

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF CARVER

SPECIAL TOWN MEETING WARRANT

Plymouth, ss. To either of the Constables of the Town of Carver, County of
Plymouth in the Commonwealth of Massachusetts

GREETING:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the Inhabitants of the Town of Carver qualified to vote in Town affairs, to meet at the Carver High School, in said Carver, on June 13, 2005 at 7:05 O'CLOCK P.M., then and there to act on the following Articles, namely:

Article 1. To see if the Town will vote to transfer the sum of Thirty-Five Thousand (\$35,000.00) Dollars from the Board of Health's trash collection fees receipts reserved for appropriation account (so-called Financial Assurances Mechanism) for the purpose of funding monitoring and maintenance of the North Carver Landfill, or take any other action relative thereto.

(By Board of Selectmen)

Article 2. To see if the Town will vote to transfer the sum of Twenty-Eight Thousand Seven Hundred Forty-Four Dollars and Twenty Cents \$28,744.20 from the Earth Removal Inspection Account for the purpose of paying P.A. Landers, Inc. for additional required roadwork on the Route 44 project; or take any other action relative thereto.

(By Board of Selectmen)

Article 3. To see if the Town will vote to approve the leasing of a police records management software program for a period of ten years and transfer from available funds, twenty thousand five hundred thirty-five dollars (\$20,535.00) for the first year lease and maintenance fees, or take any action relative there to.

(By the Police Chief)

Article 4. To see if the Town will vote to transfer from available funds amounts recommended by the Board of Selectmen to supplement specific budget line items appropriated at the 2004 Annual Town Meeting, or take any other action relative thereto.

(By Board of Selectmen)

Article 5. To see if the Town will vote to add the following section to the Carver Wetlands Protection Bylaw: "Section I (D) (5) Public Interest: Strict compliance with this Bylaw may be waived when, in the judgment of the Conservation Commission, such action is in the public interest and is consistent with the intent and purpose of the Bylaw. Any request for a waiver must be submitted to the Commission in writing. The waiver shall be presented at the time of filing a permit application along with a written justification stating why a waiver is desired or needed, is in the interest of public health

and safety, and is consistent with the intent and purpose of the Bylaw”; or take any other action relative thereto.

(By the Conservation Commission)

{COMMENT: This new section will allow the Commission to grant variances or waive sections of the Bylaw for applicants whose projects are shown to be in the interest of public health and safety.}

Article 6. To see if the Town will vote to add the following definition to “Section V: Definitions”: “Adverse effect: A greater than negligible change in the resource area or one of its characteristics or factors that diminishes the value of the resource area to one or more of the specific interests of this Bylaw, as determined by the issuing authority. ‘Negligible’ means small enough to be disregarded as determined by the Conservation Commission”; or take any other action relative thereto.

(By the Conservation Commission)

{COMMENTS: This new definition will allow the Commission to grant more variances—see the amended definition of “Variance.”}

Article 7. To see if the Town will vote to amend “Section V: Definitions” by adding the following phrases to the definition of “Variance”: (Proposed amendments are in **bold**)

“The Commission shall have the power, after the filing of a Notice of Intent and the conduct of a public hearing, to issue a variance to an applicant requesting to perform activities as described in Section I (C) (3) or Section I (C) (4) of this Bylaw. Such variances shall be set forth by the issuance of an Order of Conditions by the Commission. In order for the Commission to issue a variance with respect to a particular project, it must specifically find, based on clear and convincing evidence set forth by the applicant, that **the project will result in no adverse effect or no increased impact to the values described in I (B) above, or** that owing to circumstances relating to the soil conditions, hydrological conditions, topography of such land and especially affecting such land but not generally affecting wetlands within the Town, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the applicant, and that desirable relief may be granted without material detriment to the values protected by this Bylaw and without substantially derogating from the extent or purpose of this Bylaw. The Commission may impose conditions, safeguards, and limitations in a variance to protect or further the interests protected by this Bylaw. Variances are intended to be granted only in rare and unusual cases **and shall not establish a precedent for future applications**”; or take any other action relative thereto.

