the owner or keeper provides the Town Clerk with a veterinarian's certificate verifying that each dog three months of age or older is currently vaccinated against rabies. Any owner or keeper of 10 or more dogs, three months of age or older, or of a premises maintained as a commercial kennel, shall obtain a Commercial Kennel License.

B. Application and issuance of kennel license and fees.

(1) A Residential or Commercial Kennel License shall be issued annually by the Town Clerk upon written application by an owner or keeper of dogs and after inspection of the kennel and a determination, made by the Animal Control Officer, that the basic standards of cleanliness, proper care, confinement, and adequate shelter of said dogs exist on the premises. The name and address of the owner or keeper of each dog kept in any kennel, if other than the person maintaining the kennel, and a veterinarian's certificate verifying that each dog, three months of age or older, is currently vaccinated against rabies and kennel cough, shall be kept on file on the premises and available for inspection by the Animal Control Officer or any authorized persons. Such license shall be in the form prescribed by the Town Clerk.

(2) The Residential Kennel License fee shall be \$50. The Commercial Kennel License fee shall be \$150. The Town Clerk shall, upon application, issue without charge a Commercial Kennel License to any domestic charitable corporation, incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse, and for the relief of suffering among animals. The holder of a license for a kennel shall cause each dog kept therein to wear, while it is at large, a collar or harness of leather or other suitable material, to which shall be securely attached a tag upon which shall appear the current dog license information of the town where the dog resides. A veterinary hospital shall not be considered a kennel unless it contains an area for the selling or boarding of dogs for other than medical purposes, in which case it shall apply for a Commercial Kennel License. The license period for a kennel license shall be from January 1 to December 31, inclusive. Kennel licenses are non-transferrable.

C. Inspection. The Animal Control Officer, Animal Health Inspector, or any agent authorized by the Town may at any reasonable time inspect any kennel or premises for which a Residential or Commercial Kennel License has been issued.

D. Loss of kennel license. If the Animal Control Officer, Animal Health Inspector, or other authorized agent, after inspection, determines that the kennel or premises that are the subject of a kennel license are not kept in a sanitary or humane condition, or if records are not kept as required by law, the inspecting officer shall notify the Selectboard of that determination and the facts upon which it is based. The Selectboard may, by order after a hearing, revoke or suspend such license. If a license has been revoked or suspended, the license may be reinstated after inspection and a reinstatement order by the Selectboard after a new hearing.

E. Procedure for complaint to the Selectboard. Upon written petition of any person or persons, filed with the Selectboard, setting forth that they are aggrieved or annoyed to an unreasonable extent by one or more dogs at a kennel because of excessive barking or dangerous disposition of said dogs, or other conditions connected with such kennel constituting a public nuisance, said Selectboard, within seven days after the filing of such a petition, shall give notice to the owner or keeper of the kennel, the petitioner(s), and any other person the Selectboard determine should be given notice, of a public hearing to be held within 14 days after the date of such notice. Said notice shall also be posted on a Town bulletin board. Within seven days after such public hearing, said Selectboard shall make an order either

revoking or suspending such kennel license, or otherwise regulating said kennel or premises, or dismissing said petition.

F. Petition for relief to court. The holder of a kennel license or other person who is the subject of an order under Subsection E may petition the District Court for relief in accordance with MGL c. 140, § 137C.

F. Penalties shall be imposed as per § 111-11B(4).

§ 111-11 Fines and penalties.

A. Criminal disposition. In addition to any other legal remedies that may be available, the Animal Control Officer, or other designated enforcing person, may enforce this bylaw by non-criminal disposition. If a non-criminal disposition process, as provided in MGL c. 40, § 21D and the Town's Non-Criminal Disposition Bylaw is elected, then any person who violates the provisions of Chapter 111, Article I, of the Town's General Bylaws shall be subject to the following enforcement fines and penalties.

(1) The enforcing officer may give a written warning for the first offense or shall impose the following fines:

- (a) First offense \$50.
- (b) Second offense \$100.
- (c) Third offense \$300.
- (d) Fourth and subsequent offenses \$500.

(2) Each day or portion thereof shall constitute a separate offense. If more than one, each provision violated shall constitute a separate offense.

B. These penalties shall apply to all violations of Wellfleet's General Bylaws, Chapter 111, Article I, except that:

(1) Any person who violates the provisions of § 111-4 shall be subject to a verbal or written warning for the first offense, a fine of \$50 for the second offense and a fine of \$100 for the third and any subsequent offenses.

(2) Section 111-4, Dogs must be leashed, and §

(2) Section 111-5, Dog waste removal. Owners or keepers of dogs found to be in violation shall be fined immediately as a first offense and subsequently as listed for the third, fourth and subsequent offenses, with no written warning;

(3) Section 111-6, Barking and other noise caused by dogs. Owners or keepers of dogs found in violation shall be fined \$50 for each offense;

(4) Section 111-10, Kennel licenses, inspection and regulation. Kennel owners shall be subject to a penalty in the amount of \$50 per day for each day of violation. Each day or portion thereof shall constitute a separate offense. If more than one, each provision violated shall constitute a separate offense.

Article II

Dogs at Large

[Adopted as Art. VII, Sec. 25, of the General Bylaws]

§ 111-12 Dogs in cemeteries.

No person shall permit a dog to enter within the boundaries of any cemetery in the Town of Wellfleet.

§ 111-13 **Restraint requirements.**

All dogs within the territorial limits of the Town of Wellfleet shall be restrained by a leash unless confined to the property of their owners. Any dog found running at large will be removed and impounded. The owner of any dog so removed is also liable for boarding expenses at the pound at the established rate. The Town of Wellfleet Police Department (including special officers) and the Animal Control Officer and any other officials whom he Selectboard may from time to time designate shall have the authority to enforce this section.

§ 111-14 **Violations and penalties.**

Any dog found running at large will be removed and impounded. If it is the first offense subject to this article committed by a person within a calendar year, the charge shall be dismissed without the payment of any fine; if it is the second offense so committed in the calendar year, the payment of a fine of \$25 shall operate as final disposition of the case; if it is the third offense so committed in a calendar year payment of a fine of \$30 shall operate as final disposition of the case; if it is the fourth or subsequent offense so committed the payment of a fine of \$50 shall operated as a final disposition of the case. The owner of any dog so removed is also liable for boarding expenses at the pound at the established rate. The Town of Wellfleet Police Department (including special officers), and the Dog Officer Animal Control Officer, and any other officials whom the Selectboard may from time to time designate shall have the authority to enforce this article.

Article III

Wildlife Protection: Feeding

[Adopted 9-10-2022 STM by Art. 15]

§ 111-15 **Feeding of songbirds and other backyard birds permitted on private property.**

The feeding of songbirds and other backyard birds shall be permitted on private property subject to the condition that birds shall only be fed from bird feeders.

§ 111-16 **Feeding of wildlife**

The feeding of wild animals and/or wildlife is prohibited.

- A. No person shall feed, bait, or in any manner provide access to food to any wild animal and/or wildlife within Town of Wellfleet on lands either publicly or privately owned, except as permitted by § 111-15.
- B. No person shall fail to take remedial action to avoid contact or conflict with wild animals, which may include the securing or removal of outdoor food sources or attractant after being advised by the Town to undertake such remedial action. Further, after an initial contact or conflict with a wild animal, no person shall continue to provide, or otherwise fail to secure or remove, any likely food sources or attractants.
- C. The prohibitions of this section shall not apply to naturally growing shrubs, live crops, plants, flowers, vegetation, gardens, or trees.

§ 111-17 **Enforcement.**

- A. The Animal Control Officer shall enforce the provisions of this article.

B. Violations of this article shall be enforceable under the noncriminal disposition procedures established by MGL c. 40, § 21D. The noncriminal disposition penalties for any person violating this article shall be a written warning for the first violation; \$25 for the second violation; \$100 for the third violation; and \$300 for each subsequent violation. Each day of violation shall constitute a separate offense.

2/3rd Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

SUMMARY:

SECTION III: STANDARD CLOSING ARTICLES

ARTICLE NO. 17 – ENVIRONMENTAL BETTERMENT FUND:

To see if the Town will vote to establish a special purpose “Environmental Betterment Fund” fund pursuant to G.L. c. 40, §5B and further to dedicate one hundred percent (100%) of the revenue received as payments in lieu of under [article and section of zoning] Tree Preservation, to be appropriated by future votes of Town Meeting as grants or to support initiatives benefiting the environment within the Town of Wellfleet, or to act on anything thereon.

(Requested by the Selectboard)

Majority Vote Required

Recommendations:

Selectboard:

Insert Yes – 0, No – 0, Abstain – 0.

Recommend: Yes – 0, No – 0, Abstain – 0.

SUMMARY: This creates a dedicated fund to support environmental initiatives within Wellfleet. It is funded by contributions received as mitigation (payments in lieu of) under the Tree Preservation Zoning Bylaw. Expenditures from this fund must be approved by town meeting.

SECTION IV: STANDARD CLOSING ARTICLES

ARTICLE NO. 18 - REPORTS OF BOARDS AND COMMITTEES:

To hear reports of the Selectboard, Town Officers, and all other Committees and to act thereon, or do or act on anything thereon.

(Requested by the Selectboard)

Majority Vote Required

Recommendations:

Selectboard:

Insert Yes - 0, No - 0, Abstain - 0.

Recommend Yes - 0, No - 0, Abstain - 0.

ARTICLE NO. 19 - OTHER BUSINESS:

To act on any other business that may legally come before the meeting.

(Requested by the Selectboard)

Majority Vote Required

Recommendations:

Selectboard:

Insert Yes - 0, No - 0, Abstain - 0.

Recommend Yes - 0, No - 0, Abstain - 0.

ANNUAL TOWN ELECTION WARRANT

Tuesday September 26, 2023

The Commonwealth of Massachusetts

To either of the Constables in the Town of Wellfleet in the County of Barnstable:

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the inhabitants of the Town of Wellfleet qualified to vote in Town Affairs, to meet at the **WELLFLEET ADULT COMMUNITY CENTER, 715 OLD KING'S HIGHWAY in Wellfleet on Tuesday the 26th day of September, 2023, between twelve o'clock noon and seven o'clock p.m.**, then and there to vote on the following questions:

Question 1: Shall the Town of Wellfleet be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds issued in order to pay costs associated with design and construction of Phase I Wastewater Treatment System to serve 95 Lawrence Road and surrounding municipal buildings?

Majority Vote Required

Question 2: Shall the Town of Wellfleet be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bonds issued in order to pay to assist in the installation of high performance, so called "enhanced" Innovative & Alternative Septic Systems within the Wellfleet Harbor Watershed?

Majority Vote Required

2023 SPECIAL TOWN ELECTION WARRANT

And you are hereby directed to serve these warrants by posting attested copies thereof, one in the Post Office in Wellfleet and one in the Post Office in South Wellfleet, fourteen (14) days at least before the date of said meetings.

Hereof fail not and make do return of these warrants with your doings thereon, to the town Clerk, at the time and place of said meetings.

Give under our hands this ____ day of AUGUST 2023.

Wellfleet Selectboard

Ryan Derek Curley, Chair

Barbara Carboni, Vice Chair

Michael F. DeVasto, Member

Kathleen Bacon, Member

John A. Wolf, Clerk

Constable's Return of Service

I have served the foregoing warrant by posting attested copies thereof in the Post Office in Wellfleet and the Post Office in South Wellfleet in the town on _____, which is at least fourteen (14) days before the date of said meeting, as within directed.

Date: _____

Constable: _____



SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: July 11, 2023

VIII

BUSINESS

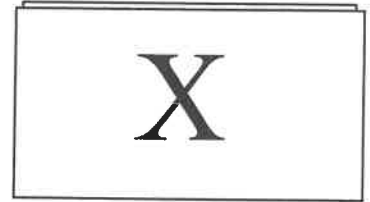
~ A ~

REQUESTED BY:	Jennifer Congel ~ Town Clerk & Selectboard
DESIRED ACTION:	To choose the special town election date
PROPOSED MOTION:	I move to approve the _____ as the date for the special town election to be held at the Wellfleet Adult Community Center from noon to 7pm.
SUMMARY:	
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023



SELECTBOARD REPORTS:

Reported by:	Topic:



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023

XI

TOWN ADMINISTRATOR REPORTS

- **Please see Selectboard packet for full report**



MEMORANDUM

TOWN OF WELLFLEET MASSACHUSETTS 02667
Tel (508) 349-0300 Fax (508) 349-0305
www.wellfleet-ma.gov

To: Selectboard
From: Richard J. Waldo, Town Administrator
Cc: Rebekah Eldridge, Executive Assistant to Town Administrator
Subject: Department Update Report for the July 11, 2023, Select Board Meeting
Date: July 6, 2023

Administration

- Kudos to the Wellfleet Chamber of Commerce, Fire Department, Police Department, DPW, Harbormaster and all the participants on a successful Fourth of July Holiday Parade. The holiday was busy, and we look forward to enjoying the rest of the summer with everyone.
- Our interim Assistant Town Administrator, David Colton, has begun work and making significant strides getting caught up on projects managed by the former ATA. David brings extensive experience in public administration to our team, and we look forward to his assistance as we transition to our next permanent Assistant Town Administrator.
- The Town has brought onboard Alex Williams to serve as interim Town Treasurer until the position can be permanently filled. Alex has many years of experience serving municipalities in the treasurer role. We look forward to having Alex's skillset help us build a stronger treasury department.
- The Town is finalizing the acceptance of a \$14,690,000.00 award from the National Oceanic Atmospheric Administration to assist with the Herring River Restoration project. This is an exciting opportunity for the Community and one of the largest awarded from the NOAA grant program.
- The administration is working closely with the Select Board to develop the Special Town Meeting Warrant. The first draft can be viewed in the Selectboard Packet for July 11th.

Building

- Working with the Administration on bringing forward an online permitting platform to ensure a streamlined permit process.

Collector

- The 3rd motor vehicle commitment of 2023 was issued on June 13, 2023, due July 13, 2023.
- The \$23,060,526.39 real estate commitment is 98% collected, with \$533,273.66 outstanding as of today, June 26, 2023.
- Collection of 2021 taxes through tax taking and advertisement is now down to 5 properties with a total of \$13,107.33 left outstanding. If payment is not received by July 6, 2023, at 10 am, the taking occurs and the accounts are transferred to the treasurer's side for collection

with an interest rate increase from 14% to 16%. Property owners can schedule a repayment plan for the 2021 overdue taxes with the treasurer.

- The flagging of beach/shellfish/mooring permits for non-payment of personal property taxes and boat excise taxes continues to be a successful way to get the outstanding taxes collected. This has been through diligent work by Cheryl Mulligan of the beach sticker office, and Suzanne Grout Thomas. My thanks for interdepartmental cooperation.
- Now for a non-boring financial report: My office has been painted a beautiful turquoise by Don Bragdon of the DPW! It is such a cheerful color and Don is an exceptional painter. My sincere thanks to Don!

Community Services

Council on Aging

- Thank you to Sally Largey, Outreach Coordinator, for her inspiration and hard work to put together a float for the COA in the Fourth of July parade. Sally signed on with the Chamber of Commerce for a space, obtained funding from the FCOA for the decorations and I sincerely hope that the rain holds off long enough for the parade to happen. Please thank her if you run into her!

SOCIAL AND HUMAN SERVICES

- The SHS Committee will meet on July 5th to determine the grant allocations for FY24.
- On Friday, June 30th I was invited to and was able to attend a meeting in Provincetown with Julian Cyr and Sarah Peake who invited Kate Walsh, the newly appointed Secretary of Health and Human Services for the Commonwealth to meet with key providers of human services on the Outer Cape. Representatives from Lower Cape Outreach, Homeless Prevention Council, Elder Services for the Cape and Islands, Barnstable County Health and Human Services, Habitat for Humanity and others were in attendance. The Secretary wanted to hear from us what the prime needs were on the Outer Cape. Naturally, we discussed Housing and mental health services. Given the demographics of the Outer Cape, (Eastham to Provincetown), banding together will yield more support and more funding. We all need more workers, and they all need housing.

BEACHES

- The poor weather has impacted our sales. This is a quick comparison between 2022 and 2023. Our dollars are ahead only because of the fee increases for this year.

	2022	2022\$	2023	2023\$
Resident	1384	\$ 41,130.00	1282	\$ 44,545.00
Combination	3665	\$ 109,950.00	3639	\$ 127,365.00
Three Day	330	\$ 21,450.00	297	\$ 20,790.00
One Week	940	\$ 93,200.00	867	\$ 90,090.00
Two Week	173	\$ 19,560.00	158	\$ 31,600.00
Seasonal	126	\$ 40,950.00	96	\$ 33,600.00
4 to 6 month	N/A		68	\$ 5,100.00
White Crest	652	\$ 19,560.00	308	\$ 9,060.00

TOTAL 7270 \$345,800.00 ▽ 6715 \$362,150.00

- Racks: there are still a few spaces left and I notified the next people on the waiting list for the last two spots at Mayo and the last two spots at Gull.
- Beginning July 1, the racks will be surveyed daily and any spot that is not occupied for 14 consecutive days in July and August will be deemed unused and that spot will be offered to the next person on the waiting list. This is year two of this regulation, but it is year one for enforcement. All rack holders will be notified by email that this is now being enforced.
- On Thursday, June 29th, I attended the Spring meeting of the Shark Working Group at the DPW building in Orleans. The meeting was facilitated by the CCNS and the member towns and representatives from the White Shark Conservancy were in attendance. Dr. Greg Skomal and Megan Winton reported out on the previous year's findings. The population study conducted over the last five years will be released soon but the estimate is an annual offshore shark population of approximately 800 sharks. Three movies based on sharks will be released in July. The HBO production, After the Bite, which features Wellfleet Lifeguards, will air on HBO on July 26th. I was invited to attend the premiere at the Provincetown Film Festival, held at the Governor Bradford, but I was unable to attend.

Harbormaster

- No Update

Health/Conservation

- No Update

Fire

- No Update

Library

- On Monday, June 26th, I took an all-day training on Mental Health first aid. it was designed for non-mental health professionals who work with the public so that we recognize and are able to diffuse potential situations and refer people to appropriate assistance. Youth Services Librarian, Anna Nielsen took the training as well.
- Tickets just went on sale for the Friends Distinguished Speaker fundraiser (to be held at the Congregational Church on Thursday, August 10th). This year's Distinguished Speaker is NPR's Legal Affairs Correspondent, Nina Totenberg. With everything that is happening on

the Supreme Court right now, people have many questions. They trust Nina to have the answers and these tickets are selling out quickly.

- The Friends Annual Booksale on the Town Hall lawn is Sunday, July 16th from 9-1 (rain date July 23rd). The books are amazingly curated and it's an incredible fundraiser for us. We love seeing the public at this event. People come from all over, because the selection is so incredible. Our Friends work so hard to make this the best Booksale around.
- National Security Archivist, Peter Kombluh, will be at the Library on Tuesday July 18th for a very special event - it's been 50 years since Chile's coup and Peter will have formerly top secret CIA and Nixon administration documents on hand. Peter is the author of *The Pinochet Files: A Declassified Dossier on Atrocity and Accountability*. This event begins at 7:00 PM.
- We have so many youth events coming up! One I'd like to highlight is the Whalemobile! Children can come sit inside an inflatable whale and learn about the biology of whales. Reservations are required. Call the library at 508-349-0310. The Whalemobile will be at the library on Wednesday July 12th and it will be back on August 8th.
- Did you know that if you are a visitor, you can still obtain a Wellfleet Library Card? Please stop by the circulation desk for details!

Police

- Since Memorial Day 2023, The department and National Seashore have successfully implemented the Towns and National Seashore Policy educating the public of existing and new alcohol related regulations. As of this date, the public has complied with minimal enforcement.
- We were happy the department was able to bring back Tip-A-Cop fundraiser event June 12, 2023, in cooperation at the Pearl Restaurant. Money raised benefited Special Olympics. We had a great time and raised more than \$1,200 for local athletes.
- This past month we celebrated three officers' accomplishments promoting the following:
 - Sergeant Michael Turner to the rank of Lieutenant
 - Detective Nicolas Daley to the rank of Sergeant
 - Officer Mark Braun to the rank of Sergeant
- Our Two new Community Service Officers Dakota Chizarro and Kylie Palomba are our new friendly faces downtown acting as a liaison for the Town of Wellfleet and the Police Department, they are ready to help with traffic, interact with the public and assist in any way.
- It's with gratitude that we let you know that Sgt. William "Billy" Brazile has completed his last overnight shift on July 1, 2023, after 36 years of service to the Town of Wellfleet.

Public Works

- No Update

Recreation

- The Morning Recreation and Gull Pond Swim Programs start Monday July 3. Resident only registration is full for Morning Recreation. Square Dances begin on July 5 and continue through August 30. Music at Mayo Concerts begin on July 6. The Department is fortunate to have veteran returning seasonal staff and excited to begin the summer season.
- The Phillips/Savoy Wedding on June 24 was a resounding success as the couple was extremely grateful to use utilize the upgraded facilities at Baker's Field. The recently approved pavilion use form is a huge help in facilitating these events which generate revenue for the Town.
- Pickleball round robins and clinics are offered 6 days per week in July and August for all levels of play. With the availability of six courts, pickleball is the fastest growing activity offered.
- A full list of summer activities as well as the Music at Mayo Concert Schedule can be found on the Town of Wellfleet website.

Shellfish Department

- Commercial Shellfishery:
 - We conducted a commercial seed confiscation with a written warning letter.
 - We helped tow out a shellfish trailer.
 - At least one Environmental Police Officer has been at the pier checking shellfishermen landing product.
 - We have been having conversations with draggers and pickers about proper tagging during vibrio season.
- Grants:
 - We did nine grant inspections; have to return to one due to lack of tags.
 - We helped a dozen grant holders with paperwork for Selectboard hearings and more.
 - We advertised shellfish grant public hearings in July 3 Cape Cod Times, hung up postings and notified abutters for July 13 Selectboard meeting.
 - We assisted a grant in meeting vibrio control plan for harvested oysters.
- Recreational Shellfishery:
 - We hired and began training two new part-time Deputy Shellfish Constables, Erika Smith and Mark Howards, for recreational shellfish oversight.
 - Sent out a Recreational Shellfishing Crier.
 - There seems to be confusion about people shellfishing together with just one permit, which is not allowed. We are educating them on site and will send out a Crier with more details.
- Propagation:
 - We finished culching and got the spreader off the barge with the DPW. We are so grateful for their commitment to our work. We couldn't do our propagation activities without them!
 - We received 90,000 oyster seed and planted them on our grant with the help of volunteers.
 - Also with volunteers, we put 92 spat collecting devices (so-called hats) out, half on our farm and half in Chipman's Cove.
- Dredging Mitigation:

- We placed 300 bags of Mass Oyster Project recycled restaurant shells into Chipman's Cove to serve as spat collectors to be distributed to the Blackfish Creek mitigation area. Many thanks for Johnny Clam's Crew of die-hard volunteers. This was heavy lifting for many days, and they made it happen!
- We put a spat collector and 12 shell bags in the dredging mitigation area in Blackfish Creek as an experiment.
- Proposed to Army Corps to open Herring River as soon as possible. They agreed to take it off the table entirely and let the 28 acres in Blackfish Creek stand alone and be monitored for seven years.
- Also, proposed to include state metric of six oysters per square meter indicating significant oyster resource, as something that may have to be considered as indicative of success if can't hit metric of 25 oysters per square meter. Waiting to hear back.
- Conducted a biological survey in Blackfish Creek with GEI for mitigation area.
- Access/Beach Renourishment:
 - Met with Town Counsel and had letter sent re: blocked Herring River access at 925 Chequessett Neck Rd.
 - Working with Audubon on how to allow shellfishermen access on Lieutenant Island when joy riders have been tearing up the road so much that they had to close it for now.
 - Submitted letter to MEPA on reducing beach nourishment on King Phillip Rd.
- Business entities holding shellfish grant licenses:
 - Researched other towns and spoke with state and other shellfish constables about how business entities are handled.
 - Met with Town Counsel and Shellfish Advisory (SAB) Chair Becca Taylor and member Karen Johnson to go over questions re: business entities holding shellfish grant licenses that have come up at previous (SAB) meetings.
- Miscellaneous:
 - We assisted the state with its quality control of Wellfleet harvest data for its 2022 Annual Report.
 - We checked signs and put-up missing ones around the Harbor's landings.
 - We had our 2018 truck towed to Wareham Ford, as trade in for new truck, which should be arriving in the next two weeks.
 - We brought the Town Administrator on a patrol ride-along and showed a Selectboard member the Blackfish Creek mitigation area.
 - Nancy attended a Conflict of Interest and Open Meeting Law training.
 - Shellfish Department's partnership with Mass Oyster Project aired on WBZ-TV; Johnny Clam featured!

Town Clerk

- On going work on Marriage intentions & Licenses
- Swearing in newly appointed board/ committee members and employees.
- Continued work on organizing & updating Records archival system and vault documents.
- Getting the office prepared and organized for switching over to the new FY.



SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: July 11, 2023

XII

TOPICS FOR FUTURE DISCUSSION

- **The board will state items that they wish to address at future meetings.**



SELECTBOARD

AGENDA ACTION REQUEST
Meeting Date: July 11, 2023

XIII

VACANCY REPORTS

*****Please see the packet for full report*****

Boards and Committees

Affordable Housing Trust – 1-year term –

- Elaine McIlroy 6/30/2024
- Gary Sorkin 6/30/2024
- Sharon Rule-Agger 6/30/2024
- James Hood 6/30/2024
- Harry Terkanian 6/30/2024
- Kathleen Nagle 6/30/2024
- Michael DeVasto 6/30/2024

Bike and Walkways – 3-year term – 5 Members – NO LONGER MEETS

- Ned Oliver
- Christie O'Campbell
- Peter Cook complete term
- **2 Vacancies**

Board of Assessors – 3-year term – 3 Members, 1 Alternate

- Nancy Vail 6/30/2025
- Diane Galvin 6/30/2024
- Gail Stewart 6/30/2024

Board of Health – 3-year term – 5 Members 1 Alternate

- Kenneth Granlund 6/30/2026
- Janet Drohan 6/30/2024
- Nick Picariello 6/30/2024
- Gary Locke 6/30/2024
- Deborah Freeman 6/30/2025
- **1 Alternate position open**

Board of Water Commissioners – 3-year term – 5 Members, 1 Alternate

- Jim Hood 6/30/2026
- Peter Simon 6/30/2026
- Thomas Flynn 6/30/2024
- Curt Felix 6/30/2025
- Neal Gadwa 6/30/2024
- **2 Alternate positions open**

Board of Registrars – 3- year term – 4 Members

- Andrea Pluhar 2025
- Sheryl Jaffee 2026
- Jennifer Congel ex-officio
- **1 Vacancy**

Building and Needs Assessment Committee – 3-year term – 5 Members

- Sean Donoghue
- Jay Horowitz
- Harry Terkanian
- Jay Norton – DPW Liaison
- Kathy Granlund – Finance Committee Liaison
- **2 Vacancies**

Bylaw Committee – 3-year term – 3 Members

- Dawn Rickman ATM 2025
- Lizanne Stansell ATM 2026
- Sam Pickard ATM 2024

Cable Internet and Cellular Service Advisory Committee – 1-year term – 5 Members

- Josh Yeston Chair 6/30/2024
- Steven Kopits Vice-Chair 6/30/2024
- Thomas Cole 6/30/2024
- Heather Doyle 6/30/2024
- Larry Marchal 6/30/2024
- **1 Vacancy**

Cemetery Commission –

- Nancy Vail Chair ATE 2025
- Bonnie Robicheau ATE 2026
- David Agger ATE 2024

Commission on Disabilities – 3-year term – 5 Members

- Suzanne Grout Thomas ADA Coordinator
- Fred Gentner 6/30/2026
- Kate Clemens 6/30/2026
- James McAuliffe 6/30/2024
- George Harris 6/30/2024
- **1 Vacancy**

Community Preservation Committee – 3-year term

- Gary Sorkin Chair LHP 6/30/2026
- Jan Plaue Vice-Chair At Large 6/30/2026
- Elaine McIlroy Housing Authority 6/30/2026
- Fred Streams Open Space 6/30/2024
- James McAuliffe Historical Comm. 6/30/2025
- Rhonda Fowler Recreation 6/30/2024
- David Mead-Fox Planning Board 6/30/2024
- Geraldine Ramer At Large 6/30/2024
- Michael Fisher Conservation Com. 6/30/2024

Conservation Commission – 3-year term – 7 Members, 2 Alternates

- Barbara Brennessel 6/30/2026
- Martin F Murphy 6/30/2024
- John Cumbler 6/30/2026
- Michael Fisher 6/30/2024
- Leon Shreves 6/30/2026
- Benjamin Fairbank 6/30/2026
- Robert Stewart 6/30/2026
- **2 Alternate vacancies**

Council on Aging – 3-year term – 9 Members

- C. Wilson Sullivan Chair 6/30/2024
- Dian K Reynolds 6/30/2024
- Sarah Multer 6/30/2026
- Brian Quigley 6/30/2026
- Laura Gazzano 6/30/2024
- Denya Levine 6/30/2024
- Judith Cumbler 6/30/2024
- **2 Vacancies**

Cultural Council – 3-year term – No more than 15 Members

- Carolyn Rogers Chair 6/30/2025
- Francis Corbin Treasurer 6/30/2025
- Susan Blake Secretary 6/30/2026
- Yvonne Barocas 6/30/2026
- Merrill Mead-Fox 6/30/2024
- Kevin McMahan 6/30/2024
- Moira Meehan 6/30/2024
- David Blackman 6/30/2024
- Vicki Solomon 6/30/2024
- Kathleen Grzewinski 6/30/2025
- **5 Vacancies**

Dredging Task Force – 3-year term – 7 Members

- Christopher Allgeier Co-Chair 6/30/2025
- Joseph Aberdale Co-Chair 6/30/2026
- Skip Annette 6/30/2025
- Curt Felix 6/30/2024
- **3 Vacancies**

Energy Committee – 3-year term – 7 Members

- Suzanne Ryan Chair 6/30/2025
- Lilli-Ann Green Vice Chair 6/30/2026
- Mary (Carol) Magenau Secretary 6/30/2025
- Robert Shapiro 6/30/2025
- David Mead-Fox 6/30/2024
- Gorham Brigham 6/30/2025
- Jay Norton – DPW Liaison
- Jeff Tash – Finance Committee Liaison
- **2 vacancies**

Local Housing Partnership – 1-year term – At least 10 Members

- Sharon Rule-Agger 6/30/2024
- Anne Suggs 6/30/2024
- John Cumbler 6/30/2024
- Susan Spear 6/30/2024
- Karen Kaminski 6/30/2024
- Judy Taylor 6/30/2024
- Alfred Pickard Planning Board
- Gary Sorkin Housing Authority
- Sharon Inger Zoning Board of Appeals

Marina Advisory Committee – 3-year term – 7 Members, 2 Alternates

- Joseph Aberdale Chair 6/30/2024
- David Stamatis Vice -Chair 6/30/2024
- Edward Kane 6/30/2024
- William Barrio 6/30/2024
- Martha Wilson 6/30/2026
- Fredrick Felix 6/30/2024
- **1 VACANY Voting Member**
- Doug Straus Alternate 6/30/2024.
- James Gray Alternate 6/30/2024

Natural Resource Advisory Board – 3-year term – 7 Members

- John Duane Chair 6/30/2024
- Laura Hewitt 6/30/2025
- Thomas Slack 6/30/2026
- Herbert Gstalder 6/30/2024
- **3 Vacancies**

Open Space Committee – 3-year term – 7 Members

- Bruce Hurter Chair 6/30/2024
- Thomas Slack Vice-Chair 6/30/2024
- Lynn Southey 6/30/2024
- Fred Streams 6/30/2024
- Margaret Sagan 6/30/2024
- John Grieb 6/30/2024
- Elizabeth McDonald 6/30/2024

Personnel Board – 3-year term – 4 Members, TA & FinCom Representatives

- **Haven't Met**

Planning Board – 3-year term – 7 Members, 2 Alternates

- Gerald Parent Chair 6/30/2025
- Bonnie Shepard 6/30/2024
- David Mead-Fox 6/30/2024
- Alfred Pickard Jr. 6/30/2026
- Beth Ann Singer 6/30/2026
- **2 Voting Member Vacancies**
- **2 Alternate Vacancies**

Recreation Committee – 3-year term – 7 Members

- Christine Bezio 6/30/2026
- Kevin Scalley 6/30/2026
- Kerry Cox 6/30/2026
- Kathy Granlund FinCom Liaison
- Rhonda Fowler CPC Liaison
- **2 Vacancies**

Recycling Committee – 3-year year term – 7 Members, 2 Alternates

- Christine Lustig Shreves Co- Chair 6/30/2025
- Lydia Vivante Co-Chair 6/30/2025
- Jaya Karlson 6/30/2024
- Nancy Najmi 6/30/2024
- Christine Wisniewski 6/30/2024
- Olivia Kraus 6/30/2024
- (Mary) Carol Magenau 6/30/2026
- **2 Alternate Vacancies**

Rights of Public Access Committee – 3-year term – 5 Members

- Melissa Yow
- **4 Vacancies**

Shellfish Advisory Board – 3-year term – 7 Members, 2 Alternates

- Rebecca Taylor Chair 6/30/2024
- John Duane 6/30/2024
- Nick Sirucek 6/30/2025
- Ethan Etsey 6/30/2024
- Karen Johnson 6/30/2025
- Stephen Pickard 6/30/2025
- Karen Johnson
- Damian Parkington – Alternate 6/30/2025
- Adrien Kmiec – Alternate 6/30/2026
- **1 voting member position available**
- **5 Applications on File to be voted July 13, 2023, meeting.**

Taxation Aid Committee – 3-year term

- Dawn Rickman Chair 6/30/2026
- Nancy Bierhans Vice-Chair 6/30/2026
- Susan Messina Secretary 6/30/2024
- Diane Galvin Board of Assessors
- Town Treasurer – Vacant

Wellfleet Elementary School Committee – 3 -year term

- Martha Gordon Chair ATE 2026
- Liberty Schlipp ATE 2024
- Laura Baghetti ATE 2026
- Joan Zukas ATE 2025

Wellfleet Affordable Housing Trust – 2-year term

- Gary Sorkin Trustee
- Kathleen Nagle Trustee
- Harry Sarkis Terkanian Trustee
- Elaine McIlroy Trustee
- Sharon Rule-Agger Trustee
- James Hood Trustee

Wellfleet Public Library Trustees – 3-year term- 7 Members

- Robin Robinson Chair ATE 2026
- Kathleen Hickey ATE 2025
- Andrew Freeman ATE 2026
- Yvonne Barocas ATE 2024
- Adam James Miller ATE 2024
- Kathleen Shorr ATE 2024
- **1 Vacancy**

Zoning Board of Appeals – 3-year term – 5 Members, 4 Alternates

- Sharon Inger Chair 6/30/2026
- Michael Lynch Vice-Chair 6/30/2026
- Theodore Heyliger Clerk 6/30/2025
- C. Wilson Sullivan 6/30/2026
- Trevor Pontbriand 6/30/2024
- Reatha Ciotti 6/30/2026
- Janet Morrissey 6/30/2024
- Andrew Freeman Alternate 6/30/2026
- Al Mueller Alternate 6/30/2024



SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: July 11, 2023

XIV

MINUTES

REQUESTED BY:	Executive Assistant
DESIRED ACTION:	Approval of the Meeting Minutes of June 20, 2023
PROPOSED MOTION:	I move to approve the minutes of June 20, 2023, as printed in draft.
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____

***Wellfleet Selectboard
Tuesday June 20, 2023; 7PM
Hybrid Meeting:
715 Old Kings Highway/Zoom
Meeting Minutes***

Members Present: Ryan Curley, Chair; Barbara Carboni, Vice Chair, Michael DeVasto, Kathleen Bacon, John Wolf

Others Present: Richard Waldo, Town Administrator; Kevin LaRocco, Deputy Chief; Nichole Martinelli, full time police officer; Jude Ahern, resident; Diane Brunt, resident; Brad Morris, resident; Tim Sayre, resident; Dan Silverman, Town Moderator; Suzanne Grout-Thomas, Maggie Downey, Cape Light Compact; Josh Yeston, Chair of the Cable Advisory Committee; Jay Norton, DPW Director; James de Iturrondo, Representative for NSTAR/Verizon; Curt Felix, resident, Mike Cicale, Transfer Station Foreman; Carole Ridley, Herring River Restoration Project Coordinator; Chris Allgeier, Dredging Committee; Helen Miranda Wilson, resident; Nancy Civetta, Shellfish Constable

Chair Curley Called the meeting to order 7:27pm

I. *Announcements, Open Session and Public Comments*

Note: *Public comments are limited to no more than two minutes per speaker. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comments.*

Silverman, announced that he was vice president of the Fleet Fund and stated that Moby Dick's restaurant will be holding a fund raiser for the Fleet Fund this coming weekend, inviting all to attend.

Hughes announced he has handed a cease-and-desist order to the members of the Selectboard and the dredging task force members, along with over 200 signatures to stop the mitigation.

Chair Curley announced that the fourth of July parade is still taking applications for floats to be in the parade.

Brunt spoke to the board about the misleading of the agenda stating that the agenda was misleading and should have been posted differently.

II. *Consent Agenda*

A. Appointment of Ryan Curley to Cape Cod and Islands Water Protection Fund

B. Contract agreement for M.A. Frazier for Portable Toilets for the 2023 Season

C. Bill Iacuesa & Jenette Kerr, Mass Audubon ~ 2023 State of Wellfleet Harbor

Conference ~ November 3, 2023 (for set up); November 4, 2023, 7a:30am-1pm.

D. Ratify Collective Bargaining Agreements

Police

Communications

Teamsters

Fire

WEA ~ **Waldo pulled the WEA contracts from the consent agenda.**

Chair Curley Moved; Board Member Seconded; and it was voted to approve the consent agenda as drafted with the exception of the WEA contract.

Roll Call Vote: 5-0

Waldo spoke to the WEA contract and stated that there were some discrepancies with the Memorandum and asked to bring this back to the board at the first meeting in July. The board agreed and no action was taken.

III. ***Open Meeting Law Complaint ~ (moved up per the chair)***

- A. Discuss and deliberate response to Open Meeting Law complaint from Jude Ahern dated June 2, 2023.

Waldo spoke to the board about the complaint that was filed, from Ms. Ahern and stated it was referenced wrong. He explained that the content in the packet for the dredging was sufficient to allow the public to know what the board was discussing at the meeting. He referenced the letter of response that was drafted by town council and asked the board to approve it and submit it on behalf of the board to the attorney general. DeVasto stated that there was a public hearing for alcohol at the specific meeting that was listed in the agenda. Ahern questioned if there was a public hearing needed.

Carboni Moved; Chair Curley Seconded; and it was voted to authorize town council to send the response to the attorney general on behalf of the town.

Roll Call Vote: 5-0

Chair Curley issued a warning to Ahern, which she continued to speak to the and then was removed from the room.

IV. ***Police Appointment***

- A. Nichole Martinelli ~ Full time Police Officer ~ Deputy Chief Kevin LaRocco
LaRocco spoke to the board asking them to approve the appointment of Martinelli with the condition that she passes all requirements. Chair Curley questioned what she was looking forward to most? Martinelli stated building relationships with the community.

Board Member Bacon Moved; Board Member DeVasto Seconded; and it was voted to approve the appointment of Officer Nichole Martinelli to the Wellfleet Police Department.

Roll Call Vote: 5-0

V. ***Structure Discussions and Public Comments***

- A. Board to discuss and deliberate on discussions on agenda topics and time limits on comments.

Chair Curley stated that this was a short discussion on structures of meetings would be run moving forward. Bacon stated that people who are presenting to the board should be no longer than 30 minutes and let the presenters know ahead of time. Only have one presentation per agenda for the meetings. When an attorney for either the town or for a person on the agenda be moved up to the beginning of the agenda and let the chair know in advance. Chair Curley stated that these would be the rules of the meetings moving forward. DeVasto stated he would like the meetings to end at 10:30pm and then have the board vote if it needs to move forward.

Wilson spoke to the board, stating the public which she is now a member of, wants to hear what each individual wants to say.

VI. *Special Town Meeting*

A. Discussion and Confirmation of Fall Special Town Meeting Date ~ Dan Silverman

Chair Curley asked Waldo to explain why the town was discussing and planning a special town meeting. He explained that some of the projects that the town is working on have been rewarded grants from the state which needs to have borrowing authorization for the extra funding needed. He gave the details on why the special town meeting needs to take place. Explaining there was a deadline of October 15, 2023, stating that's why there needed to be a September special town meeting. Silverman offered a few suggested dates for the town meeting. He suggested Monday September 11th or Monday September 18th. Chair Curley stated that he is not comfortable having anything on September 11th.

Chair Curley moved; Board Member Seconded; and it was voted to the Town of Wellfleet shall hold their special town meeting on Monday September 18, 2023, at 6pm at the Wellfleet Elementary School Gymnasium.

Roll Call Vote: 5-0

A town election was then discussed, Silverman stating that the board should be in touch with the town clerk.

VII. *Community Updates*

A. Affirmative Vote to continue to make Maguire's/LeCount's Landing a resident/taxpayer only beach. ~ Suzanne Grout-Thomas

Thomas spoke to the board about making Maguire's/LeCount's Landing a resident and taxpayer beach again for the summer, the board discussed that they would need to have a hearing to change this permanently and incorporate it into the regulations.

Chair Curley Moved; Board Member Seconded and it was voted to approve Maguire's Landing/ LeCount's to be a resident and taxpayer beach only for the summer of 2023.

Roll Call Vote: 5-0

B. Maggie Downey ~ Update on our energy efficiency programs and planning for the next three-year plan, ~ Cape Light Compact

Downey spoke to the board stating she had a presentation to update the board on Cape Light Compact. She shared her screen with the board and public giving power rate supplies. She gave highlights for 2023. She spoke about financial help that is available to the public and explained how to get it.

No Action was needed for this agenda item.

VIII. *Public Hearings – Chair Curley opened the public hearings.*

A. Verizon and NSTAR dba Eversource Energy to place temporarily six new jointly owned poles and to remove three jointly owned poles near #1000 Chequesset Neck Rd. Wellfleet.

Chair Curley Moved; Board Member DeVasto Seconded; and it was voted to approve Verizon and NSTAR dba Eversource Energy to place six new conduit jointly owned poles temporarily and to remove three jointly owned poles near #1000 Chequesset Neck Rd. amended to state that the parties

notify any abutters or homeowners be notified of any service disruption prior to the work being done.

Roll Call Vote: 5-0

- B.** Verizon New England to place approximately eight-hundred feet (800') of new conduit provided by Mass DOT, at 1065 Chequessett Neck Rd. Wellfleet MA. Norton requested that this item be continued this hearing to a future date so that they are able to better understand the project and what needed to be done with this project.

Chair Curley Moved, Board Member Bacon Seconded, and it was voted to continue the public hearing to place approximately eight-hundred feet of new conduit provided by Mass DOT at 1065 Chequessett Neck Rd. until July 25, 2023, at 7pm.

Roll Call Vote: 5-0

- C.** Application Received May 26, 2023, for Change of Manager, MJT Enterprises, Inc. dba Blackfish Variety

Chair Curley stated that this was a standard procedure for the town and asked if there were any changes. There were no public comments or comments from the board.

Chair Curley moved; Board member Bacon Seconded; and it was voted to approve the application submitted May 22, 2023, for the change of manager to MJT Enterprises, Inc. doing business as Blackfish variety located at 1600 State Highway Wellfleet, MA.

Roll Call Vote: 5-0

- D.** Application for Special Event Liquor License ~ Craig Whilby ~ July 29, 2023; Newcomb Hollow Beach, 3:00pm – 10:00pm. ~ See Selectboard Packet for full application.

Chair Curley questioned this event. Thomas spoke to the board stating that this event is for profit with alcohol at a beach that is a non-alcoholic beach. LaRocco spoke to the board stating he had some severe concerns about this event stating that there wasn't enough staff for this event and doesn't feel it is a place to hold event. Pauley spoke to the board stating he feels the same as the other department heads. Bacon stated that she would like to cancel this event for this and suggested he postpone it to after Labor Day.

Chair Curley Moved; Board Member Wolf Seconded, and it was voted to deny the application of special liquor license for July 29, 2023, from Craig Whilby for Newcomb Hollow Beach.

Roll Call Vote: 5-0

IX. *Use of Town Property*

- A.** Neal Nichols Jr. ~ Baker's Field Pavilion and other shaded places around the area for children's art classes.

Chair Curley stated that this has been done for a number of years, Thomas spoke to the board stating she had no issues as Neal has done this many years.

Chair Curley Moved; Board member Bacon Seconded, and it was voted to approve the use of Baker's Field Pavilion and other shaded areas in the Mayo Beach/Baker's Field vicinity for the various dates and times listed on

the application, for a fee of \$200 and to waive the requirement for the presence of town recreation staff as has been done in previous years.

Roll Call Vote: 5-0

X. ***Board/Committee Appointments and Updates***

- A. Renewal of Board/Committee Members ~ Please see list in Selectboard Packet. Chair Curley explained that there are some changes that needed to be made. He explained the changes. Ken Granlund for the Board of Health, Jim Hood for the Board of Water Commissioners, Jan Plaue, The Community Preservation Committee, were all up for reappointments. He also spoke about the Clean Water Advisory Committee needing to be disbanded as there is overlapping with the water commissioners and a staff person was approved at the most recent town meeting. Felix spoke to the board stating that he needs more clarification on how this committee needs to run further.

Chair Curley Moved; Board Member Bacon Seconded; and it was voted to approve the list of board and committee members highlighted in the June 20, 2023, Selectboard packet for the appropriate terms listed on the town's application for board and committee members. To be sworn in by the Town Clerk before voting the next scheduled board/committee meeting, and to review the code of conduct with the addition of Ken Granlund, For the Board of Health, Jim hood for the Board of Water Commissioners, Jan Plaue, for the Community Preservation Committee, and the removal of Curt Felix and John Cumbler from the Clean Water Advisory Committee.

Roll Call Vote: 5-0

Sayre spoke to the board to the board stating that there are people being asked to join boards and committees and stated there is a prejudice to certain people.

XI. ***Business***

- A. Transfer Station Fees Amendments ~ Michael Cicale will present the changes to the fees for the selectboard to support. Norton spoke to the board about the fees being changed and amended. Norton filled them in on the changes that have been fully supported by the Board of Health. Bacon questioned the amnesty day and observed that it was a lot less participation than the town has seen in the past. Chair Curley stated he didn't like how the transfer station stickers were being sold currently. The board discussed the fees and the reason for the upcharge. Cicale spoke to the board explaining that fees have not been changed, amended, or increased in over 15 years.

Chair Curley Moved; Board Member DeVasto Seconded; and it was voted to approve the transfer station fees as provided in the Selectboard packet for tonight's meeting to go to the board of health to hold a public hearing.

Roll Call Vote: 5-0

- B. Authorization to accept a \$14,690,000 grant from the National Oceanic and Atmospheric Administration for the Herring River Restoration Project ~ Carole Ridley

Carboni recused herself from this agenda item.

Ridley spoke to the board and happily announced that grant that has been awarded to the project. She explained the work that would take place moving forward. Hughes spoke to the board asking if acreage would be reduced.

Chair Curley moved; Board member DeVasto Seconded; and it was voted to accept the grant of \$14,690,000 from the NOAA Transformation Habitat Restoration Program to help fund construction of Phase 1 of the Herring River Restoration Project, and to authorize the Town Administrator to take all steps necessary to accept the award.

Roll call Vote: 4-0-1

C. Dredging Mitigation

Board Member DeVasto Recused himself from this agenda item.

Allgeier and Felix spoke to the board stating that they are still working with the Army Corps of Engineers on a weekly basis to discuss the mitigation site. He stated that the Herring River site could be completely eliminated. There were some questions from the board, discussing the shellfish department's role. Felix spoke to the board discussing water quality. The board continued to discuss the mitigation and the concerns with the plan. Bacon stated that she is optimistic with this plan, knowing that the Army Engineer of Corps is working with Allgeier and felix to move this project forward. Board member Wolf had some questions for Felix with regard to the water quality. Waldo was questioned about the deadline for the Mass Works Grant being June 30th. He stated that the grant agency has reached out and repackage this award to the next fiscal year. Brunt spoke to the board stating that the mitigation team has been asked to go back to the army corps and asked to change certain things with the mitigation plan and states that they are not. Waldo spoke to the comment about not being informed and stated that was an incorrect statement. Explaining the point of the meetings is to go through the changes and then report back to the board. Water quality was a large portion of the conversation. Civetta spoke to the board about regulation changes and how the board is involved with such changes and the management. Hughes spoke again to his rights as a resident. Morris spoke to the petition that was brought to the board with over 200 signatures to stop the mitigation plan. Brunt spoke again to the board reading an email.

No vote was taken at this meeting.

July 11th was discussed as the next meeting to have this discussion.

D. Awarding of the dredging contract ~ Burnham (no public comments to be accepted for this agenda item)

Robins spoke to the board explaining how the award would work and when it would be awarded to the town.

Board Member Carboni Moved, Chair Curley Seconded, and it was voted to approve the award of the dredging project to the vendor Burnham subject to that all criteria are met and subject to a request to extend the time to enter into a contract the maximum amount of time allowed by law.

Roll Call Vote: 4-0-1

E. Joe Pellegrino ~ 100th Birthday Recognition

Chair Curley moved; Board Member seconded, and it was voted to issue the recognition to Joe Pellegrino of Wellfleet recognizing his centennial birthday on the 4th of July.

F. Staffing Update

Chair Curley asked Waldo to give a brief update on staffing. Waldo explained he has two people who are being interviewed to fill the Assistant Town Administrator and Treasurer. He explained the interim to come and work as the ATA to help keep the town running. He explained that this person has a lot of experience in town government and the interim treasurer has some availability to come and work weeknights and evenings over the weekend to also help keep the town running. He explained he is in the process of offering the job of Building commissioner to a top-rated applicant.

XII. *Selectboard Reports*

A. Bacon reported that she is working with the recycling committee to get an article on the special town meeting warrant banning the use of plastic nip bottles in the town of Wellfleet much like the town of Brewster recently passed at their town meeting.

XIII. *Town Administrator's Report*

A. Chair Curley spoke to the Shellfish Department's report. He spoke to Civetta reading the charter about all licensing and applications be kept in the Administrations office. He read the bylaw to the public. Civetta explained that she understood the process and explained how it currently works.

XIV. *Topics for Future Discussion*

A. Town meeting information will be on the next few meetings.
B. Wolf would like a professional surveyor to come and survey the grants.

XV. *Minutes*

A. June 6, 2023, Carboni made an amendment on page 3 to have better clarification on the sticker agenda item.

Board Member Bacon Moved; Board Member Carboni, seconded; and it was voted to approve the meeting minutes of June 6, 2023, as amended.

Roll Call Vote: 5-0

XVI. *Adjournment*

Chair Curley Moved; Board Member Bacon Seconded; and it was voted to adjourn the meeting.

Roll Call Vote: 5-0

Meeting adjourned 10:30pm



SELECTBOARD

AGENDA ACTION REQUEST

Meeting Date: July 11, 2023

XV

ADJOURNMENT

REQUESTED BY:	Selectboard Chair Ryan Curley
DESIRED ACTION:	To Adjourn
PROPOSED MOTION:	I move to Adjourn the Meeting
ACTION TAKEN:	Moved By: _____ Seconded By: _____ Condition(s):
VOTED:	Yea _____ Nay _____ Abstain _____