

CONTINUATION OF THE ANNUAL TOWN MEETING

Tuesday, June 14, 2011

The Continuation of the Annual Town Meeting of the Inhabitants of the Town of Carver was held on Tuesday, June 14, 2011 at the Carver High School Auditorium at 7:00 P.M., pursuant to a Warrant of the Board of Selectmen dated May 16, 2011. The meeting was called to order at 7:05 P.M., by the Moderator, John S. Murray, there being a quorum 75 present. The total registered voters at this time were 132. The Moderator led the voters in the Pledge of Allegiance to the flag. The appropriate tellers were duly sworn to the faithful performance of their duties by the Town Clerk, Jean F. McGillicuddy. The tellers were as follows:

Ellen Blanchard, Alan E. Dunham, and Stephen Pratt

GENERAL BY-LAW AMENDMENTS:

Article 38. Upon motion duly made and seconded and motion made by John Angley, Chairman, Board of Selectmen, it was So-Passed by Majority Vote for the Town to amend the Town of Carver by-Laws under Finance Committee, Chapter 4, Section 4.3.1 the last sentence of the paragraph by changing two consecutive full terms to (4) consecutive full terms, and in the same sentence changing not to exceed six (6) consecutive years to not to exceed twelve (12) consecutive years.

Selectmen recommended: 4-1

Article 39. Failed (Stretch Energy Code)

Article 40. Upon motion duly made and seconded and motion made by John Angley, Chairman, Board of Selectmen, it was So-Passed by Majority for the Town to amend Chapter 9 of the Town of Carver bylaws by adding the following: Illicit Connections and Discharges to the Municipal Storm Drain System Bylaw as Section 9.6:

Section 1. Purpose:

Increased and contaminated stormwater run-off are major causes of:

1. impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
2. contamination of drinking water supplies;
3. alteration or destruction of aquatic and wildlife habitat; and
4. flooding.

Regulation of illicit connections and discharges to the municipal storm drain system is necessary for the protection of Carver's water bodies and groundwater, and to safeguard the public health, safety, welfare, and the environment.

The objectives of this by-law are:

1. to prevent pollutants from entering Carver's municipal separate storm sewer system or municipal storm drain system (MS4);
 2. to prohibit illicit connections and unauthorized discharges to the MS4;
 3. to require the removal of all such illicit connections;
 4. to comply with state and federal statutes and regulations relating to stormwater discharges;
- and
5. to establish the legal authority to ensure compliance with the provisions of this by-law through inspection, monitoring, and enforcement.

Section 2. Definitions:

For the purposes of this by-law, the following shall mean:

Authorized Enforcement Agency: The Department of Public Works, its employees, or agents designated to enforce this by-law.

Best Management Practices (BMPs): Activities, prohibitions of practices, general good housekeeping practices, structural and non-structural controls, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge, or waste disposal, or drainage from raw materials storage.

Clean Water Act: The Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*) as hereafter amended

Discharge of Pollutants: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

Groundwater: All water beneath the surface of the ground.

Illegal Discharge: Any direct or indirect non-stormwater discharge to the municipal storm drain system, except as specifically exempted in Section 6, subsection 4, of this by-law. The term does not include a discharge in compliance with an NPDES Storm Water Discharge Permit or resulting from fire-fighting activities exempted pursuant to Section 6, subsection 4, of this by-law.

Illicit Connection: Any surface or subsurface drain or conveyance that allows an illegal discharge into the municipal storm drain system. Illicit connections include conveyances that allow a non-stormwater discharge to the municipal storm drain system including sewage, process wastewater or wash water, and any connections from indoor drains sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of this by-law.

Impervious Surface: Any material or structure on or above the ground that prevents water from infiltrating the underlying soil.

Municipal separate storm sewer system (MS4) or municipal storm drain system: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage

structure that together comprise the storm drainage system owned or operated by the Town of Carver.

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit: A permit issued by United States Environmental Protection Agency or jointly with the State that authorizes the discharge of pollutants to waters of the United States.

Non-Stormwater Discharge: Any discharge to the municipal storm drain system not composed entirely of stormwater.

Person: Any individual, partnership, association, firm, company, trust, corporation, and, any agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

Pollutant: Any element or property of sewage, agricultural, industrial, or commercial waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is or may be introduced into any sewage treatment works or waters of the Commonwealth. Pollutants shall include:

- (1) paints, varnishes, and solvents;
- (2) oil and other automotive fluids;
- (3) non-hazardous liquid and solid wastes and yard wastes;
- (4) refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, accumulations, and floatables;
- (5) pesticides, herbicides, and fertilizers;
- (6) hazardous materials and wastes; sewage, fecal coliform, and pathogens;
- (7) dissolved and particulate metals;
- (8) animal wastes;
- (9) rock; sand; salt, soils;
- (10) construction wastes and residues;
- (11) and noxious or offensive matter of any kind.

Process wastewater: Any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any material, intermediate product, finished product, or waste product.

Recharge: The process by which groundwater is replenished by precipitation through the percolation of run-off and surface water through the soil.

Stormwater: Run-off from precipitation or snow melt.

Toxic or Hazardous Material or Waste: Any material that, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious, or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive, or infectious waste, acid, and alkali, and any substance defined as Toxic or Hazardous under G.L. Ch.21C and Ch.21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

Watercourses: A natural or man-made channel through which water flows or a stream of water, including a river, brook, or underground stream.

Waters of the Commonwealth: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

Wastewater: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing, comes into direct contact with or results from the

production or use of any raw material, intermediate product, finished product, byproduct or waste product.

Section 3. Applicability:

This by-law shall apply to flows entering the municipally-owned storm drainage system.

Section 4. Responsibility for Administration:

The Department of Public Works shall administer, implement, and enforce this bylaw. Any powers granted to or duties imposed upon the Department of Public Works may be delegated in writing by the Superintendent of Public Works to employees or agents of the Department of Public Works.

Section 5. Regulations:

The Department of Public Works may promulgate rules and regulations to effectuate the purposes of this by-Law. Failure by the Department of Public Works to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

Section 6. Prohibited Activities:

1. Illegal Discharges

No person shall dump, discharge, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal storm drain system, watercourse, or into the waters of the Commonwealth.

2. Illicit Connections

No person shall construct, use, allow, maintain, or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation, or custom at the time of connection.

3. Obstruction of Municipal Storm Drain System

No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior approval from the Department of Public Works.

4. Exemptions

This section shall not apply to discharges or flows resulting from fire-fighting activities, nor to to any of the following non-stormwater discharges or flows provided that the source is not a significant contributor of a pollutant to the municipal storm drain system:

- (1) Waterline flushing;
- (2) Flows from potable water sources;
- (3) Springs;
- (4) Natural flows from riparian habitats and wetlands;
- (5) Diverted stream flows;
- (6) Rising groundwaters;
- (7) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater;

- (8) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air conditioning condensation;
- (9) Discharges from landscape irrigation or lawn watering;
- (10) Water from individual residential car washing;
- (11) Discharges from de-chlorinated swimming pool water (less than one ppm chlorine) provided it is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
- (12) Discharges from street sweeping;
- (13) Dye testing, provided verbal notification is given to the Department of Public Works prior to the time of the test;
- (14) Non-stormwater discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and
- (15) Discharges for which advanced written approval is received from the Department of Public Works if necessary to protect public health, safety, welfare, or the environment.

Section 7. Emergency Suspension of Storm Drainage System Access:

The Department of Public Works may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened illegal discharge that presents or may present imminent risk of harm to the public health, safety, welfare, or the environment. In the event any person fails to comply with an emergency suspension order, the Authorized Enforcement Agency may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare, or the environment.

Section 8. Notification of Spills:

Notwithstanding any other requirements of local, state, or federal law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials at that facility or operation that is resulting or may result in illegal discharge of pollutants, that person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Fire Department, the Police Department, the Department of Public Works, and the Conservation Commission. In the event of a release of non-hazardous material, said person shall notify the Authorized Enforcement Agency no later than the next business day. Written confirmation of all telephone, facsimile, e-mail, or in-person notifications shall be provided to the Authorized Enforcement Agency within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Section 9. Enforcement:

1. The Department of Public Works, or an authorized agent of the Department of Public Works (as designated by the Superintendent of Public Works) shall enforce this bylaw, and the regulations promulgated thereunder, as well as the terms and conditions of all permits, notices, and orders, and may pursue all civil and criminal remedies for such violations.

2. Civil Relief:

If anyone violates the provisions of this bylaw, regulations, permit, notice, or order issued thereunder, the Department of Public Works may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities that would create further violations or compelling the person to abate or remediate the violation.

3. Orders:

The Department of Public Works may issue a written order to enforce the provisions of this by-law or the regulations thereunder, that may include: (a) elimination of illicit connections or discharges to the storm drainage system; (b) termination of access to the storm drainage system; c) performance of monitoring, analyses, and reporting; (d) cessation of unlawful discharges, practices, or operations; and (e) remediation of contamination in connection therewith. If the Department of Public Works determines that abatement or remediation of contamination is required, the order shall set forth a deadline for completion of the abatement or remediation.

4. Criminal and Civil Penalties:

Any person who violates any provision of this by-law, valid regulation, or the terms or conditions in any permit or order prescribed or issued thereunder, shall be subject to a fine not to exceed \$300.00 for each day such violation occurs or continues or subject to a civil penalty not to exceed \$300.00 for each day such violation occurs or continues, which may be assessed in an action brought on behalf of the Town of Carver in any court of competent jurisdiction.

5. Non-Criminal Disposition:

As an alternative to criminal prosecution or civil action, the Town of Carver may elect to use the non-criminal disposition procedure set forth in G.L. Ch.. 40, §21D and Section 10.4 of the Town of Carver by-Laws, in which case the Department of Public Works or its Superintendent of Public Works or other authorized agent of the Town of Carver shall be the enforcing person. The penalty for the 1st violation shall be \$50.00. The penalty for the 2nd violation shall be \$150.00. The penalty for the 3rd and subsequent violations shall be \$ 300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

6. Entry to Perform Duties Under this By-Law:

To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Department of Public Works, its agents, officers, and employees may enter upon privately-owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys, or sampling as the Department of Public Works deems reasonably necessary

7. Appeals:

The decisions or orders of the Department of Public Works shall be final. Further relief shall be to a court of competent jurisdiction.

8. Remedies Not Exclusive:

The remedies listed in this by-law are not exclusive of any other remedies available under any applicable federal, state or local law.

Section 10.

Severability:

If any provision, paragraph, sentence, or clause, of this by-law shall be held invalid for any reason, all other provisions shall continue in full force and effect.

Section 11. Transitional Provisions:

Residential property owners shall have 60 days from the effective date of the bylaw to comply with its provisions provided good cause is shown for the failure to comply with the bylaw during that period.

Selectmen recommended: Unanimously

ZONING BY-LAW ARTICLES:

Article 41. Upon motion duly made and seconded and motion made by Edward Fuller, Planning Board, it was Unanimously Voted for the Town to amend Article VI of the Zoning By-Laws by inserting the following definitions:

Reconstruction The rebuilding within the existing footprint of the existing structure; part of or the whole existing structure, as it sits on the lot.

Hazardous Material: A product, waste or combination of substances which because of its quantity, concentration, or physical, chemical, toxic, radioactive or infectious characteristics may reasonably pose a significant, actual, or potential hazard to human health, safety, welfare, or the environment when improperly treated, stored, transported, used, disposed of, or otherwise managed. Hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as "toxic" or "hazardous" under Massachusetts General Laws (MGL) Chapters 21C and 21E using the Massachusetts Oil and Hazardous Material List (in 310 CMR 40.0000).

Selectmen recommended: Unanimously
Planning Board recommended: 5-0

Article 42. Withdrawn (add S-5380 Revocation of Special Permits)

Article 43. Upon motion duly made and seconded and motion to amend by Stephen Pratt, registered voter, it was Unanimously Voted for the Town to amend Article III, Section 3552 of the

Zoning By-Laws, by deleting the same and inserting the following, with changes indicated in bold:

3552. Moveable or Temporary Signs (**and/or Moveable**): Such signs are prohibited except as follows:

Type	Duration	Max. Size	Permit Required
Charitable or Civic Events	Week prior to event	80 square feet	no
Commercial	30 days; twice yearly	32 square feet	yes
Construction	6 months	12 square feet	no
For Sale/Rent/Lease	Till 30 days after sale or lease	6 square feet	no
Grand Opening Banner	21 days	32 square feet	no
Holiday displays: Banners & Bunting	4 separate 30 consecutive day periods in each calendar year	as appropriate (shall consist of cloth, canvas, vinyl or the like)	no
Political – unlighted	30 days prior; 7 days after election *	6 square feet	no
Yard Sale	5 days prior	2 square feet	no

* signs erected for a primary election may remain up through the final election

Sign, Political shall mean a sign designed to influence the action of voters for the passage or defeat of a measure, or the election of a candidate to a public office at a national, state, or other local election.

Selectmen recommended: Unanimously

Planning Board: Unanimously

Article 44. Failed. (did not get a 2/3 vote) amend Article III, Sections 3030 and 3035 of the Zoning By-Laws.

Article 45. Upon motion duly made and seconded and motion made by Edward Fuller, Planning Board, it was a 2/3 vote (79 yes 27 no) for the Town to amend Article II, Section 2320 of the Town of Carver Zoning By-Laws by deleting in it's entirety Section 2320 and inserting the following:

2320. Table of Dimensional Requirements.

REQUIREMENT	RA	HC	GB	VB ^a	V (Com.)	V (Res.)	GBP ^b	IA	IB	IC ^c	AP
Min. Lot Size ^{4, 5, 10} (X 1000 square feet)	60	60	40	30	30	30	60	60	60	60	40
FRONTAGE (feet)	150	250	200	100	100	100	175	175	175	250	150
FRONT SETBACK (feet) ¹	50	40	40	15	15	40	50	50 ⁷	50 ²	40	40
REAR YARD (feet)	50	40	25	15	15	40	40	30	30	40	30
SIDE YARD (feet)	30	40	25	15	15	25	40	30	30	40	30
MAX. BUILDING HEIGHT (feet) ³	35	40	40	30	30	30	40 ¹¹	40	40	40	40 ⁹
MINIMUM LOT WIDTH at building line (% of frontage in district)	80	80	80	80	80	80	80	80	80	80	80
MAXIMUM % OF LOT COVERED BY BUILDINGS	30	60	50	70	70	70	70	50	50	60	50

¹ Front setbacks shall be measured from the street layout line.

² Provided, however, that this requirement shall be 60 feet where the subject property has frontage on a state numbered highway.

³ Provided, however, that chimneys, spires, silos, and unoccupied towers erected on the roof of a principal structure may be erected to a height of 70 feet from the base of the principal structure on which it is erected where no detrimental effects on the surrounding area are caused.

⁹ In order to prevent the erection of structures which, due to height, would create hazardous obstacles to air navigation in the vicinity of the Plymouth Municipal Airport, the applicable requirements of Chapter Ninety of the General Laws of Massachusetts and the standards of the Federal Aviation Regulations shall be met. No structure shall be erected which exceeds the height limitations of the above regulations unless appropriate authority shall have been issued by the Plymouth Airport Commission or the Federal Aviation Agency.

¹⁰ Lots that are so distorted in configuration as to be detrimental to public health, safety, welfare or convenience, even though complying with the dimensional requirements established herein, shall not be allowed. The minimum width of a lot from the front setback line to the rear house line shall be not less than 75 feet. The 75 ft. minimum shall not apply to rear lots, village districts or TDR overlay areas. Any lot to be created having frontage on an existing or proposed roadway, must meet the minimum lot size requirement for the zoning district *wherein* it is located, minus any easements and/or rights of way, except those for a governmental agency or public utility.

¹¹ If a building contains more than two (2) stories, then this minimum requirement shall be increased by twenty-five (25) feet per story for each story that the building exceeds two stories in height up to a maximum setback requirement of two hundred (200) feet. For example, a building containing three (3) stories shall not be located closer than seventy-five (75) feet from the boundary line of the District and a building containing four (4) stories shall not be located closer than one hundred (100) feet from the boundary line of the District. Where a building or improvement is not divided into stories, a story shall be considered fifteen (15) feet in height. Height shall mean the vertical distance measured from the mean finished grade of the ground adjoining the building or improvement to the highest point of such building or improvement, provided that steeples, cupolas, stage lofts, penthouses, bulkheads and other appurtenances above roof line shall not be considered as additional stories or considered in determining the height of a building or improvement.

^a Same as V (Comm.)

^b mix of HC and IA, IB

^c IC same as HC since that is what the existing structures were under at the time of development.

, or take any other action relative thereto.

(By the Planning Board)

PETITION ARTICLES

Article 46. Upon motion duly made and seconded and motion to amend by John K. Franey, Treasurer/Collector, it was So Passed by Majority Vote for the Town to authorize the establishment of a Treasurer/Collector Fees Revolving Account in accordance with Mass. General Laws, Chapter 44, Section 53E ½: to which shall be deposited fees from insufficient funds checks (bounced), and fees for public information requests. The Account will provide for the salaries and expenses of a part-time Assistant Treasurer position. The Treasurer/Collector shall be authorized to expend from such fund, and the total amount to be expended from such fund shall not exceed \$10,600.00.

(By Petition)

Selectmen recommended: No Action

Article 47. Upon motion duly made and seconded and motion made by John K. Franey, Treasurer/Collector, it was So-Passed for the Town to authorize the establishment of a part-time Assistant Treasurer/Clerk position in the Treasurer/Collector's office to process collection procedures and letters for insufficient funds checks, processing public information requests, preparation of Municipal Lien Certificates (MLCs), prepare daily deposits, posting of cash books and reconciliations of bank accounts and other related duties.

(By Petition)

Selectmen recommended: No-Action

Article 48. Article failed (remove appt. duties from Town Admin. give appt. to BOS)

Article 49. Withdrawn (amend accessory apts. 2260, 2261, 2262, 2263)

Article 50. Article Failed (did not make the 2/3 vote)
amend: By-Law 2260, 2261, 2262, and 2263:

Article 51. Upon motion duly made and seconded and motion to amend by Robert Belbin, resident and registered voter, it was a 2/3 vote (79 yes 1 no) for the Town to add definition: and to take out the first paragraph

Kitchen Facilities: A sink with plumbing, a stove or cooking range and refrigerator.

Accessory Dwellings Unit Above Commercial Development: change to (1,000 square feet) to meet By-Law 2270's language.
(By Petition)

Selectmen recommended: No Action

Article 52. Upon motion duly made and seconded and motion made by John Angley, Chairman, Board of Selectmen, it was Unanimously Voted for the Town to raise and appropriate, the sum of Four Thousand Dollars (\$4,000.00) to New Day (Formerly Womansplace Crisis Center) in lieu of services provided to the sexual assault survivors and their families.
(By Petition)

Selectmen recommended: Unanimously
Finance Committee recommended: 5-0

Article 53. Upon motion duly made and seconded and motion made by John Angley, Chairman, Board of Selectmen, it was Unanimously Voted for the Town to raise and appropriate the sum of Three Thousand (\$3,000.00) dollars to support South Coastal Counties Legal Services, Inc.'s continued free legal services in civil matters to low-income families and their children.
(By Petition)

Selectmen recommended: Unanimously
Finance Committee recommended: 5-0

Article 54. Upon motion duly made and seconded and motion made by John Angley, Chairman, Board of Selectmen, it was Unanimously Voted for the Town to raise and appropriate the sum of Three Thousand (\$3,000.00) Dollars to contract with South Shore Women's Resource Center for domestic violence intervention and prevention services for its residents.
(By Petition)

Selectmen recommended: Unanimously
Finance Committee recommended: 5-0

Article 55. Upon motion duly made and seconded and motion made by John Angley, Chairman, Board of Selectmen, it was Unanimously Voted for the Town to raise and appropriate, the sum of Four Thousand (\$4,000.00) Dollars to South Shore Community Action Council, Inc. for services to low-income families and elderly residents who live in the Town of Carver.

(By Petition)

Selectmen recommended: Unanimously

Finance Committee recommended: 5-0

Article 56. Upon motion duly made and seconded and motion made by John Angley, Chairman, Board of Selectmen, it was Unanimously Voted for the Town to raise and appropriate, the sum of Five Thousand (\$5,000.00) Dollars to support the Plymouth Area Coalition for the Homeless, Inc. in their services to homeless and other low-income families.

(By Petition)

Selectmen recommended: Unanimously

Finance Committee recommended: 5-0

Upon motion duly made and seconded and motion made by John S. Murray, Moderator, it was Unanimously Voted to adjourn at 9:50 P.M.

A true record. Attest:

Jean F. McGillicuddy, CMC/CMMC
Town Clerk