(By the Conservation Commission)

{COMMENTS: The addition of the phrase “**the project will result in no adverse effect or no increased impact to the values described in I (B) above, or**” allows an applicant to demonstrate to the Commission that, even though his/her project may not actually cause the applicant a hardship, nevertheless the Commission should grant a variance to the applicant when the project will not negatively effect the functions and values of wetland resource areas. This will allow more projects to be approved without an applicant needing to demonstrate hardship.}

Article 8. To see if the Town will vote to add the following section to the Carver Wetlands Protection Bylaw under Section I General Provisions: “(E) Rules and Regulations: After due notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purposes of the section. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effects of this section”; or take any other action relative thereto.

(By the Conservation Commission)

{COMMENT: The Commission voted on 5-18-05 to withdraw this article at Town Meeting}

Article 9. To see if the Town will vote to add the following section to the Carver Wetlands Protection Bylaw under Section III Plans: “(D) Rules and Regulations: After due notice and public hearing, the Commission may promulgate rules and regulations to effectuate the purposes of this section. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effects of this section”; or take any other action relative thereto.

(By the Conservation Commission)

{COMMENTS: Adding this section to the Bylaw will allow the Commission to streamline the site plan submittal process when necessary so applicants will have clearer direction on what information is needed on plans when applying for permits.}

Article 10. To see if the Town will vote to instruct its representative to the General Court to file a home rule petition, notwithstanding the provisions of any general or special law to the contrary, to authorize the Town of Carver to appoint up to two alternate voting members of the Conservation Commission for a term of one year. When the Conservation Commission lacks a quorum for reasons of absence, inability to act, or a conflict of interest, the chairperson of said Commission may designate an alternate to sit on the Commission.

(By the Conservation Commission)

{COMMENT: This article will allow the Town to appoint up to two alternate voting members of the Commission so that the Commission can vote when it lacks a quorum due to absence of a regular member, inability to act, or conflict of interest.}

Article 11. To see if the Town will vote to add the following section to Section I (C) Statement of Jurisdiction: “(5) Except as authorized by the Commission through the issuance of a variance as defined by Section V of this Bylaw and an issuance of an Order of Conditions as defined by Section II of the Bylaw, or as exempted under 310 CMR 10.04 as land in agricultural use, no person shall install a well within 150 feet of a cranberry bog, or install a septic system, leaching field, or drain of any type within 100 feet of a cranberry bog”; or take any other action relative thereto.

(By the Conservation Commission)

{COMMENTS: The new section reduces the likelihood that septic systems, leaching fields, and drains will contaminate cranberry bogs or bog irrigation wells and other agricultural water sources. It also reduces the likelihood that pesticides, herbicides, and

fungicides from cranberry bogs will contaminate private water wells. Adding this section will also make our Bylaw compatible with the Carver Board of Health Rules & Regulations Governing Private Wells, Section V "Siting Requirements," regarding the placement of private wells next to cranberry bogs.}

Article 12. To see if the Town will advice the Board of Selectmen, Planning Board and Industrial Development Commission, through a "sense of the meeting vote" whether or not the Town should seek to establish a Redevelopment Authority pursuant to M.G.L. Chapter 121(a), or take any other action relative thereto.

(By the Industrial Development Commission)

And you are directed to serve this warrant by posting attested copies thereof at the several places designated by vote of the Town fourteen days at least before the time of holding said meetings.

Hereof fail not and make due return of this warrant, with your doings thereon, at the time and place of meeting aforesaid.

Given under our hands this Twenty-Sixth day of May in the year Two Thousand and Five.

CARVER BOARD OF SELECTMEN

Francis J. Casey, Chairman

Robert H. Merritt

Bernadette L. Hemingway

Michael J. O'Donnell, Jr.

Francis Muscato

Pursuant to the above warrant, I have notified and warned the inhabitants of Carver qualified to vote in Town affairs to meet at the time and place and for the purpose expressed by posting attested copies thereof in the Town Hall and in each of the Fire Stations and Post Offices in Carver as required by law fourteen days at least before the time of said meeting.

Date

Constable of Carver

A true copy Attest: