

Select Board Meeting Notice AGENDA



<u>Date</u>	<u>Time</u>	<u>Location</u>
October 17, 2023	7:00 PM	Bourne Veterans' Community Building 239 Main St., Buzzards Bay Or virtually (see information below)

The Zoom chat will not be monitored. Participants who wish to speak must raise the hand icon until the Chair asks them to unmute. Note this meeting is being televised, streamed or recorded by Bourne TV. If anyone in the audience is recording or videotaping, they need to acknowledge such at this time.

If anyone from the public wishes to access the meeting, they can do so by calling the following conference line: **1-929-205-6099**

Zoom Meeting ID: 869 5775 5505 Password: BOURNE

All items within the meeting agenda are subject to deliberation and vote(s) by the Select Board.

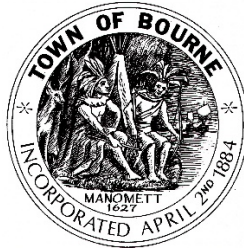
7:00 PM Call Public Session to Order in Open Session

1. Moment of Silence to recognize our troops and our public safety personnel
2. Salute to the flag
3. Reading of the Vision and Mission Statements
4. Public comments on non-agenda items - Public comments are allowed for up to a total of 12 minutes at the beginning of each meeting. Each speaker is limited to 3 minutes for comment. (Board members are unable to respond due to posting requirements of the Open Meeting Law).
5. Annual presentation from Joint Base Cape Cod
6. Discussion regarding Studio Drive repairs to a private road (drainage and pothole)
7. Consent Agenda
 - a. Ratify LIUNA Unit A – MOA for Dispatch
 - b. Update Shellfish Regulations to change the year to "2024," and waive the 3rd reading
 - c. Appoint Zachary Commeau to the Roadway Traffic Safety Committee
8. Continued discussion on Contingent Articles for Fall Town Meeting
9. Vote final recommendations for all Articles and review Voter Handbook comments for Town Meeting on 11/6/23
10. Town Administrator's Report
11. Minutes: 9/19/23
12. Future Agenda Items
13. Committee Reports
14. Correspondence
15. Next Meeting Dates: October 24 @ 6:30 pm and 7 pm for BOSC
 November 6 (Town Meeting)
 November 14 – joint meeting (Fin Com, BPS, UCT)
 November 21
16. Adjourn

RECEIVED
2023 OCT 13 AM 9:53
TOWN CLERK BOURNE

Reasonable accommodations for people with disabilities are available upon request. Please include a description of the accommodation you require, with as much detail as possible, and include a way we can contact you if we need more information. Please allow advance notice. Send an email to kthut@townofbourne.com or call the Town Administrator's Office at 508-759-0600 x1503

TOWN OF BOURNE



Vision

Bourne is a proud community that embraces change while respecting the rich heritage of the town and its villages. It is a municipality based on strong fiscal government with a durable economy that recognizes the rights of all citizens, respects the environment, especially the coastal areas of the community and the amenities that it affords. Bourne embraces excellent education, and offers to citizens a healthy, active lifestyle.

Mission

Bourne will maximize opportunities for social and economic development while retaining an attractive, sustainable and secure coastline and environment for the enjoyment of residents and visitors. Through responsible and professional leadership and in partnership with others, Bourne will strive to improve the quality of life for all residents living and working in the larger community.

**Select Board
Minutes of Tuesday, October 17, 2023
Bourne Veterans' Community Center
Buzzards Bay, MA
Or Virtually**

**TA Marlene McCollem
ATA Liz Hartsgrove**

Select Board

Mary Jane Mastrangelo, Chair
Melissa Ferretti, Vice Chair
Anne-Marie Siroonian, Clerk (remote)
Jared MacDonald
Peter Meier (remote)

Others: Jim Sullivan (remote), John Carroll (remote), Captain Bowen Spievack, Colonel Matt Porter, Captain Rob Potter, Lieutenant Colonel Stewart Smith, Colonel Sean Reilly, and Brigadier General (Ret.) Christopher Faux.

The Zoom Chat will not be monitored. Participants who wish to speak must raise the hand icon until the Chair asks them to unmute. Note this meeting is being televised, streamed, or recorded by Bourne TV. If anyone in the audience is recording or videotaping, they need to acknowledge such at this time.

Michael Rausch, Bourne Enterprise, acknowledged that he is recording this meeting.

If anyone from the public wishes to access the meeting, they can do so by calling the following conference line: **1-929-205-6099** entering the ID/pass above.

Zoom Meeting ID: 869 5775 5505 Password: BOURNE

All items within the meeting agenda are subject to deliberation and vote(s) by the Select Board.

7:00 PM Call Public Session to Order in Open Session

- 1. Moment of Silence to recognize our Troops and our public safety personnel.**
- 2. Salute to the Flag.**
- 3. Reading of the Vision and Mission Statements:**

Vision: Bourne is a proud community that embraces change while respecting the rich heritage of the town and its villages. It is a municipality based on strong fiscal government with a durable economy that recognizes the rights of all citizens, respects the environment, especially the coastal areas of the community and the amenities that it affords. Bourne embraces excellent education, and offers to its citizens a healthy, active lifestyle.

Mission: Bourne will maximize opportunities for social and economic development while retaining an attractive, sustainable, and secure coastline and environment for the enjoyment of residents and

RECEIVED
2023 DEC -4 AM 11:24
TOWN CLERK BOURNE

visitors. Through responsible and professional leadership and in partnership with others, Bourne will strive to improve the quality of life for all residents living and working in the larger community.

4. **Public Comment on Non-Agenda Items** – Public Comments are allowed for up to a total of 12 minutes at the beginning of each meeting. Each speaker is limited to 3 minutes for comment. (Board members are unable to respond due to posting requirements of the Open Meeting Law).

5. **Annual presentation from Joint Base Cape Cod.**

Brigadier General (Ret.) Christopher Faux, Executive Director of Joint Base Cape Cod with the Massachusetts National Guard, gave a slide presentation update with a brief overview of the commanding officers and the military organizations on the base. He talked about their vision and mission statements.

Colonel Sean Reilly of the Air National Guard, 102nd Intelligence Wing, gave an update on some of the projects that they have been working on. He said that they do not have any aircraft on the ramp anymore, although they have 3 different operational missions. He talked about and showed a video about the various departments in his group.

Lieutenant Colonel Stewart Smith of the 6th Space Warning Squadron talked about the warning center on the base. He said that there were about 70 people in the unit. He said that about 30 of them are radar operators who track possible missiles, space debris and satellites, while another 30 are Air Force security personnel who are there to protect the site. He also said that there are 6 civilians that provide long term continuity, and they have a contractor workforce that supplements them as well. Lt. Col. Smith said that their key mission is strategic missile warning, and he talked about their other missions with space awareness.

Captain Rob Potter of the Coast Guard said that they have about 190 in their workforce. He said that they have 3 helicopters and 3 airplanes. He said that they cover the area from New York City to Canada. He talked about the aircraft fleet and about search and rescue. He talked about the awards that have been received by the unit.

Coast Guard Captain Bowen Spievack talked about the other Coast Guard unit at Joint Base Cape Cod. She talked about all the functions that her unit does to keep the Coast Guard in service on the base.

Colonel Matt Porter of the Army National Guard said he was there to represent Camp Edwards. He said that his staff hosts tours of the base. He talked about dual mission training at Camp Edwards and about the number of soldiers from the base that have been deployed. He also talked about the rules and regulations of protecting the environment. He also talked about their current and future projects such as the construction of an athletic track, barrack renovations and a future multi-purpose machine gun range, which is still under review. He also talked about their public outreach which includes tours and community presentations.

6. Discussion regarding Studio Drive repairs to a private road (drainage and pothole).

Town Administrator Marlene McCollem talked about the process regarding Studio Drive. She said that in May of 2022, the town revised the bylaw that deals with repairs to private ways. She said that they have not yet made it to the point of creating procedures, checklists, and steps. She said that the conversation at this meeting can help in establishing the procedures. She said that with the past rainy summer, the Acting DPW Director (Matt Quinn) has been trying to address as many drainage structures as they can, and they clean them out to ensure drainage.

Ms. McCollem said that recently Mr. Quinn sent the crews out to Studio Drive and when they were cleaning out the catch basins, they found one that was completely buried, so they cleaned it out to prevent flooding. She said that she has received phone calls from residents inquiring about having the town fix it. She said that this is a private way. She said that the bylaw requires that the DPW Director work in consultation with the Police Chief and Fire Chief for public safety. Both Chiefs visited the site and agreed that this does not pose a hazard to public safety. They said that is not in the traveled way and does not rise to the level of utilizing town resources to fix. She said that the Town Department Heads do not recommend repair to this unaccepted private way using public resources. She added that because there is a lot of interest and because there are not clearly defined procedures, she wanted to walk through this situation with the Select Board.

Chair Mastrangelo compared this situation to Howard Ave. and said that there is option C, which requires 50% of the residents to ask for the repair, and they must provide a cash deposit or by betterment. There was discussion about the snow plowing issues that could result. Peter Meier said that a no plow list used to be put together every year about 8 to 10 years ago.

7. Consent Agenda

- a. Ratify LIUNA Unit A – MOA for Dispatch.**
- b. Update Shellfish Regulations to change the year to “2024” and waive the 3rd reading.**
- c. Appoint Zachary Commeau to the Roadway Traffic Safety Committee.**

Ms. McCollem said that while they were changing the dates in the shellfish regulations, they also changed Board of Selectmen to Select Board.

Melissa Ferretti said that there is a section in the shellfish regulations about licenses, (sec.1.2.4), regarding Native Americans and she said that this should be looked at. Ms. McCollem said that she will let the Shore and Harbor Committee, and Department of Natural Resources, know to revise this section for the next round. Chair Mastrangelo said that she is not comfortable approving it at this time. Ms. Ferretti said that she will obtain the correct language for the change to this regulation.

Voted: Jared MacDonald moved, and Melissa Ferretti seconded to approve the Consent Agenda items A and C and send Consent Agenda item B back to Shore & Harbor and DNR for the updates to have a 3rd reading.

Roll Call Vote: Anne-Marie Siroonian – yes, Peter Meier – yes, Melissa Ferretti – yes, Chair Mastrangelo – yes, and Jared MacDonald - yes. **Vote:** 5-0-0.

Zachary Commeau introduced himself to the Select Board. He said that he is the Regional Environmental Health and Safety Director for Marina Corporation. He said that he is trying to get more involved in the community and he said he appreciates that the board appointed him to the Roadway Traffic Safety Committee.

8. Continued discussion on Contingent Articles for Fall Town Meeting.

Chair Mastrangelo said that the Select Board had voted that if articles 13 or 14 were called to have article 15 voted first. She said that the Planning Board met and has requested that the contingent vote be set that if any of these were called that article 15 be voted first followed by article 13, then article 14. The Finance Committee voted this last night also.

Voted: Jared MacDonald moved, and Melissa Ferretti seconded that the Select Board amend their recommendation on contingent articles to be that for the purposes of sequence that article 15 will be taken first, article 13 will be taken up immediately after article 15, and article 14 will be taken up immediately after article 13, regardless of the order drawn in the lottery.

Roll Call Vote: Anne-Marie Siroonian – yes, Peter Meier – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 5-0-0.

9. Vote final recommendations for all Articles and review Voter Handbook comments for Town Meeting on 11/6/23.

Chair Mastrangelo said that Jared MacDonald will not be able to attend Town Meeting, so she said she needed to re-assign his articles.

Chair Mastrangelo also said that there has been a lot of discussion regarding the Town Meeting marijuana articles, and that the Select Board has received an option from Town counsel about them, and she wanted to discuss article 15 first.

- **Article 15**

Jared MacDonald said that he feels that article 15 is a town vote and the residents need to make their choice. Chair Mastrangelo asked for a motion regarding article 15.

Voted: Melissa Ferretti moved, and Jared MacDonald seconded to approve the article set forth as presented in the handbook.

The vote was tabled until Mr. Meier comes back to the meeting.

- **Article 1, Reports of Committees.**

Voted: Anne-Marie Siroonian moved, and Jared MacDonald seconded to recommend approval of the motion for Article 1 for Reports of Committees.

Roll Call Vote: Anne-Marie Siroonian – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 4-0-0.

- **Article 2, Unpaid Bills.**

Voted: Melissa Ferretti moved, and Jared MacDonald seconded to recommend approval of the motion for Article 2, Unpaid Bills.

Roll Call Vote: Anne-Marie Siroonian – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 4-0-0.

- **Article 3, Budget Amendment.**

Voted: Jared MacDonald moved, and Anne-Marie Siroonian seconded to recommend approval of the motion for Article 3.

Roll Call Vote: Anne-Marie Siroonian – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 4-0-0.

- **Article 4, Amend the FY24 Sewer Operating Budget.**

Voted: Jared MacDonald moved, and Melissa Ferretti seconded to recommend approval of the motion for Article 4.

Roll Call Vote: Anne-Marie Siroonian – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 4-0-0.

- **Article 5, OPEB Funding.**

Voted: Melissa Ferretti moved, and Jared MacDonald seconded to recommend approval of the motion for Article 5.

Roll Call Vote: Anne-Marie Siroonian – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 4-0-0.

- **Article 6, Capital Stabilization.**

Voted: Jared MacDonald moved, and Melissa Ferretti seconded to recommend approval of the motion for Article 6.

Roll Call Vote: Anne-Marie Siroonian – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 4-0-0.

- **Article 7, Capital Outlay Recommendations.**

Voted: Jared MacDonald moved, and Melissa Ferretti seconded to recommend approval of the motion for Article 7.

Roll Call Vote: Anne-Marie Siroonian – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 4-0-0.

- **Article 8, CPA**

- **Part 1**

Voted: Jared MacDonald moved, and Anne-Marie Siroonian seconded to recommend approval of the motion for Article 8, Part 1.

Roll Call Vote: Anne-Marie Siroonian – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 4-0-0.

- **Part 2**

Voted: Jared MacDonald moved, and Melissa Ferretti seconded to recommend approval of the motion for Article 8, Part 2.

Roll Call Vote: Anne-Marie Siroonian – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 4-0-0.

- **Article 9, Community Engagements Committee.**

Voted: Jared MacDonald moved, and Anne-Marie Siroonian seconded to recommend approval of the motion for Article 9.

Roll Call Vote: Anne-Marie Siroonian – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 4-0-0.

- **Article 10**

Chair Mastrangelo said that the Select Board will make a recommendation on Article 10 at Town Meeting because there is no motion yet.

- **Article 11, Finance Committee Reduction.**

Voted: Jared MacDonald moved, and Melissa Ferretti seconded to recommend approval of the motion for Article 11.

Roll Call Vote: Anne-Marie Siroonian – yes, Peter Meier – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 5-0-0.

- **Article 12, Zoning Bylaw Amendment on the Wetlands Definition.**

Voted: Melissa Ferretti moved, and Jared MacDonald seconded to recommend approval of the motion for Article 12.

Roll Call Vote: Anne-Marie Siroonian – yes, Peter Meier – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 5-0-0.

- **Article 15, Repeal on Ban of Marijuana Establishments.**

Chair Mastrangelo and Mr. MacDonald explained that a motion was earlier put forth by Melissa Ferretti and seconded by Jared MacDonald approving the motion for Article 15 for recommendation.

Roll Call Vote: Anne-Marie Siroonian – no, Melissa Ferretti – yes, Jared MacDonald – abstain, Chair Mastrangelo – abstain, and Peter Meier – yes. **Vote:** 2-1-2.

It was decided that the petitioner will make the motion at Town Meeting.

- **Article 13, Amend Marijuana Zoning Bylaws**

There was some discussion about the language of the motions, and how the Select Board will vote on their recommendations.

Voted: Jared MacDonald moved, and Melissa Ferretti seconded to recommend approval of the motion for Article 13 if Article 15 passes.

There was a discussion about a Special Permit. Mr. Meier stated that a Special Permit should be in the zoning article.

Roll Call Vote: Anne-Marie Siroonian – yes, Peter Meier – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 5-0-0.

Chair Mastrangelo said that Town Counsel wrote to the Select board about having wording regarding the situation if Article 15 fails, so that the zoning bylaw is not going to overturn the general bylaw.

Voted: Jared MacDonald moved, and Anne-Marie Siroonian seconded that if Article 15 fails, the Select Board may make an amended motion and will make a recommendation on the article at Town Meeting.

Roll Call Vote: Anne-Marie Siroonian – yes, Peter Meier – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 5-0-0.

- **Article 14**

There was discussion about this article regarding whether Article 15 passes or fails. Chair Mastrangelo said that if Article 15 passes, Town Counsel recommends indefinite postponement.

Voted: Jared MacDonald moved, and Melissa Ferretti seconded that if Article 15 passes, the Select Board recommends defeat of this article with a no vote opposed to the motion.

Roll Call Vote: Anne-Marie Siroonian – yes, Peter Meier – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 5-0-0.

Voted: Jared MacDonald moved, and Anne-Marie Siroonian seconded that if Article 15 fails, the Select Board recommends approval of the motion on Article 14.

Roll Call Vote: Anne-Marie Siroonian – yes, Peter Meier – no, Melissa Ferretti – no, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 3-0-2.

10. Town Administrator's Report

Ms. McCollem said the library staff has been conducting a pilot project to see if residents are interested in having a place to pick up materials on the north side of the canal. She said currently books are delivered once a week to town hall, and that it has been so popular that the library plans on expanding it to twice per week.

Ms. McCollem also said that the Bourne Police Department has been awarded \$34,600. In Municipal Road Safety grant funding.

Chair Mastrangelo added that you can read the Town Administrator's report on her website.

11. Minutes: 9/19/23

Voted: Jared MacDonald moved, and Melissa Ferretti seconded to approve the minutes of September 19th, 2023, as amended.

Roll Call Vote: Anne-Marie Siroonian – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 4-0-0.

12. Future Agenda items

Chair Mastrangelo said that the Southside Fire Station Committee is recommending pursuing the Pocasset Station land. She said she would like it on the agenda on the 21st of November.

13. Committee reports

Chair Mastrangelo said she attended the MPO meeting and was nominated for the MPO.

14. Correspondence

Anne-Marie Siroonian read aloud the correspondence:

- DEP letter – Annual Land Use Control Letter Report for 2022.
- J. Buckley letter re: marijuana zoning.
- Email from J. Hensley re: Marijuana Overlay District

These are all on the Town's website.

- 15. Next meeting date: October 24 @ 6:30 PM and 7 PM for BOSC**
November 6 (Town Meeting)
November 14 –joint meeting (Fin Com, BPS, UCT)
November 21

16. Adjourn

Voted: Jared MacDonald moved, and Melissa Ferretti seconded to adjourn.

Roll Call Vote: Anne-Marie Siroonian – yes, Melissa Ferretti – yes, Jared MacDonald – yes, and Chair Mastrangelo – yes. **Vote:** 4-0-0.

This meeting of the Bourne Select Board was adjourned at 9:24 PM.

Respectfully Submitted,

Kim Johnson, Recording Secretary

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can and include a way we can contact you if we need more information. Please allow advance notice. Send an email to kthut@townofbourne.com or call the Town Administrator's Office at 508-759-0600 x1503.

MOTION: We move that the Town vote to authorize the Board of Selectmen to petition the General Court of the Commonwealth for passage of special legislation allowing for the Town to establish a Shellfish Mitigation Receipts Reserved for Appropriation Fund "Shellfish Mitigation Fund" for monies to be deposited from mitigation funds obtained by the Bourne Conservation Commission for projects impacting public waterways and shellfish habitats, and further, that said fund shall be used exclusively for shellfish resource enhancements, shellfish habitats or capital improvements, as specified below, provided, however, that the General Court may make clerical or editorial changes of form only to said legislation, unless the Board of Selectmen votes to approve amendments to the same; and provided further that the Board of Selectmen is hereby authorized to approve amendments that shall be within the scope of the general public objectives of said petition and special legislation:

An Act establishing a shellfish mitigation receipts reserved fund in the town of Bourne

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:-

SECTION 1. Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law, rule or regulation to the contrary, there shall be a special fund in the town of Bourne to be known as the Shellfish Mitigation Fund. There shall be deposited into said fund monies collected by the town of Bourne conservation commission as mitigation payments for projects that impact public waterways and shellfish habitats. The fund shall be used exclusively for shellfish resource enhancements, shellfish habitats or capital improvements.

SECTION 2. The Shellfish Mitigation Fund shall be maintained by the town of Bourne Treasurer as a separate account, subject to applicable provisions of chapter 44 of the General Laws and any interest accrued shall be credited to and become part of the fund.

SECTION 3. This Act shall take effect upon its passage.

Finance Committee Explanation and Recommendation: The Finance Committee voted unanimously (9-0-0) to recommend approval of this article with a YES or AYE vote in favor of the motion.

- A YES or AYE vote in favor of the motion would authorize the Selectmen to file special legislation to create a Shellfish Mitigation Fund.
- A NO or NAY vote opposed to the motion would mean that the Selectmen could not file the special legislation.

Board of Selectmen Recommendation: The Board of Selectmen voted unanimously 4-0-0 to recommend approval of this article.

ARTICLE 15: To see if the Town will vote to amend the Town of Bourne Bylaws, Article 3.1 Public Safety and Good Order, Section 3.1.28 – Temporary Repairs of Private Ways, by deleting the current section 3.1.28 and inserting in its place Section 3.1.28 – Temporary Repairs of Private Ways as follows:

In accordance with chapter 40, section 6N of the General Laws, the purpose of this bylaw is to set forth the level of service the Town will provide for temporary repairs to private ways that have not been accepted by the Town but have been continuously open to public use for six years and which will remain open to public use. Private ways posted as restricted in use to owners and/or their guests will not be maintained under this bylaw.

- A. Owners Responsible for Private Ways. The owners abutting private ways are responsible for the maintenance of such ways. Constructed private ways must be maintained so there are no defects to impede the safe passage of emergency vehicles. The making of temporary repairs to private ways by the Town pursuant to this section 3.1.28, no matter how often or to what extent, shall not constitute acceptance, maintenance, or use of such a way or any portion thereof as a public way.
- B. Emergency Temporary Repairs. The Town may perform emergency temporary repairs to private ways if such repairs are determined by the Superintendent of Public Works, in consultation with the Police Chief and/or Fire Chief, to be required to correct a defect or condition that impairs the safe transit of public safety vehicles or poses an imminent and substantial risk to the public safety. Said repairs shall be considered a public necessity and shall be limited to abating the immediate hazard caused by the defect or condition. Defects, such as potholes, shall be repaired with materials similar to the road surface and base.
- C. Temporary Repairs. For all repairs that are not emergency repairs pursuant to subsection b, said repairs shall be undertaken only if petitioned for by the abutters who own at least 50% of the lineal footage of such way and only if the Board of Selectmen shall declare that said repairs are required by the public necessity and convenience. The cost of such repairs shall be paid by the abutters by a cash deposit or by betterment assessment as hereinafter provided, and no work shall commence unless and until such cash deposit in the amount of the estimated cost of such repairs as determined by the Superintendent of Public Works to do the work is paid over to the Town or the Board of Selectmen have made a determination that betterments will be assessed. If the Selectmen determine that betterments will be assessed, the Selectmen shall assess betterments upon the owners of estates which derive particular benefit or advantage from the making of such repairs on any such private way. Such assessment shall be a sum equal, in the aggregate, to the total cost of such repairs and, in the case of each such estate, in proportion to that frontage thereof of such way. Except as otherwise provided, the provisions of Chapter 80 of the General Laws relating to public improvements and assessments therefor shall apply to repairs to private ways ordered to be made under this section; provided, that no assessment amounting to less than twenty-five dollars shall be apportioned and no assessment may be apportioned into more than five portions. Before any work commences, the Town shall be held harmless on account of any damages whatever caused by such repairs by suitable indemnity agreements executed by the abutters who petitioned therefor.
- D. Scope of Authorized Temporary Repairs. The scope of temporary repairs that may be authorized pursuant to this section 3.1.28 include and are limited to: (1) filling or patching of potholes or cracks; (2) grading and leveling of surfaces; (3) oiling and tarring of road surfaces and the covering of the oil or tar with sand or gravel; (4) installation of guardrails or other infrastructure; (5) installation of stormwater drainage infrastructure; (6) cleaning of catch basins and drainage structures; (7) skim coating or armor coating of road surfaces; (8) reconstructing a way, including the removal of roadway surface and the regarding and installation of fill and roadway surface materials, including asphalt and concrete; and (9) any other temporary repair that the Superintendent of Public Works determines to be necessary to protect the public health, safety, or welfare.
- E. Liability of the Town. The Town shall not be liable for any damage or injury related to any defect or condition in a private way, or any temporary repairs or failure to make such repairs pursuant to this section 3.1.28 or otherwise. Subsequent repair or failure to make repairs to private ways. In any legal action brought against the Town for damages or injury to persons or property suffered by reason of a defect or want of repair in a private way that has been so repaired, the Town may deny that the repaired way is a public way.

Sponsor – Board of Selectmen

MOTION: We move that the Town vote to approve Article 15 as set forth in the Warrant.

Finance Committee Explanation and Recommendation: The Finance Committee voted (7-0-2) to recommend approval of this article with a YES or AYE vote in favor of the motion.

- A YES or AYE vote in favor of the motion would allow the DPW to make emergency, temporary repairs to private ways in order to provide services (trash pickup, ambulance) to these residents without damage to town-owned equipment and vehicles. A YES vote does *not* make the roads public, and it does *not* make the town responsible for on-going repairs to the roads in the future.
- A No or NAY vote opposed to the motion would mean that no town funds could be used to make temporary, emergency repairs to private roads.

Board of Selectmen Recommendation: The Board of Selectmen voted unanimously 4-0-0 to recommend approval of this article.

ARTICLE 16: To see if the Town will vote to accept the provisions of G.L. c. 71, § 71E relative to establishing a revolving fund for adult education and continuing education programs to be conducted by the Bourne Public Schools or take any other action in relation thereto.

Sponsor – School Committee

MOTION: We move the Town vote to accept the provisions of G.L. c. 71, § 71E, relative to establishing a revolving fund for adult education and continuing education programs.

Finance Committee Explanation and Recommendation: The Finance Committee voted unanimously (9-0-0) to recommend approval of this article with a YES or AYE vote in favor of the motion.

- A YES or AYE vote in favor of the motion would authorize the creation of the revolving fund.
- A NO or NAY vote opposed to the motion would mean that the revolving fund would not be created.

Board of Selectmen Recommendation: The Board of Selectmen voted unanimously 5-0-0 to recommend approval of this article.

Marlene McCollem

From: Cody, David
Sent: Thursday, October 12, 2023 12:09 PM
To: Marlene McCollem; Esip, Brandon M.
Cc: Matthew Quinn; Elizabeth Hartsgrove; Kathleen Thut
Subject: RE: Emergency Repair to a Private Way

Marlene,

I do agree with Chief Esip.

Dave

David S. Cody

Fire Chief
Bourne Fire Rescue and Emergency Services
51 Meetinghouse Lane
Sagamore Beach, MA 02562

508-759-0600 Ext. 2221
<http://www.bournefire.com/>

From: Marlene McCollem
Sent: Thursday, October 12, 2023 12:05 PM
To: Esip, Brandon M.
Cc: Matthew Quinn; Cody, David; Elizabeth Hartsgrove; Kathleen Thut
Subject: RE: Emergency Repair to a Private Way

Thank you, Chief. This is very helpful.

Chief Cody, when you have a chance, can you please let me know if you concur, or have a different opinion?

Thank you,
Marlene

From: Esip, Brandon M.
Sent: Thursday, October 12, 2023 11:32 AM
To: Marlene McCollem <mmccollem@townofbourne.com>
Cc: Matthew Quinn <MQuinn@townofbourne.com>; Cody, David <DCody@townofbourne.com>; Elizabeth Hartsgrove <EHartsgrove@townofbourne.com>; Kathleen Thut <kthut@townofbourne.com>
Subject: Re: Emergency Repair to a Private Way

Marlene,

We went out yesterday and visited the site. The general consensus was that there did not appear to be an immediate public safety issue. The drain is low, but it seems far enough off the road where it should not impact regular traffic. I would be concerned about possible damage to plows that may be clearing the edge of the road or emergency vehicles that pull into the driveway at 16 Studio and bottom out. I do not have this concern with any current PD vehicles.

Please let me know if you need any additional info from the PD.

Brandon
Sent from my iPhone

On Oct 10, 2023, at 11:02 AM, Marlene McCollem <mmccollem@townofbourne.com> wrote:

Hi Matt and Chiefs:

We have received a couple of calls about a road hazard on **Studio Drive in Buzzards Bay**. This is a private, unaccepted road, and I need to work within the bounds of Bylaw 3.1.28.B. We don't have any adopted procedures yet, so I'm being a little cautious about how we proceed.

The bylaw requires that the DPW Director consult with the Police Chief and/or Fire Chief to determine if the condition **"impairs the safe transit of public safety vehicles or poses an imminent and substantial risk to the public safety."**

Chiefs, could either one, or both, of you please work with Matt to make a determination based on the bylaw?

Matt, could you please let me know by this Friday, 10/13, if the group is recommending making the repairs?

If you do recommend making the repairs, I will put it on the Select Board's agenda on 10/17 and ask them vote that the repairs are "considered a public necessity."

Thank you & please let me know if you have any questions.
Marlene



Department of Natural Resources

Memorandum

To: Select Board
From: Chris Southwood
Date: October 17, 2023
Subject: **2024 Shellfish Regulations**

Select Board,

As per MGL Chapter 130 Sec 52, any regulations made hereunder shall take effect as therein stated, shall be published by posting a copy of the same in the office of the aldermen, city council or selectmen making the same, and in the office of the city or town clerk, and in three or more public places in said city or town. These postings will include, Town Hall and three Post Offices (Buzzards Bay, Pocasset, Monument Beach) as well as the Town of Sandwich Clerk's Office.

Attached are the recommendations for the 2024 Recreational and Commercial Shellfish Regulations as submitted by this department. The changes from the current 2023 regulations include all of the applicable dates only. At this time no other changes are recommended.

The Town of Bourne Shore and Harbor Committee recommended the approval of these amendments at their October 12th public meeting.

This department is requesting a waiver for a third public meeting reading relating to regulation approvals by January 1st, 2024 and the printing of the Town of Bourne Shellfish Regulation booklets.



TOWN OF BOURNE

Shore & Harbor Committee

**24 Perry Avenue
Buzzards Bay, MA 02532**



Richard Libin, Chairman
David Wiggin, Vice Chairman
Paul Bushueff, Clerk
David Crane
Irving Salley
Paul Forsberg
Andrew Campbell

October 12, 2023

Select Board
24 Perry Avenue
Buzzards Bay, MA 02532

Dear Select Board,

The Shore and Harbor Committee held a public meeting on Thursday October 12, 2023, at Bourne Middle School and reviewed the 2024 shellfish regulations. The shellfish regulations were reviewed, voted and approved by the committee.

Respectfully,

Richard F. Libin
Chairman

COMMONWEALTH OF MASSACHUSETTS

TOWN OF BOURNE

Barnstable, ss.

2024

SHELLFISH REGULATIONS

<u>SECTION</u>	<u>PAGE</u>
1. GENERAL REGULATIONS	1
2. RECREATIONAL PERMIT REGULATIONS	8
3. COMMERCIAL PERMIT REGULATIONS	9
4. COMMERCIAL QUAHOG PERMIT REGULATIONS	10
5. COMMERCIAL EEL PERMIT REGULATIONS	11
6. COMMERCIAL CLAM PERMIT REGULATIONS	11
7. COMMERCIAL SCALLOP PERMIT REGULATIONS	13

NOTE: Special regulations or amendments covering shellfish bed closures, the harvesting of herring and temporary experimental programs for shellfish grants are published separately and are available upon request. Information is also posted on the Town web site at <http://www.townofbourne.com>.

LICENSING AUTHORITY

At a regular meeting of the Board of Selectmen held **October 17, 2023**, the following rules and regulations, which were previously adopted on **September 20, 2022**, were amended covering the harvesting of shellfish, herring, eels and sea worms from the waters and flats of the Commonwealth within the limits of the Town of Bourne, effective January 1, 2024. Under the authority of Massachusetts General Laws, Chapter 130, Section 52 and Town Meeting vote passed in February of 1959, the Town hereby adopts the following regulations:

1

GENERAL REGULATIONS (Applies To All Permits)

1.1 **GENERAL PROVISIONS & HARVESTING:** Under the provisions of the aforementioned laws, all persons are prohibited from harvesting eels, herring (presently prohibited), sea worms, and any shellfish, including, but not limited to, clams, quahogs, mussels, oysters or scallops, from the coastal waters or flats of the Town without a current permit issued by the Town of Bourne, available at the Department of Natural Resources in Room 102 of Town Hall, located at 24 Perry Avenue in the village of Buzzards Bay, during the regular business hours of 8:30 AM to 4:30 PM, Monday-Friday, excluding holidays. "Harvest" means to catch, dig, take, or attempt to catch, dig or take, or otherwise have in possession any species covered by these regulations or amendments. The harvesting of eels, herring, shellfish or sea worms shall be limited to the regulations set forth herein. All permits shall be valid from January 1st through December 31st of each calendar year. Unless otherwise noted, any violation of these regulations or amendments shall be subject to a fine of one hundred dollars (\$100.00).

1.2 **RECREATIONAL PERMITS:** No more than one (1) Recreational permit will be issued per family, irrespective of the number of parcels of taxable real property owned by the family or the individual members thereof. In this context, a "family" is a person or group of persons, whether or not related by blood or marriage, which share a common domicile. "Domicile" shall be a true, fixed, permanent home and principal establishment. With the exception of Paragraph 1.2.2, the use of this permit is limited to the person to whom the permit was issued or any member of the family as defined herein. Use of this permit is limited to personal, non-commercial purposes, including sustenance. The customer must show to the satisfaction of the licensing authority, such as a valid photo ID and/or a Town real estate tax bill, that they are entitled to a permit and an application form may be required to be submitted and approved before the issuance of the permit. Recreational permit types are as follows:

1.2.1 **RESIDENT PERMIT:** Issued to a citizen who is domiciled or owns taxable real property in the Towns of Bourne or Sandwich. FEE: \$35.00

1.2.2 **SENIOR CITIZEN PERMIT:** Issued to a citizen who has attained the age of sixty-five (65) years and is domiciled or owns taxable real property in the Towns of Bourne or Sandwich. *NOTE: The Senior Citizen permit holder must be present and actively harvesting shellfish. If other domiciled family members also wish to shellfish independently, then a Resident permit must be obtained instead of a Senior Citizen permit.* FEE: \$10.00

1.2.3 **MASSACHUSETTS RESIDENT PERMITS:** Issued to a citizen who is domiciled within the Commonwealth. FEE: \$175.00

1.2.4 **NATIVE AMERICAN PERMIT:** Issued to a citizen who is of Native American heritage and domiciled or owns taxable real property in the Towns of Bourne or Sandwich. FEE: None

1.2.5 **VETERAN RECREATIONAL PERMIT:** Issued to a citizen who is domiciled within the Commonwealth. Valid documentation will be required as proof of Veteran status. FEE: \$35.00

1.2.6 SENIOR VETERAN RECREATIONAL PERMIT: Issued to a citizen who has attained the age of sixty-five (65) years old and is domiciled within the Commonwealth. Valid documentation will be required as proof of Veteran status. FEE: \$10.00

1.3 PERMIT DISPLAY: Permits must be in the possession of the permit holder and in plain view on outer clothing or posted on the boat in a visible manner while harvesting any species. (Fine: \$25.00)

1.4 AGE LIMIT: No child under the age of twelve (12) years shall harvest any species unless accompanied by an adult holding a valid permit, in which case said adult shall be held responsible for all acts of the child.

1.5 SHELLFISH SIZE LIMITS: No person shall harvest quahogs less than one inch (1") shell thickness (hinge width), soft shelled clams less than two inches (2") in the longest shell length, oysters less than three inches (3") in the longest shell length, or scallops without a well-defined annual growth ring. Any other shellfish not listed shall be in compliance with State Regulations. The harvesting of seed shellfish more than three percent (3%) of any batch is prohibited. *NOTE: Under Paragraph 1.7 below, all shellfish must be measured and realistically no seed should be taken!*

1.6 SHELLFISH GAUGE: A legal gauge for shellfish measurements shall be used while harvesting. (Fine: \$25.00)

1.7 DISPOSITION OF SEED: All shellfish shall be measured prior to placement in harvest containers and all seed shall be immediately returned to the same location from which it was harvested. Quahog seed shall be broadcast back into the water, or lightly covered with soil when dry digging. Clam seed shall be placed in the substrate in an upright position and lightly covered with soil, except that those harvested by Commercial clamming seaward of Mean Low Water shall be broadcast back into the water. Oyster seed longer than one inch (1") attached to adults shall be separated and broadcast below the Mean Low Water line. Oyster seed smaller than one inch (1") must be left on the adult shell, broadcast below the Mean Low Water line and shall not be harvested.

1.8 REMOVAL OF BEACH/MARSH GRASS OR PEAT BANKS: The removal of any grasses or peat for the purposes of harvesting shellfish shall be prohibited.

1.9 ALLOWABLE HARVEST HOURS: All shellfish shall be harvested, culled and landed above the Mean High Water line only during the following hours (Fine: \$50.00):

	January 1 st through December 31 st	Sunrise to Sunset
Scallop Season:	October 1 st through March 31 st	Sunrise to Sunset

1.10 SHOVELS and STANDARD GARDEN PITCH FORKS: The use of a shovel or standard garden pitch fork or any similar tool for the harvesting of shellfish is prohibited. (Fine:

\$25.00)

1.11 CLOSED AREAS: Some areas are permanently closed, other areas are seasonally closed, and some areas may be temporarily closed on a random basis. Always note official signs along the shoreline, check the Town web site, review the closure list, or contact the Department of Natural Resources.

1.11.1 CLOSED: June through September, all Town public bathing beaches, a portion of the southeasterly side of Scraggy Neck known as "Sunrise Beach", a portion of Cedar Point Cove (swim beach) defined by two jetties, and all designated oyster beds, as noted in Paragraph 1.12.2, except during the oyster season, as noted in Paragraph 2.3.

1.12 RECREATIONAL AREAS: The following areas are restricted for the exclusive use of Recreational shellfishing and Commercial fishing in these areas is prohibited. At no time shall a fisherman be in possession of shellfish in excess of the Recreational limit while utilizing a Recreational area. *Note: Some of the following Recreational Areas may be temporarily closed - See closed area list under separate cover.*

Barlows Landing: All waters and flats north of a line drawn from stone jetty located north of pier (Swim Area) to a shellfish marker on the easterly shoreline by 39/43 Harbor Drive.

Cedar Point: From the end of Cedar Point Drive to stake thence northerly to stone jetty located on northeast side of Cedar Point Cove.

Eel Pond (Seasonal Restriction): During the months of June, July, and August Commercial shellfishing in this area shall be prohibited.

Hen Cove: All waterways and flats landward of shellfish boundary markers positioned at end of Pequot Avenue southerly around entire Cove to marker positioned approximately 400 feet south of Cedar Road on the easterly shoreline of Hen Cove.

Little Bay: All waters and flats north of a line drawn from the sign at 8 Briarwood Lane, which will align with the driveway and large tree at the southern end of the property, to the marker located on the opposite shore.

Queen Sewell Cove: All waterways and flats west (landward) of a line drawn from the sign at the end of Cranberry Road Extension to the sign at the sand spit at the end of Quamhasset Road, and east (landward) of a line drawn from the sign at the end of Cranberry Road Extension to the sign by 27 Lewis Point Road (Cape Cod Nursing Home).

Tahanto Flats: All flats landward of a line beginning at the east jetty of the Pocasset River and running northeasterly to Salt Pond inlet located just southeasterly of Monks Park.

Taylor Point: All waters and flats south of a line drawn westerly from #39 Buttermilk Way to a line drawn westerly from the pilings at the State Pier at the Massachusetts Maritime Academy.

Tobey Island, North Side: All waters and flats south of an imaginary line running from the Monument Beach Ramp northwesterly to a shellfish marker placed on the most northerly end of the sand bar off the north shore of Tobey Island, thence by an imaginary line running in a southerly direction to the wooden pier located on the northerly shoreline point of Tobey Island.

Winsor Cove: All waters and flats easterly of an imaginary line drawn from shellfish boundary post located on Winsor Point to shellfish boundary post located on Long Point.

1.12.1 SENIOR CITIZEN AREAS: Recommended for use by those persons issued a Senior Citizen Permit or disabled persons approved by the Shellfish Constable (See Paragraph 2.7).

Buzzards Bay (Electric Avenue): All waters landward from a fixed marker located on the Town Pier at the Electric Avenue boat ramp to a fixed shellfish sign at the end of the private pier south of the ramp.

Monument Beach: All waterways landward of markers posted between the Tobey Island Bridge and the Town Pier.

Pocasset (Barlows Landing): All waters from a fixed shellfish marker on Salt Marsh Lane to a painted cement marker on the end of the pier at Barlows Landing.

1.12.2 DESIGNATED OYSTER BEDS: The following designated oyster beds are CLOSED, except during the oyster season (unless closed for propagation), as noted in Paragraph 2.3:

- a) Taylor Point: The waters and flats along the western shore of Taylor Point at Cohasset Narrows north of a line drawn westerly from the beach way at #17 Buttermilk Way and south of a line drawn westerly from the beach way at #39 Buttermilk Way and thence seaward.

1.13 BOATS ON OYSTER BEDS: The use of dredges, tongs, bull rakes, or boats for the purposes of harvesting shellfish on designated oyster beds, as noted in Paragraph 1.12.2, shall be prohibited. (Fine: \$50.00)

1.14 PERMITS NON-TRANSFERABLE: Permits are not transferable and may be suspended or revoked by the Board of Selectmen for any violation of the shellfish rules and regulations, Massachusetts General Laws, Chapter 130, or amendments thereto and subject to rules and regulations of the Town of Bourne, by authority of the vote of this Town passed in February of 1959. Due notice in writing shall be given or mailed to the permit holder of such suspension or revocation.

1.15 PERMIT VIOLATION HEARING: Shellfish permits may be suspended or revoked for violations of these regulations following a public hearing by the Board of Selectmen.

1.16 SHELLFISH INSPECTION: All persons harvesting or having in their possession shellfish or fish of any kind, in boat or container, shall exhibit such shellfish or fish for inspection upon demand of any Shellfish Constable, Natural Resources Officer or Police Officer.

1.17 DISPOSAL OF PREDATORS & SHELLS: All starfish or green crabs caught shall be placed above the Mean High Water line. Except that green crabs harvested may be contained in secure storage cages while waiting for market or personal use. Location of storage cages, cars or rafts are subject to written approval of the Harbor Master. Scallop shells may be disposed of in deep water (six feet {6'} or more at Mean Low Water); but in no case shall shells be disposed of at Town landings, off the end of Town docks, at Town swim beaches, where they may be otherwise considered a hazard, or in any other shallow water. (Fine: \$50.00)

1.18 TRANSFER OF SHELLFISH: With the exception of replacing seed shellfish into the waterways or flats as required by Paragraph 1.7, no person other than the appointed Shellfish Constable or his assistants shall plant, relocate, store or transplant shellfish within any waterways or flats of the Town without written approval from the Shellfish Constable.

1.19 PENALTIES & FINES: Whoever violates any rule or regulation made under authority of Massachusetts General Laws, Chapter 130, including the regulations established herein or amendments, shall be subject to a fine or not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00), or have their permit suspended or revoked, or both, subject to appeal of such suspension or revocation as provided in Paragraph 1.14. Additionally, Natural Resources Officers (NROs) assigned to the Town of Bourne Department of Natural Resources may, upon observing a violation of said regulations, issue a citation ticket to the offender in accordance with non-criminal process as authorized by MGL Chapter 40, Section 21-D and Town meeting vote of Article 52 of the 1986 Town Meeting and Town By-law Section 6.1.2. Specific fines were established in Special Shellfish Regulations 86-4 and are further stipulated, as amended, herein in parentheses following each appropriate paragraph. Unless otherwise noted, any violation of these regulations or amendments shall be subject to a fine of one hundred dollars (\$100.00).

1.20 CHANGES & POSTINGS: These regulations are subject to change by the Board of Selectmen, or in exigent circumstances, by the Town Administrator. Regulations and amendments will be posted at the offices of Town Clerk, Selectmen, Department of Natural Resources and at least three post offices of the Town, or in newspaper having general circulation, and a copy mailed to the Town Clerk of the Town of Sandwich for posting in Sandwich and to the Division of Marine Fisheries.

1.21 CHANGES & EXIGENCY: These regulations and any amendments shall remain in effect and in full force unless modified, changed, or revoked by the Board of Selectmen, or in exigent circumstances, by the Town Administrator.

1.22 TEMPERATURE RESTRICTIONS: Clams and scallops shall not be harvested and the dry digging of quahogs shall be prohibited when the air temperature is below twenty-eight degrees Fahrenheit (28F), as determined by the Department of Natural Resources.

1.23 SCALLOP SEASON: Effective October 1st scallops may be harvested in all Town waters through March 31st.

1.23.1 HARVESTING: All scallops taken must be an adult scallop with a well-defined, raised, annual growth line, and any scallop without such a line shall be deemed a "seed" scallop (also see Paragraph 1.23.6 below).

1.23.2 RESTRICTED AREAS: The use of drags shall be prohibited in the following areas until the dates indicated:

a) Hen Cove: All waters and flats northeasterly of an imaginary line drawn from Handy Point to the most Southerly point of land on Patuisset Island until December 1st.

b) Recreational Areas: All designated Recreational areas listed in Paragraph 1.12 until January 1st. However, at no time shall the use of drags interfere with or endanger Recreational fishermen in the water who are using bag rakes, dip nets, or diving.

c) Oyster Beds & Senior Areas: All designated oyster beds and Senior Citizen areas, throughout the season.

1.23.3 SCALLOP DRAG RESTRICTIONS:

a) Frames shall not exceed 36" in width

b) Lead rollers are prohibited.

c) Teeth or scoops on drags are prohibited.

1.23.4 LANDING AREAS: All scallops harvested by use of boat and drags shall be landed only at authorized Town Landings: Barlows Landing Ramp, Bourne Marina Ramp, Eel Pond Beach Way, Electric Avenue Ramp, Gray Gables Beach Way, Hen Cove Ramp, Massasoit Avenue Ramp, Monks Park Ramp, Monument Beach Ramp, Ocean Avenue Beach Way, Parker's Boat Yard Ramp, Pocasset River Ramp, and Squeteague Harbor Beach Way (no vehicles allowed on the beach). "Landed" shall mean that location where shellfish are removed from the shoreline to any point of land above the Mean High Water line. When circumstances warrant it, shellfish may be landed at other areas with prior approval from the Director of the Department of Natural Resources.

1.23.5 DIVERS: Taking of scallops by means of diving shall be limited to Recreational permit holders only and this method shall be prohibited for Commercial permit holders. Divers shall be prohibited in areas where the use of drags is already in progress and must comply with Paragraph 2.6 of the Shellfish Regulations.

1.23.6 CULLING PRACTICE: In the interest of maximum seed survival, it is

recommended that seed and by-catch be removed from culling boards into deep water. *NOTE: This practice improves the survival rate of seed.*

1.24 SHELLFISH CONTAINERS: A peck is 537.605 cubic inches, a bushel is 2,150.42 cubic inches, commonly measured level to the top edge of the container, unless otherwise designed/indicated.

1.25 DIG HOLES: All holes created above the Mean Low Water Line while shellfishing shall be back-filled before leaving the area, taking care to not break or crush any seed shellfish.

2 RECREATIONAL PERMIT REGULATIONS (Also See Section 1)

2.1 NON-COMMERCIAL USE: Shellfish taken by the use of this permit are personal, non-commercial use only and are not to be sold.

2.2 AUTHORIZED HARVEST SEASON/DAYS/LIMITS: Total weekly catch not to exceed one (1) peck per species, Sunday through Saturday, nor shall it exceed one (1) bushel of any or all kinds of shellfish. *NOTE: This must be kept in mind during scallop season, when clams, oysters and quahogs may also be harvested.* On days where more than one species may be harvested, catch may be mixed species, but total day's catch is not to exceed one (1) peck.

2.2.1 Summer Season: June through September

Sundays:	Total Limit:	1 peck of quahogs
Wednesdays:	Total Limit:	1 peck of quahogs
Saturdays:	Total Limit:	1 peck of quahogs or clams

2.2.2 Standard Season: October through May

Sundays:	Total Limit:	1 peck of quahogs or oysters during oyster season.
Wednesdays:	Total Limit:	1 peck of quahogs or clams
Saturdays:	Total Limit:	1 peck of quahogs or clams

2.2.3 SCALLOP HARVEST DAYS: Recreational permit holders shall be allowed to shellfish any day of the week.

2.2.4 SCALLOP METHOD OF RECREATIONAL SHELLFISHING: Recreational permit holders may shellfish any day during the season by use of bag rake, dip net, diving or drags.

2.2.5 SCALLOP AUTHORIZED CATCH LIMITS: Recreational permit holders shall be entitled to take not more than one (1) bushel per calendar week, during the season, Sunday through Saturday.

2.3 OYSTER HARVEST DAYS: Oysters may be harvested on Sundays only from first Sunday of November through the last Sunday of December.

2.4 EELS, SEAWORMS & OTHER SHELLFISH: Eels, sea worms and other shellfish may be harvested any day throughout the year. The permit entitles the holder to set up to three (3) eel pots for personal, non-commercial use. Pots shall be marked with the Recreational permit number. The flotation device shall be a minimum of six inches (6") by four inches (4"), capable of floating three (3) pounds eleven (11) ounces, be painted yellow, use only sinking line, and must also have the permit number affixed thereto. Wooden buoys and plastic bottles are prohibited. The harvesting of eels less than nine inches (9") long and in excess of 25 total are prohibited. The placement of eel pots in navigable channels or where they may otherwise create a hazard is prohibited. (Fine: \$50.00)

2.5 REQUIRED SHELLFISH CONTAINER: Permit holders must utilize a standard "one peck wire basket" while harvesting shellfish. Only one basket per permit holder is permitted and no other containers may be utilized. (Fine: \$25.00)

2.6 DIVING: Permit holders may harvest shellfish while using scuba or snorkel equipment, subject to the following conditions:

- a) In accordance with the Laws of the Commonwealth, diving flags of proper size must be displayed at all times when divers are in the water. Divers must stay within one hundred feet (100') of the diving flag at all times.
- b) The permit shall be displayed on the diver's flag in a visible manner.
- c) The harvesting of shellfish shall be prohibited in water depths less than six feet (6').
- d) Shellfish shall be harvested by hand only and the use of any mechanical, suction, or air device for the purposes of disrupting the sea bottom to expose shellfish shall be prohibited.

2.7 DISABLED PERSON: Permit holders who are physically disabled and are unable to harvest shellfish at all because of such a disability may request approval for another person to harvest their shellfish for them. Sufficient medical documentation that meets the satisfaction of the licensing authority must be submitted to the Director of the Department of Natural Resources for approval. No person shall be allowed to harvest shellfish for more than one disabled person.

3 COMMERCIAL PERMIT REGULATIONS (Also See Section 1)

3.1 COMMERCIAL PERMITS: Issued to a citizen who is domiciled in the Towns of Bourne or Sandwich, and valid only for the period that the holder maintains the said domicile. Domiciled tenants must submit a current, valid, notarized lease. "Domicile" shall be a true, fixed,

permanent home and principal establishment. The use of this permit is limited to the person to whom the permit was issued. The citizen must show to the satisfaction of the licensing authority, such as a valid photo ID and/or a Town real estate tax bill, that he/she is entitled to a permit. A Commonwealth of Massachusetts Commercial Shellfish Permit and an application form shall be submitted, which shall be approved prior to the issuance of the permit. The Department of Natural Resources must be notified immediately of any change of application information.

3.1.1 AUTHORIZED HARVESTERS: Citizens who wish to participate in a Commercial fishery must hold a current, applicable Commercial Permit.

3.2 COMMERCIAL APPRENTICE PERMIT: Subject to Paragraph 1.2, issued to a minor citizen twelve (12) to sixteen (16) years old inclusive who is domiciled in the Towns of Bourne or Sandwich. The permit may be issued for the purposes of harvesting shellfish provided that an adult member of his immediate family (i.e., parent, grandparent, legal guardian, etc.) is a current holder of a Commercial permit of the same species. Said adult Commercial permit holder shall directly supervise all activities of and shall be held responsible for all acts of the apprentice. Only two (2) Commercial Apprentice permits per domiciled family shall be permitted at any time.

3.3 COMMERCIAL PERMIT TYPES:

a) Clam Permit:	FEE: \$250.00
b) Eel Permit:	FEE: \$100.00
c) Quahog Permit:	FEE: \$250.00
d) Scallop Permit:	FEE: \$250.00
e) Master Permit: (For all Commercial species above)	FEE: \$625.00
f) Apprentice Permit:	FEE: \$100.00

3.4 LANDING AREAS: All shellfish harvested shall be landed at one of the following Town landing areas: Barlows Landing Ramp, Bourne Marina Ramp, Eel Pond Beach Way, Electric Avenue Ramp, Gray Gables Beach Way, Hen Cove Ramp, Massasoit Avenue Ramp, Monks Park Ramp, Monument Beach Ramp, Ocean Avenue Beach Way, Parker's Boat Yard Ramp, Pocasset River Ramp, and Squeteague Harbor Beach Way (no vehicles allowed on the beach). "Landed" shall mean that location where shellfish are removed from the shoreline to any point of land above the Mean High Water line. When circumstances warrant it, shellfish may be landed at other areas with prior approval from the Director of the Department of Natural Resources.

3.5 TAGGING: Once landed and while in transit, all shellfish containers shall be marked clearly by a tag stating date of harvest, place of harvest, State permit number, and name of the harvester. (Fine: \$50.00)

3.6 MIXING OF CATCH: The harvesting of different shellfish species on the same day is prohibited. Regardless of the different types of Commercial Permits held, fishermen shall not harvest more than one (1) species on any one (1) day.

3.7 RECREATIONAL PERMIT USE: Commercial fishermen must stay in compliance

with Section 1, Paragraph 1.12 and abide by the Recreational Shellfish Regulations at all times.

3.8 ANNUAL CATCH REPORT: All permit holders must submit a copy of the Commonwealth's Annual Catch Report indicating the number of pounds and types of shellfish and eels harvested during previous twelve months. This report must be submitted to the Director of the Department of Natural Resources before the issuance of a new permit.

4 COMMERCIAL QUAHOG PERMIT REGULATIONS

4.1 MANPOWER ONLY: The taking of quahogs other than by manpower is prohibited.

4.2 AUTHORIZED HARVEST DAYS: Quahogs may be harvested Monday through Saturday only. No fishing is allowed on Sundays, or the Thanksgiving and Christmas holidays.

4.3 DAILY LIMIT: Shall not exceed three (3) level U.S. bushels - Bushel – U.S. dry measure; 2,150.42 cubic inches, or 32 quarts.

4.3.1 APPRENTICE DAILY LIMIT: Shall not exceed one (1) level U.S. bushel of quahogs, as defined.

4.4 METHOD RESTRICTIONS: Quahogs shall not be taken by means of skin-diving, snorkels, scuba gear, or shadow box.

4.5 RESTRICTED AREAS: Specific areas are closed to all commercial shellfishing. See Paragraph 1.12 and closure list published separately.

5 COMMERCIAL EEL PERMIT REGULATIONS

5.1 POTS/TRAPS: All eel pots shall be marked with the permit number assigned at the time of issuance. The flotation device shall be a minimum of six inches (6") by four inches (4"), capable of floating three (3) pounds eleven (11) ounces, be painted the colors assigned at issuance, use only sinking line, and have the permit number affixed thereto. Wooden buoys and plastic bottles are prohibited.

5.2 SETTING: Eel pots shall not be set in navigable established channels or where they may otherwise pose a hazard.

5.3 SIZE: Eels less than nine inches (9") in length shall not be taken.

6 COMMERCIAL CLAM PERMIT REGULATIONS

6.1 AUTHORIZED HARVEST SEASON: The harvesting of (soft-shelled) clams shall be allowed only from May 1st until the first day of Scallop Season each year, with the following

exception: Any areas under State mandated seasonal closures (i.e., Red Brook Harbor) will be opened March 1st, provided that the State has approved the opening of such closures.

6.1.1 AUTHORIZED HARVEST DAYS/HOURS: Clams may be harvested only on Mondays through Saturdays between the hours of Sunrise to Sunset.

6.2 AUTHORIZED HARVEST EQUIPMENT: Clams may be harvested by means of plunger or jet pump (manifold) which must not exceed four feet (4') in width with two inch (2") long one-quarter inch (1/4") nozzles at three inch (3") spacing along the width of the manifold which shall be restricted to only penetrate nine inches (9") below the bottom surface. This manifold specification may be altered with prior approval of the Director of the Department of Natural Resources. Clams are to be removed from the waters by hand or hand held rakes with a three-quarter inch (3/4") mesh opening to allow for free passage of seed clams. Pump engines shall be equipped with adequate muffler device to ensure that noise levels are kept to an absolute minimum and in no case shall noise levels exceed Federal or State minimum standards. The pump shall be rated at no more than five and one half (5.5) HP.

6.3 AUTHORIZED HARVEST AREAS: The harvesting of clams shall be restricted to the following areas, and shall be "Sub-Tidal" only, meaning six feet (6') seaward of the Mean Low Water line, or as otherwise noted below:

Back River East: That portion of Back River east of the Shore Road bridge up to the outer mouth of the Eel Pond inlet.

Bassetts Island East: From the stream located mid-island southerly to southern end of island.

Bassetts Island West: The entire westerly shoreline of Bassetts Island.

Buttermilk Bay: All of Buttermilk Bay.

Hen Cove: All of inner Hen Cove, outside of the Recreational shellfish markers and in deep water only.

Hospital Cove: All of Hospital Cove.

Little Buttermilk Bay: All of Little Buttermilk Bay.

Mashnee Dike West: The entire West Side of Mashnee Dike.

Phinney's Harbor: From the ramp at Chester Park to shellfish marker located at the house on stilts.

Red Brook Harbor: From Handy Point to most seaward portion of Long Point.

Scraggy Neck: The entire shoreline of Scraggy Neck.

Squeteague Harbor: All of Squeteague Harbor, excluding that portion north of a line drawn from a stationary marker on the westerly side of Squeteague Harbor to the end of Ocean Avenue.

Tobey Island East: The easterly shoreline of Tobey Island southerly from a marker at the beginning of Emmons Cove to sand spit at the south end.

Tobey Island West: The entire westerly shoreline of Tobey Island south to the sand spit.

Wings Neck: The southeasterly shoreline of Wings Neck, excluding Barlows Landing (see Closure BB: 49.3).

6.4 DAILY LIMIT: Shall not exceed three (3) level U.S. bushels, as defined.

6.4.1 APPRENTICE DAILY LIMIT: Shall not exceed one (1) level U.S. bushel of clams, as defined.

6.5 BOAT RESTRICTION: No more than two (2) Commercial Clam or Master Permit and one (1) Apprentice Permit holders per boat shall be permitted. The term "boat" as used herein shall mean a registered boat fully equipped with motor, jet pump and associated equipment capable of jet clamming independently of another boat.

6.6 HARVESTING: In Sub-Tidal areas, clams dislodged by means of jet pumping or hand plunger may be harvested inside the six foot (6') seaward Mean Low Water line by hand or hand held rakes, as outlined in Paragraph 6.2, provided that the pump motor has been shut off and the manifold and/or plunger unit has been placed on board the boat.

7 COMMERCIAL SCALLOP PERMIT REGULATIONS

7.1 RESTRICTED DAYS: Commercial permit holders shall be allowed to shellfish every day during the scallop season, as noted in Paragraph 1.23 except Sundays, Thanksgiving and Christmas.

7.2 DAILY LIMIT: Commercial permit holders shall be entitled to a daily limit of not more than five (5) level bushels, as defined.

7.2.1 APPRENTICE DAILY LIMIT: Shall not exceed one (1) level U.S. bushel of scallops, as defined.

7.3 BOAT RESTRICTION: Any one (1) boat shall be limited to not more than ten (10) level bushels of scallops per day for Commercial purposes.

*The Board of Selectmen adopted these Shellfish Rules and Regulations on **October 17, 2023.**

PER ORDER OF THE BOARD OF SELECTMEN

Mary Jane Mastrangelo, Chair

Melissa Ferretti, Vice Chair

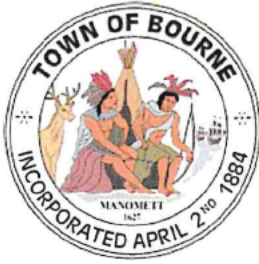
Anne-Marie Siroonian, Clerk

Jared P. MacDonald

Peter J. Meier

Statement of method and time of publication, as required by Chapter 130, Section 52:

These regulations were duly posted at the Office of the Board of Selectmen, Buzzards Bay, Monument Beach and Pocasset Post Offices, and a certified copy was mailed to the Division of Marine Fisheries Director and to the Town of Sandwich Town Clerk.



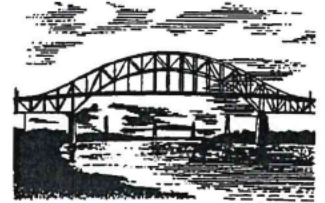
Town of Bourne



www.townofbourne.com



24 Perry Ave, Bourne, MA 02532



TALENT BANK FORM

The success of any local government depends largely on the participation of its citizen volunteers

The Town of Bourne seeks interested residents to become involved as volunteer members of Town Boards, Committees or Commissions. Please fill out this form if you are interested in serving.

Name: **Zachary Commeau**

Address:

Village:

Telephone:

Email:

Occupation: **Regional Environmental, Health and Safety Manager Safe Harbor Marinas**

Please list in order of preference which committee(s) you are interested in:

Conservation & Roadway Traffic Safety

Briefly describe why you would be an asset to this committee(s). Include any special training and qualifications:

I pride myself on my knowledge of Environmental laws and management practices. I am AMI Clean marina certified.

I have been in the marine industry for 10 years and I am young and eager to help protect our planet!

I have a large amount of OSHA knowledge and I am certified in CPR/First aid

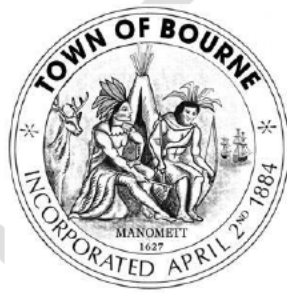
**ARTICLES and MOTIONS OF THE
WARRANT**

**FOR THE
SPECIAL TOWN MEETING**

Monday, November 6, 2023

7:00 P.M.

Bourne High School Auditorium



ARTICLE 1: To see if the Town will vote to hear Reports and Recommendations of Committees and Town Officers, or take any other action in relation thereto.

Sponsor - SELECT BOARD

MOTION: We move that the Town vote to hear reports and recommendations of Committees and Town Officers.

Vote Required: Simple Majority

EXPLANATION

A YES or AYE vote in favor of the motion would allow committees to address Town Meeting and provide an update on their work.

A NO or NAY vote opposed to the motion would not allow the committee representatives to provide a report to Town Meeting.

The Finance Committee voted

The Select Board voted

ARTICLE 2: To see if the Town will vote to appropriate a sum of money for the purpose of the payment of unpaid bills from a previous fiscal year that are legally unenforceable due to the insufficiency of appropriation, or take any other action in relation thereto.

Sponsor - SELECT BOARD

MOTION: We move that the Town vote to appropriate the sum of \$9,162.06 for the purposes of this article and to meet this appropriation to transfer the sum of \$9,162.06 from Free Cash satisfy the unpaid bills of the town as listed in the chart below.

Unpaid Bills		
Department	Vendor	Amount
Natural Resources	Home Depot	\$ 221.06
Facilities	Capeway Roofing Systems	8,941.00
Total		\$ 9,162.06

Vote Required: 9/10 Supermajority
Designated as an Essential Article

EXPLANATION

A YES or AYE vote in favor of the motion would allow the Town to pay outstanding bills from a prior fiscal year.

A NO or NAY vote opposed to the motion would mean that the Town would not be able to pay the outstanding bills.

The Finance Committee voted

The Select Board voted

ARTICLE 3: To see if the Town will vote to appropriate, borrow, transfer from available funds or otherwise provide a sum of money for the purpose of supplementing and/or reducing the FY2024 Regular Annual Expenses of the departmental October 11, 2023

expenses as voted under Article 2 (Fiscal Year 2024 Budget) of the 2023 Annual Town Meeting, or take any other action in relation thereto.

Sponsor - SELECT BOARD

MOTION: *We move that the Town vote to amend the action taken under Article 2 (Fiscal 2024 Budget) of the 2023 Annual Town Meeting by (1) appropriating monies in the total amount of \$50,000 as specified in the chart entitled "Funding Sources," below; and (2) by increasing expenses by \$50,000 as specified in the chart entitled "These Amounts are to be Voted," below:*

Funding Sources:

Raise and Appropriate from the FY24 Tax Levy and other General Revenues from the Town	\$ 50,000
Total	<u>\$ 50,000</u>

These Amounts are to be Voted:

Public Safety	\$ 50,000
Total	<u>\$ 50,000</u>

Vote Required: Simple Majority
Designated as an Essential Article

EXPLANATION

A YES or AYE vote in favor of the motion increases the FY24 Operating Budget to allow the proposed adjustments.

A NO or NAY vote opposed to the motion keeps the budget as it was voted in May and there would not be sufficient funds in the budget lines to cover these expenses.

The Finance Committee voted

The Select Board voted

ARTICLE 4: To see if the Town will vote to appropriate, borrow, transfer from available funds, or otherwise provide, a sum of money for the purpose of supplementing and/or reducing the FY2024 Sewer Department Budget as voted under Article 3 (Sewer Department) at the 2023 Annual Town Meeting, or take any other action in relation thereto.

Sponsor – BOARD OF SEWER COMMISSIONERS

MOTION: We move that the Town vote to amend the action taken under Article 3 (Sewer Budget) of the 2023 Annual Town Meeting by increasing salaries and wages \$12,500 from \$193,440 to \$205,940, increasing expenses by \$67,500 from \$1,328,525 to \$1,396,025 and increase the amount raised from Sewer Enterprise Receipts \$80,000 from \$1,628,968 to \$1,708,968.

Vote Required: Simple Majority
Designated as an Essential Article

EXPLANATION

A YES or AYE vote in favor of the motion increases the FY24 Sewer Enterprise Budget to allow the proposed adjustments.

A NO or NAY vote opposed to the motion keeps the Sewer Enterprise Budget as it was voted in May and there would not be sufficient funds in the budget lines to cover these expenses.

The Finance Committee voted

The Select Board voted

October 11, 2023

ARTICLE 5: To see if the Town will vote to appropriate, borrow, transfer from available funds, or otherwise provide a sum of money for the purpose of funding the Town’s Other Post-Employment Benefits (OPEB) Liability, or take any other action in relation thereto.

Sponsor – SELECT BOARD

MOTION: We move that the Town vote to appropriate the sum of \$915,500 for the purposes of funding the Town’s Other Post-Employment Benefits (OPEB) Liability and to meet this appropriation, to transfer to the OPEB Trust Fund the sums of \$625,500 from free cash; \$30,000 from Sewer retained earnings; and \$260,000 from ISWM retained earnings.

Vote Required: Simple Majority

EXPLANATION

A YES or AYE vote in favor of the motion provides funding to meet the Financial Policy Guidelines for OPEB. This will help maintain the Town’s high bond rating.

A NO or NAY vote opposed to the motion would not provide additional funding for OPEB, and would not be consistent with stated financial guidelines.

The Finance Committee voted

The Select Board voted

ARTICLE 6: To see if the Town will vote to appropriate, borrow, transfer from available funds, or otherwise provide a sum of money to the Capital Stabilization Fund, or take any other action in relation thereto.

Sponsor – SELECT BOARD

MOTION: We move that the Town vote to appropriate the sum of \$386,000 for the purposes of this article and to meet this appropriation to transfer the sum \$386,000 from free cash.

Vote Required: Simple Majority

EXPLANATION

A YES or AYE vote in favor of the motion provides funding to meet the Financial Policy Guidelines for building the capital stabilization fund. This will help ensure that funds continue to be set aside for the long-term maintenance of the Town’s capital assets.

A NO or NAY vote opposed to the motion would not provide additional funding for the capital stabilization fund, and would not be consistent with stated financial guidelines.

The Finance Committee voted

The Select Board voted

ARTICLE 7: To see if the Town will vote to appropriate, borrow, transfer from available funds, or otherwise provide a sum of money for the purpose of funding the Fiscal Year 2024 Capital Budget (P2), or take any other action in relation thereto.

Sponsor – SELECT BOARD AND CAPITAL OUTLAY COMMITTEE

MOTION: We move that the Town vote to appropriate \$630,250 to pay costs of the capital outlay projects listed in the schedule printed below, and to meet this appropriation, to: (1) transfer the sum of \$580,250 from Free Cash, (2) transfer the sum of \$30,000 from IWSM Retained Earnings, and (3) transfer the sum of \$20,000 from Sewer Retained Earnings.

Department	Category	Purpose	Amount	Source
------------	----------	---------	--------	--------

A	Sewer	Infrastructure	Replace 4 air release valves in the collection system	\$20,000	Retained Earnings
B	ISWM	Planning	Feasibility study and cost estimating for a new office/garage structure	\$30,000	Retained Earnings
C	Schools	Equipment	Radio Upgrades	\$35,000	Free Cash
D	Facilities	Equipment	Building Access Controls - upgrade	\$182,000	Free Cash
E	Facilities	Planning	Supplemental Funds – design & construction oversight for Library masonry project	\$35,000	Free Cash
F	Engineering	Infrastructure	Hen Cove drainage project	\$181,250	Free Cash
G	Engineering	Infrastructure	Main @ Academy Intersection improvement	\$120,000	Free Cash
H	DPW	Equipment	Sander for Truck #2	\$27,000	Free Cash

Commented [MM1]: Late request – needs to be heard by Capital Outlay & Fin Com

Vote Required: Simple Majority
Designated as an Essential Article

EXPLANATION

A YES or AYE vote in favor of the motion would approve funding for the Capital Outlay expenses recommended by the Capital Outlay Committee.

A NO or NAY vote opposed to the motion would not provide the recommended funding and the projects would not move forward and the necessary equipment would not be purchased.

The Finance Committee voted

The Select Board voted

ARTICLE 8: To see if the Town will vote, upon recommendation of the Community Preservation Committee, to appropriate a sum of money for the following Community Preservation Fund purposes, and to meet said appropriation, to transfer from available funds or reserves from the FY2024 estimated Community Preservation Fund Revenues a sum of money for the purposes of this article, or take any other action in relation thereto.

Sponsor – COMMUNITY PRESERVATION COMMITTEE

MOTION – Part 1: We move that the Town vote, upon the recommendation of the Community Preservation Committee, to appropriate the sum of \$110,000 for the Community Preservation Fund projects as shown below and to meet this appropriation to transfer the sum of \$90,000 from Historic Reserves and transfer \$20,000 from Open Space/Recreation reserves.

Item	Sponsor	Project Description	CPA Purpose	Amount
------	---------	---------------------	-------------	--------

October 11, 2023

<i>A</i>	<i>Pocasset Village Foundation</i>	<i>Pocasset Community Building/Roof Replacement</i>	<i>Historic Preservation</i>	<i>\$90,000 From Historic Reserves</i>
		<i>Total Historic Reserves Requested</i>		<i>\$90,000</i>
<i>B</i>	<i>Bourne Public Schools</i>	<i>Irrigation Pump Replacement Soccer Fields</i>	<i>Open Space/Recreation</i>	<i>\$20,000 From Open Space/Recreation Reserves</i>
		<i>Total Open Space/Recreation Reserves Requested</i>		<i>\$20,000</i>
			<i>Total Requests</i>	<i>\$110,000</i>

Vote Required: Simple Majority

EXPLANATION

A YES or AYE vote in favor of the motion provides funding for the proposed projects, as recommended by the Community Preservation Committee.

A NO or NAY vote opposed to the motion means that the funding would not be provided, and the projects cannot proceed at this time.

The Finance Committee voted

The Select Board voted

MOTION – Part 2: We move that the Town vote, upon the recommendation of the Community Preservation Committee, to appropriate the sum of \$367,300 for the Community Preservation Fund projects as shown below and to meet this appropriation to transfer the sum of \$367,300 from Open Space/Recreation reserves.

<i>Item</i>	<i>Sponsor</i>	<i>Project Description</i>	<i>CPA Purpose</i>	<i>Amount</i>
<i>C</i>	<i>Bourne Conservation Department</i>	<i>Rural/Urban Pollinator Trail</i>	<i>Open Space/Recreation</i>	<i>\$367,300 From Open Space/Recreation Reserves</i>
		<i>Total Open Space/Recreation Reserves Requested</i>		<i>\$367,300</i>
			<i>Total Requests</i>	<i>\$367,300</i>

Vote Required: Simple Majority

EXPLANATION

A YES or AYE vote in favor of the motion provides funding for the proposed project, as recommended by the Community Preservation Committee.

A NO or NAY vote opposed to the motion means that the funding would not be provided, and the project cannot proceed at this time.

The Finance Committee voted

The Select Board voted

October 11, 2023

ARTICLE 9: To see if the Town will vote to appropriate, borrow, transfer from available funds, or otherwise provide a sum of money to fund the Community Engagements Committee, or take any other action in relation thereto.

Sponsor – COMMUNITY ENGAGEMENTS COMMITTEE

MOTION: We move that the Town vote to appropriate the sum of \$50,000 for the purposes of this article and to meet this appropriation to transfer the sum of \$50,000 from Free Cash.

Vote Required: Simple Majority

EXPLANATION

A YES or AYE vote in favor of the motion provides additional funding for use by the Community Engagements Committee.

A NO or NAY vote opposed to the motion means that no additional funding would be available for use by the Community Engagements Committee.

The Finance Committee voted

The Select Board voted

ARTICLE 10: To see if the Town will vote to appropriate, borrow, transfer from available funds, or otherwise provide a sum of money for the purpose of funding backpay, current and future wages, and all other related monies for the reinstatement of a paramedic position in the Town of Bourne Fire Department, in compliance with an order of reinstatement issued by the Massachusetts Civil Service Commission, or take any other action in relation thereto.

Sponsor – SELECT BOARD

MOTION: We move that the Town vote to appropriate the sum of \$XX for the purposes of this article and to meet this appropriation to transfer the sum of \$XX from Free Cash.

Vote Required: Simple Majority
Designated as an Essential Article

EXPLANATION

A YES or AYE vote in favor of the motion provides funding to comply with the Civil Service Commission's Order to reinstate and make an employee whole after a wrongful termination.

A NO or NAY vote opposed to the motion means that the Town would not be able to comply with the Civil Service Commission's Order and the employee would not receive the funds owed.

The Finance Committee voted

The Select Board voted

ARTICLE 11: To see if the Town will vote to amend the Town of Bourne General Bylaw, Article 1.3, Section 1.3.1, by adding the bolded text and deleting the struck through text as follows:

Section 1.3.1

There shall be a Finance Committee consisting of ~~4~~ **2** voters of the town appointed by the Moderator, none of whom shall hold any other town office. Town of Bourne employees, including school employees, shall not be eligible for appointment to, or service on, the Finance Committee as provided in Section 2-9 of the Town Charter.

October 11, 2023

The term of service for members of the Committee shall be three years. The term of service for ~~four~~three members shall expire each year and their successors shall be appointed by the Moderator.

or take any other action in relation thereto.

Sponsor – FINANCE COMMITTEE

MOTION: We move Article 11 as set forth in the Warrant.

Vote Required: Simple Majority

EXPLANATION

A YES or AYE vote in favor of the motion would reduce the members on the Finance Committee from 12 to 9.

A NO or NAY vote opposed to the motion would make no changes and the Finance Committee would remain at 12 members.

The Finance Committee voted **X-X-X** to recommend approval of this article.

The Select Board voted

ARTICLE 12: To see if the Town will vote to amend the definition of “Wetland” in the Town of Bourne Zoning Bylaw Section V Definitions by deleting said definition in its entirety and replacing the same with the following text:

Existing “Wetland” definition: Any area defined as a wetland under MGL Chapter 131, Section 40 plus any land designated as being reserved for drainage on a land division plan or site plan submitted to the Town.

Proposed “Wetland” definition: Any area defined as a wetland resource area under the Town of Bourne bylaw, Article 3.7 plus any land designated as being reserved for drainage on a land division plan or site plan submitted to the Town. For purposes of this bylaw this will exclude the coastal flood zones as shown on the most recent FEMA FIRM mapping for the Town.

or take any other action in relation thereto.

Sponsor - PLANNING BOARD

MOTION: We move Article 11 as set forth in the Warrant.

Vote Required: 2/3 Supermajority

EXPLANATION

A YES or AYE vote in favor of the motion changes the Zoning Bylaw so that the definition of a “wetland” is consistent with the definition found in the Wetlands Protection Bylaw.

A NO or NAY vote opposed to the motion would maintain the status quo and not change the zoning bylaw.

The Finance Committee voted **X-X-X** to recommend approval of this article.

The Select Board voted

ARTICLE 13: To see if the Town will vote to amend the Bourne Zoning Bylaw as follows:

Section 4850-4858 Other Special Districts, Marijuana Overlay District (MOD), Zoning Map showing the overlay district, Section 2110 Type of Districts, Section 2140 District Purposes.

October 11, 2023

Add the following section:

4850 Marijuana Overlay District (MOD)

4851. Purpose

To provide for and regulate the placement, siting, and operation of Medical-use Marijuana and Adult-use Marijuana Retailers that have been recognized as having operational characteristics requiring their siting and operation in such a way as to ensure the health, safety, and general well-being of the Bourne residents, the general public, patients seeking treatment, and customers seeking to purchase marijuana for adult-use, in a manner that meets or exceeds applicable state regulations.

4852. Applicability

The Marijuana Overlay District (MOD), which shall include both Medical-use Marijuana and Adult-use Marijuana Retailers, is herein established as an overlay district. The boundaries of the MOD are shown on the MOD Zoning Map and on file with the Town Clerk entitled "Town of Bourne, Marijuana Overlay District; North Sagamore, South Sagamore, Downtown Buzzards Bay, and MacArthur Boulevard". The MOD shall overlay all underlying districts so that any parcel of land lying in the MOD shall also lie in one or more of the other zoning districts in which it was previously classified, as provided for in this Zoning Bylaw. All regulations of the underlying district shall apply, except to the extent any such requirement is specifically modified or supplemented by the regulations of the MOD.

All Marijuana Establishments sited in the MOD shall be subject to the provisions of this Zoning Bylaw, and shall comply with all applicable state regulations and licensing requirements, including but not limited to those of the Massachusetts Cannabis Control Commission ("State CCC").

- a) The Planning Board is the Site Plan Review/Special Permit Granting Authority (SPGA) under this section and in accordance with section 1230 of this Bylaw.
- b) All sale, trade, distribution, cultivation, production, processing, manufacturing, testing, research, studying, dispensing, and other activities and uses relating to marijuana, whether commercial, retail, or wholesale, are prohibited in the Town of Bourne unless a Marijuana Establishment: (i) is a Medical-use Marijuana or Adult-use Marijuana Retailer; (ii) is sited in the MOD; (iii) fully complies with all provisions of this section 4850; (iv) fully complies with all applicable state and local laws and regulations; and (v) fully complies with all applicable licensing and permitting requirements, including but not limited to those of the Town of Bourne and the Commonwealth of Massachusetts.
- c) Medical-use Marijuana and Adult-use Marijuana Retailers shall be allowed by Site Plan Review in the MacArthur Boulevard area of the MOD and by Site Plan Review/Special Permit in Downtown Buzzards Bay, North Sagamore, and South Sagamore areas of the MOD.
- d) The number of Medical-use and Adult-use Marijuana Retailers shall be limited to a maximum of three [3] separate retailers within the Town of Bourne. A Medical-use Marijuana and Adult-use Marijuana retailer that are co-located on the same parcel or adjoining parcels shall be considered one retailer for purposes of this provision.

- e) Nothing in this Bylaw is intended to regulate or prohibit uses or activities related to personal use of marijuana in accordance with MGL c. 94G.
- f) Consumption of Medical-use Marijuana and Adult-use Marijuana products at licensed marijuana establishments is prohibited.
- g) Social consumption of Adult-use marijuana is prohibited at patriotic, fraternal or social organization lodges or clubs, and properties used for general lodging or boarding, but not operating as a licensed marijuana social consumption establishment.
- h) Patriotic, fraternal or social organization lodges or clubs, and general lodging or boarding properties shall not offer marijuana for social consumption.
- i) Marijuana Establishments consistent with G.L. c.94G,§3(a)(2), all types of “marijuana establishments” as defined in G.L. c.94G,§1, to include craft marijuana cooperative, marijuana cultivators, independent testing laboratory, marijuana product manufacturers, social consumption establishment, or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of Bourne except Adult-use Marijuana Retailers.

4853. Application Requirements

- a) Medical-use Marijuana and Adult-use Marijuana Retailers shall conform to 105 CMR 725 et seq. and 935 CMR 500.000 et seq. “Adult-use of Marijuana”, in addition to any requirements herein as adopted, et seq., including any subsequent updates.
- b) In addition to the submittal requirements and review standards provided in this Bylaw, each applicant under this section shall submit:
 - 1. Copy of a fully executed Host Community Agreement between the applicant and the Town of Bourne.
 - 2. Evidence of site control and right to use the site for Medical-use Marijuana and/or an Adult-use Marijuana Retailer in the form of a deed or valid purchase and sales agreement, or in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement.
 - 3. A wastewater allocation commitment letter from the Board of Sewer Commissioners for proposed developments in the Downtown District.
 - 4. A map depicting all properties and land uses within the distance requirements set forth in section 4854(a) of the project site, whether such uses are located in Bourne.
 - 5. A written description of the status of its applications to the CCC relative to the establishment at issue, or a copy of such license, as applicable.
 - 6. A list of any waivers of regulations that the applicant seeks to obtain from the CCC, or a copy of any such waivers that the CCC has issued to the applicant, as applicable.
 - 7. Copies of all licenses, permits, or other legal authorizations issued by the Commonwealth of Massachusetts or any of its agencies to the applicant for the proposed Medical-use Marijuana and/or Adult-use Marijuana Retailer.
 - 8. In addition to what is otherwise required to be shown on a site plan pursuant to this Zoning Bylaw, details

on a plan showing all exterior proposed security measures for the premises, including but not limited to lighting, fencing, and gates to ensure the safety of employees and patrons and to protect the premises from theft or other criminal activity. The site plan shall further delineate various areas of the site (indoors and outdoors) such as public access areas, employee only access areas, storage, cultivation, preparation, waste disposal, administrative, transportation, loading and parking areas. Site plans and/or application narrative shall contain sufficient information so that the SPGA can evaluate the design and operational standards contained in this section.

- c) Upon the filing of the Site Plan Review or Site Plan Review/Special Permit application with the SPGA, the applicant shall simultaneously submit an electronic copy to the Planning Department.

4854. Location Requirements

- a) Medical-use Marijuana and Adult-use Marijuana Retailers buffer zones shall comply with all buffer zones as stated in Massachusetts 105 CMR 725 et seq. and 935 CMR 500 et seq.
- b) In performing Site Plan Review and/or Special Permit, and taking into consideration site conditions, the Planning Board may authorize exceptions to dimensional requirements of Section 2500 including buffer zone requirements of 935 CMR 500.110. The departure shall be the minimum necessary to afford relief to provide a viable project.
- c) No Medical-use Marijuana or Adult-use Retailer shall be located in the Scenic Development District.
- d) Use variances are prohibited for any Marijuana Establishment.
- e) Special Permits granted to the owner/operator of a Marijuana Establishment shall transfer with a change in ownership of the business and/or property. The Planning Board, Planning Office, and Building Inspector shall be notified in writing within fourteen [14] calendar days of the permit holder business change, property change, discontinuance of use, or if the permit holder's CCC Licensures expires, is not renewed or is terminated. Any failure to meet the requirement of the CCC, a local license, the Zoning Bylaw, or any term or condition of a Special Permit or Site Plan Approval shall be grounds for revocation of the same and may result in the immediate issuance of a cease and desist order by the Building Inspector ordering that all activities cease immediately.

4855. Site Development Standards

- a) Medical-use Marijuana and Adult-use Retailer shall conform to all applicable provisions of the Zoning Bylaw, including but not limited to section 1230, and any other any requirements herein as adopted, and any amendments thereto.
- b) All aspects of the Medical-use Marijuana or Adult-use Retailer shall take place at a fixed location within a fully enclosed building.
- c) If provided, fencing and gates shall be a maximum of 6' high, and shall be decorative style wherever viewed from a public way, abutting property, or other area accessible to the public. The style of fencing and gates shall be approved by the SPGA. Chain link fencing is prohibited wherever visible from the public way or abutting property.
- d) Medical-use Marijuana and Adult-use Retailers shall comply with the Parking and Loading requirements in section 3300. The use shall be classified as "Office, Stores" under section 3320 Table of Requirements and as "Retail/commercial use" under section 2853 Table DTD-3: Required Parking Spaces in the Downtown District.
- e) All security measures for the building shall comply with State CCC regulations and, further, shall be reviewed

for appropriateness by the SPGA to ensure patron and community safety and deter unauthorized access to the premises.

- f) No products shall be displayed in any Medical-use Marijuana or Adult-use Retailer's window or otherwise be visible from any street, parking lot, or other area accessible to the public.
- g) All signage for Medical-use Marijuana or Adult-use Retailer must meet the requirements of section 2800 and section 3200 of this Bylaw. Any exterior sign may identify the Medical Marijuana or Adult-use Retailer, but shall not contain any other text. The SPGA may impose additional restrictions on signage as appropriate for the site, provided such regulations and restrictions do not conflict with State law or any State CCC regulations.

4856. Limitations

Any other type of licensed Medical-use Marijuana or Adult-use Retailer not expressly defined herein is prohibited.

4857. Marijuana Definitions

For the purpose of this Bylaw, the following definitions shall apply. Where not expressly defined in the Zoning Bylaw, terms herein shall be interpreted as defined in G.L. c 94G, et seq. (Regulation of the Use and Distribution of Marijuana not Medically Prescribed); the Cannabis Control Commission Regulations promulgated thereunder, 935 CMR 500 et seq. (Adult-use of Marijuana); 935 CMR 501 et seq. (Medical-use Marijuana); and the Department of Public Health Regulations 105 CMR 725 et seq. (Humanitarian Medical-use of Marijuana Act) and otherwise by their plain language, as they may be amended or superceded, and any successor or re-codified version, of any regulation issued by an agency of the Commonwealth of Massachusetts with jurisdiction for certifying or regulating the production and/or sale of marijuana.

Buffer Zone:

The buffer zone distance of 500 feet shall be measured in a straight line from the geometric center of the Medical Marijuana or Adult-use Retail building to the geometric center of the nearest School Entrance, unless there is an Impassable Barrier within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the Medical Marijuana or Adult-use Retail building entrance to the geometric center of the nearest School Entrance.

Craft Marijuana Cooperative:

A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.

Independent Testing Laboratory:

A laboratory that is licensed by the Commission and is:

- (a) Currently and validly licensed under 935 CMR 500.001, or formerly and validly registered by the Commission;
- (b) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;
- (c) Independent financially from any MTC Marijuana Establishment or Licensee; and
- (d) Qualified to test Marijuana and Marijuana Products, including MIPs, in compliance with M.G.L. c. 94C, § 34; M.G.L. c. 94G, § 15; 935 CMR 500.000; 935 CMR 501.000: Medical Use of Marijuana; and Commission protocol(s).

Manufacture:

To compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

Marijuana (or Cannabis):

Means all parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002(a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; Clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that Cannabis shall not include:

- a) The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;
- b) Hemp; or
- c) The weight of any other ingredient combined with Cannabis or Marijuana to prepare topical or oral administrations, food, drink or other products.

Marijuana Cultivator:

An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Establishment:

a Marijuana Cultivator (Indoor or Outdoor), Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness, Independent Testing Laboratory, Marijuana Retailer, Marijuana Transporter, Delivery Licensee, Marijuana Research Facility Licensee (as defined in 935 CMR 500.002: Marijuana Research Facility Licensee) Social Consumption Establishment (as defined in 935 CMR 500.002: Social Consumption Establishment) or any other type of licensed Marijuana-related business, except a Medical Marijuana Treatment Center (MTC).

Marijuana Product Manufacturer:

An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

Marijuana products:

Marijuana Products (or Cannabis Products) means Marijuana and its products, unless otherwise indicated. Marijuana Products includes products that have been Manufactured and contain Cannabis, Marijuana, or an extract from Cannabis or Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including Edibles, Beverages, topical products, ointments, oils and Tinctures. Marijuana Products include Marijuana-infused Products (MIPs) defined in 935 CMR 500.002.

Marijuana Retailer:

An entity licensed to purchase, Repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to Transfer or otherwise Transfer this product to Marijuana Establishments and to sell to Consumers. Unless licensed, retailers are prohibited from offering Marijuana or Marijuana Products for the purposes of on-site social consumption on the Premises of a Marijuana Establishment.

Medical Marijuana Treatment Center: Medical Marijuana Treatment Center (MTC), (formerly known as a Registered Marijuana Dispensary (RMD)), means an entity licensed under 935 CMR 501.101: Application Requirements that acquires, cultivates, possesses, Processes (including development of related products such as Edibles, MIPs, Tinctures, aerosols, oils, or ointments), Repackages, transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to Registered Qualifying Patients or their Personal Caregivers for medical use. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of Marijuana for medical use.

Medical-use Marijuana (or Medical-use Cannabis): means Marijuana that is cultivated, Processed, Transferred,

tested or sold in compliance with M.G.L. c. 94I, and 935 CMR 501.000: Medical Use of Marijuana.

Medical-use Marijuana or Marijuana Products: means Marijuana Products that are Manufactured, Transferred, tested or sold in compliance with M.G.L. c. 94I, and 935 CMR 501.000: Medical Use of Marijuana.

Social Consumption Establishment: an entity licensed to sell Marijuana or Marijuana Products and allow Consumers to consume Marijuana or Marijuana Products solely on its Premises.

4858. Severability

If any provision of this Bylaw or the application of any such provision to any person or circumstance, shall be held invalid, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Bylaw are severable. If any provision of this bylaw is invalidated by subsequent legislation or regulation, or held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION V DEFINITIONS

Add: Marijuana: "See section 4850 for all applicable definitions".

Fraternal or Social Organization Lodge definition - delete: "*applies only to the Downtown Bylaw-section 2800*".

SECTION 2110: TYPES OF DISTRICTS.

Amend section 2110. Types of Districts by inserting "Marijuana Overlay District (MOD)" after the row "Floodplain Overlay District".

SECTION 2140: DISTRICT PURPOSES

Amend section 2140. District purposes by inserting the following after:

FLOODPLAIN OVERLAY DISTRICT FOD: To enable the Town of Bourne to participate in the National Flood Insurance Program (NFIP) and ensure compliance with the NFIP regulations in all areas as defined as 100-yr floodplain on the Flood Insurance Rate Map (FIRM) provided by FEMA, and further defined by the Flood Insurance Study (FIS) and as regulated in Section 3110 of this Bylaw.

Marijuana Overlay District (MOD): To give the Town the ability to impose requirements designed to encourage appropriate land use and reasonable safeguards to govern the place and manner for Medical-use Marijuana and Adult-use Retailers.

or take any other action in relation thereto.

Sponsor - PLANNING BOARD

MOTION:

Vote Required: 2/3 Supermajority

Contingent Article: If Article 13 is drawn in the lottery before Article 15, Article 15 will be considered first and Article 13 will be considered immediately after Article 15.

EXPLANATION

A YES or AYE vote in favor of the motion changes the Zoning Bylaw to include an Overlay District to regulate retail marijuana land uses.

A NO or NAY vote opposed to the motion would maintain the status quo and not change the zoning bylaw.

The Finance Committee voted ~~X-X-X~~ to recommend approval of this article.

The Select Board voted

October 11, 2023

ARTICLE 14: To see if the Town will vote to amend the Bourne Zoning Bylaw as follows or take any other action in relation thereto:

The zoning bylaws of Bourne shall state:

Marijuana not medically prescribed:

Consistent with MGL c. 94G, §3(a)(2)(i), all types of marijuana establishments as defined in MGL c. 94G, §1, to include all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited within the Town of BOURNE.

By petition – Doug Oesterheld

MOTION: We move to amend the Town of Bourne's Zoning Bylaw by striking the text in section 4830 of said Bylaw in its entirety and replacing the same with the following text:

4830. Marijuana Not Medically Prescribed. Consistent with MGL c. 94G, §3(a)(2)(i), all types of marijuana establishments as defined in MGL c. 94G, §1, to include all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other types of licensed marijuana-related businesses, shall be prohibited in the Town of Bourne.

Vote Required: 2/3 Supermajority

Contingent Article: If Article 14 is drawn in the lottery before Article 15, Article 15 will be considered first and Article 14 will be considered immediately after Article 15.

EXPLANATION

A YES or AYE vote in favor of the motion changes the Zoning Bylaw to prohibit any marijuana land use within the Town of Bourne, unless it is solely for medicinal purposes.

A NO or NAY vote opposed to the motion would maintain the status quo and not change the zoning bylaw.

The Finance Committee voted

The Select Board voted

ARTICLE 15: To see if the Town will vote pursuant to Section 2.3.1 of the Town of Bourne Bylaws to repeal Section 3.1.45 – Prohibition on Marijuana Establishments of the Town of Bourne Bylaws or to do or take any other action regarding the same.

By petition – Lori Hough

MOTION: We move that the Town vote to approve this article as set forth in the Warrant

Vote Required: Simple Majority

EXPLANATION

A YES or AYE vote in favor of the motion would repeal the general bylaw prohibition on Marijuana Establishments in the Town of Bourne and allow Marijuana Establishments in the Town of Bourne.

A NO or NAY vote opposed to the motion would keep the prohibition on Marijuana Establishments and no non-medical Marijuana Establishments will be allowed.

The Finance Committee voted

The Select Board voted

October 11, 2023

FISCAL 2024 SOURCES & USES OF FUNDS				
	FY24 Adopted Budget 5/1/2023	FY24 Proposed Budget 11/6/2023	\$ Increase / Decrease over Prior Year	% Increase / Decrease over Prior Year
GENERAL FUND REVENUES				
<u>Property Taxes</u>				
Prior Year Tax Levy Limit	\$ 54,262,372	\$ 54,262,372	\$ -	0.00%
PY - Amended New Growth				
2.5% Allowance	1,356,559	1,356,559	-	0.00%
New Growth	400,000	400,000	-	0.00%
Override	-	-	-	-
Sub-total	56,018,931	56,018,931	-	0.00%
Debt Exclusion	3,994,396	3,994,396	-	0.00%
Cape Cod Commission Tax	216,000	216,000	-	0.00%
Unused Levy Capacity	-	-	-	-
Total Tax Levy	60,229,327	60,229,327	-	0.00%
<u>State Aid</u>				
General/Non Earmarked	2,948,322	2,968,261	19,939	0.68%
Education	6,580,398	6,803,405	223,007	3.39%
Total State Aid	9,528,720	9,771,666	242,946	2.55%
<u>Local Receipts</u>				
Motor Vehicle Excise	3,130,201	3,106,609	(23,592)	-0.75%
Other Excise - Meals Tax	500,000	500,000	-	0.00%
Other Excise - Room/Hotel	600,000	600,000	-	0.00%
Other Excise - Boat	55,000	55,000	-	0.00%
Penalties & Interest	200,000	200,000	-	0.00%
Payments in Lieu	20,000	20,000	-	0.00%
Marinas	1,260,000	1,260,000	-	0.00%
Other Dept Revenue	275,000	275,000	-	0.00%
Licenses & Permits	800,000	800,000	-	0.00%
Fines & Forfeits	130,000	130,000	-	0.00%
Investment Income	50,000	50,000	-	0.00%
Miscellaneous-Recurring	630,000	630,000	-	0.00%
Miscellaneous-Recurring Energy Credits	700,000	700,000	-	0.00%
Miscellaneous-Non Recurring	61,204	61,204	-	0.00%
Total Local Receipts	8,411,405	8,387,813	(23,592)	-0.28%
<u>Other Sources</u>				
ISWM General Fund Support	2,441,696	2,441,696	-	0.00%
Sewer General Fund Support	157,003	157,003	-	0.00%
Total Other Sources	2,598,699	2,598,699	-	0.00%
<u>Special Revenues</u>				
Conservation Comm. RFA	30,000	30,000	-	0.00%
PL 874 Grant Fund	100,000	100,000	-	0.00%
Ambulance Fund	1,500,000	1,500,000	-	0.00%
CPA Fund Revenues for Debt Service	271,025	271,025	-	0.00%
Community Septic Management Program	19,455	19,455	-	0.00%
Waterways Improvement Fund	140,000	140,000	-	0.00%
TNC Rideshare Fund	7,081	7,081	-	-
Total Special Revenue Funds	2,067,561	2,067,561	-	0.00%
Total General Fund Revenues	82,835,712	83,055,066	219,354	0.26%
<u>Use of Reserves</u>				
Free Cash for Budget	-	-	-	-
Capital Stabilization for Debt Service	1,120,000	1,120,000	-	0.00%
Total Use of Reserves	1,120,000	1,120,000	-	0.00%
Grand Total Revenues	\$ 83,955,712	\$ 84,175,066	\$ 219,354	0.26%

FISCAL 2024 SOURCES & USES OF FUNDS				
	FY24 Adopted Budget 5/1/2023	FY24 Proposed Budget 11/6/2023	\$ Increase / Decrease over Prior Year	% Increase / Decrease over Prior Year
GENERAL FUND EXPENSES				
<u>Town Budget</u>				
General Government Services	\$ 4,471,061	\$ 4,471,061	\$ -	0.00%
Public Safety Services	12,702,109	12,752,109	50,000	0.39%
Public Works Services	3,437,639	3,437,639	-	0.00%
Health & Human Services	998,207	998,207	-	0.00%
Culture & Recreation Services	1,039,050	1,039,050	-	0.00%
Total Town	22,648,066	22,698,066	50,000	0.22%
<u>Schools</u>				
Bourne School Department	25,818,363	25,818,363	-	0.00%
Upper Cape Technical School	3,624,750	3,624,750	-	0.00%
Total Schools	29,443,113	29,443,113	-	0.00%
<u>Shared Costs</u>				
Shared Costs-Public Utilities	1,581,000	1,581,000	-	0.00%
Shared Costs	16,680,539	16,680,539	-	0.00%
Total Shared Costs	18,261,539	18,261,539	-	0.00%
Total Operating Budget	70,352,718	70,402,718	50,000	0.07%
<u>Capital Budgets</u>				
Debt Service Budget Non Exempt	2,805,125	2,805,125	-	0.00%
Debt Service Budget Exempt	4,029,375	4,029,375	-	0.00%
Total Debt Service	6,834,500	6,834,500	-	0.00%
Total General Fund Budget	77,187,218	77,237,218	50,000	0.06%
<u>General Articles</u>				
Reserve Fund	350,000	350,000	-	0.00%
Total General Articles	350,000	350,000	-	0.00%
<u>Off-Budget Expenditures</u>				
Cherry Sheet Assessments	5,438,356	5,608,144	169,788	3.12%
Cherry Sheet Offsets*	880,138	879,704	(434)	-0.05%
Overlay Reserve	100,000	100,000	-	0.00%
Total Off Budget Expenses	6,418,494	6,587,848	169,354	2.64%
Grand Total Expenses	\$ 83,955,712	\$ 84,175,066	\$ 219,354	0.26%

FISCAL 2024 SOURCES & USES OF FUNDS				
	FY24 Adopted Budget 5/1/2023	FY24 Proposed Budget 11/6/2023	\$ Increase / Decrease over Prior Year	% Increase / Decrease over Prior Year
SEWER REVENUES				
<u>Revenues</u>				
Retained Earnings	\$ 150,000	\$ 150,000	\$ -	0.00%
Retained Earnings for Articles	-	-	-	100.00%
Sewer Enterprise Revenues	1,628,968	1,708,968	80,000	4.91%
Total Revenues	\$ 1,778,968	\$ 1,858,968	\$ 80,000	4.50%
SEWER EXPENSES				
<u>Expenditures</u>				
Salaries & Wages	\$ 193,440	\$ 205,940	\$ 12,500	6.46%
Expenses	1,328,525	1,396,025	67,500	5.08%
General Fund Admin. Fees	157,003	157,003	-	0.00%
Total Operating Budget	1,678,968	1,758,968	80,000	4.76%
<u>Off Budget Expenditures</u>				
Reserve Fund	100,000	100,000	-	0.00%
Total Off Budget Expenditures	100,000	100,000	-	0.00%
Grand Total Expenses	\$ 1,778,968	\$ 1,858,968	\$ 80,000	4.50%

ISWM REVENUES				
<u>Operating Revenues</u>				
Retained Earnings	\$ -	\$ -	\$ -	
Facility Receipts	13,794,731	13,794,731	-	0.00%
Total Revenues	13,794,731	13,794,731	-	0.00%
<u>Use of Reserves</u>				
Post Closure Reserves	-	-	-	
Retained Earnings for Articles	-	-	-	
Total Use of Reserves	-	-	-	
Grand Total Revenues	\$ 13,794,731	\$ 13,794,731	\$ -	0.00%
ISWM EXPENSES				
<u>Operating Expenditures</u>				
Salaries & Wages	\$ 2,319,692	\$ 2,319,692	\$ -	0.00%
Expenses	7,508,343	7,508,343	-	0.00%
General Fund Admin. Fees	2,441,696	2,441,696	-	0.00%
Host Community Fee	925,000	925,000	-	0.00%
Total Expenditures	13,194,731	13,194,731	-	0.00%
<u>Off Budget Expenditures</u>				
Reserve Fund	600,000	600,000	-	0.00%
Total Off Budget Expenditures	600,000	600,000	-	0.00%
Grand Total Expenses	\$ 13,794,731	\$ 13,794,731	\$ -	0.00%

Select Board
Minutes of Tuesday, September 19, 2023
Bourne Veterans' Community Center
Buzzards Bay, MA
Or Virtually

TA Marlene McCollem

Select Board

Mary Jane Mastrangelo, Chair
Melissa Ferretti, Vice Chair
Anne-Marie Siroonian, Clerk
Jared MacDonald
Peter Meier

Others: A representative from Environmental Partners, John Yocco (remote), Renee Gratis (remote), Amanda Bongiovanni (remote), Amy Sharpe (remote), Bob Daffaro (remote), Jennifer Copeland (remote), Jim Sullivan (remote), Terri Guarino (remote), Sue Baracchini (remote), Dan Doucette (remote), Linda Fletcher, and Ed Fletcher.

The Zoom Chat will not be monitored. Participants who wish to speak must raise the hand icon until the Chair asks them to unmute. Note this meeting is being televised, streamed, or recorded by Bourne TV. If anyone in the audience is recording or videotaping, they need to acknowledge such at this time.

If anyone from the public wishes to access the meeting, they can do so by calling the following conference line: **1-929-205-6099** entering the ID/pass above.

Zoom Meeting ID: 869 5775 5505 Password: BOURNE

All items within the meeting agenda are subject to deliberation and vote(s) by the Select Board.

7:23 PM Call Public Session to Order in Open Session

- 1. Moment of Silence to recognize our Troops and our public safety personnel.**
- 2. Salute to the Flag.**
- 3. Reading of the Vision and Mission Statements:**

Vision: Bourne is a proud community that embraces change while respecting the rich heritage of the town and its villages. It is a municipality based on strong fiscal government with a durable economy that recognizes the rights of all citizens, respects the environment, especially the coastal areas of the community and the amenities that it affords. Bourne embraces excellent education, and offers to its citizens a healthy, active lifestyle.

Mission: Bourne will maximize opportunities for social and economic development while retaining an attractive, sustainable, and secure coastline and environment for the enjoyment of residents and visitors. Through responsible and professional leadership and in partnership with

others, Bourne will strive to improve the quality of life for all residents living and working in the larger community.

4. **Public Comment on Non-Agenda Items** – Public Comments are allowed for up to a total of 12 minutes at the beginning of each meeting. Each speaker is limited to 3 minutes for comment. Based on past practice, members of the Board are not allowed to comment or respond.
5. **Consent Agenda**

- a. **Authorize acceptance of 3 donations to the Library.**
- b. **Authorize Town Administrator to execute the license agreement for Emmons Road.**

Anne-Marie Siroonian said that in the packet, the first 3 pages in the license agreement are blank. Tim Lydon, Town Engineer apologized for the pages coming out blank, and said that the blank pages are the scope of work, which he said is a very simple scope of work. He said that he reviewed the scope of work and there was discussion about the project. Melissa Ferretti said that at the last meeting they were given a good detailed explanation of the work to be done.

Voted: Peter Meier moved, and Anne-Marie Siroonian seconded to accept Consent Agenda items A and B as presented and the meeting materials and as a follow up to provide the Select Board with Exhibits A, B, and C.

Vote: 5-0-0.

6. **Presentation and discussion regarding Academy & Main intersection project – EP & Tim Lydon.**

Mr. Lydon said that the Shared Spaces grant is the DOT grant that they put out during COVID to try to get the restaurants outside and improve the public spaces for outdoor amenities. He said that as a town, internally, they discussed this, and he said that there is a lot of space in the downtown area. He said that the restaurants handled their spaces well. He said that they realized that they have a good opportunity to target this grant and decided to address an intersection that they thought could benefit by increasing the pedestrian space while improving the safety and mobility of the treatments around those areas.

Mr. Lydon said that Academy and Main was a feasibility study that was done in 2020 just before COVID 2020 and they worked on it with BETA Group. He said that this intersection is a very important intersection in the Town of Bourne. He said that there was an accident at this intersection this year, and Environmental Partners is going to show the best improvements that can be made for \$200,000. grant that the town received.

A representative from Environmental Partners (EP) presented a slideshow of an overview of the existing conditions and the current conceptual design. She said that the project goals for this project are to reduce vehicular travel speeds, provide a gateway onto Main Street, improve pedestrian accommodations, and provide community gathering spaces. She said that currently there are 4 crosswalks in the intersection area, and they are at least 50' long which in itself is a safety issue. She said that having 4 crosswalks in a short span is also a safety issue.

The EP rep. explained the proposal of the intersection project. She said that they would color and texturize pavement in the intersection and expand the sidewalk on the side with the businesses. They are also proposing curb extensions going to the east on both sides of the road. They also would eliminate one of the crosswalks. She said that the conceptual design for this option is \$315,000. She said that they have received \$200,000 from MassDOT, so the town would need to come up with just over \$100,000.

The EP rep. also showed another proposed conceptual design that included milling and overlaying the pavement within the project limits. This option would cost another \$200,000. Peter Meier asked about the costs for putting in lighting, and the EP rep. said that it can vary, and she can get costs if the Board would like her to. Mr. Lydon said that he is currently getting quotes for lighting. There was some discussion about the project as a whole and about the possibility of getting a second grant for the lighting portion.

Town Administrator Marlene McCollem said that this should be a capital project, aside from the \$200,000. in grant funds. Mr. Lydon said that the first option is what he suggests because the pavement plan has not been updated in the last two years and will possibly be done when a new DPW Director is appointed. He said that Main Street needs to be updated and should be in the next 5-year plan.

Mr. Lydon said that they applied for the grant in April of 2022, and they were granted the grant in August of 2022. They received the award this past March. The end date for this grant is December of this year. He said that they already need to request an extension for construction. He said that he thinks that June 30, 2024, should be the target for this Spring project, unless MassDOT is willing to extend it until September 30th. Chair Mastrangelo said that they could request additional funds, outside of the \$115,000. capital request, separately, for the lighting to be done. There was more discussion about the lighting and about the scope of work for the grant.

John York wanted the rep. from EP to be aware that the rotary has no bicycle amenities at all, and he wants to know if the town will change the curbs there to provide a way for bicycles to get around there. Mr. Lydon said that in 2008 and 2009 with the design of Main Street, bike paths were discussed then, and they weren't brought forward. He said that the idea that the canal paths serve as a biking highway from what he has understood, that having an entire bike path on Main Street is not the project that he has ever heard about.

Mr. York said that he really is concerned about if you take the bike path and are continuing to Wareham and you come to this intersection, he wants to know what an engineer is picturing a bicyclist to do. The rep. from EP said that there are a few options, and even though they are not proposing to provide dedicated bicycle facilities throughout the project limits, they are intending to calm the traffic significantly, making it easier for bicyclists to share the road throughout these limits. For bicyclists that are not comfortable with that, there is always the option to walk their bike on the sidewalk. There was more discussion about options for bikes and about lights in the intersection.

Ms. McCollem said that they would move this forward to Capital Outlay for Option 1.

7. Canal Bridges/MassDOT project update

Chair Mastrangelo said that this is a placeholder to have an opportunity to have an update. She said that there is a stakeholder's meeting scheduled for September 26th. The Bourne Rotary project has gone out for bid. There was some discussion about the traffic issues during the Bourne Bridge repairs that are currently underway.

8. Town Meeting warrant articles.**a. Zoning – Marijuana Overlay District.**

Dan Doucette, Planning Board Chair, said that the Planning Board gathered all information to create an overlay district in a marijuana bylaw which includes just three retail uses. The areas are the commercial zone of MacArthur Blvd., in the area where the commuter lot in Sagamore is, and in the area in South Sagamore near the old Christmas Tree Shop, and none of these go into the residential areas.

Chair Mastrangelo asked if this warrant article would be considered if the proposed citizen petition does not pass. She said that she feels that there should be something from legal Town Counsel in writing that states the answer to her question. Mr. Doucette said that the planning Board feels there should be input from Town Counsel as well.

b. Zoning – Definition of “wetlands”.

Mr. Doucette said that this was presented by Conservation and it's for the federal regulations to match the town bylaw, which would make it available to build within FEMA regulations.

c. Bylaw to reduce Finance Committee membership.

Finance Committee Chair Jim Sullivan said that for some time the Finance Committee has had difficulty filling their 12 positions, and they are currently at 8 members. He said that the Finance Committee voted last week to reduce the number of members on the committee to 9 people rather than 12.

Chairman Mastrangelo said that there always was an even number of members on the Finance Committee. Renee Gratis said that there is a combination of not a lot of interest, and sometimes when joining the committee, it just doesn't work out for them due to the rigorous schedules, or due to the requirements.

d. Committee reports.

Ms. McCollem that this is a standing article on the warrant and said that she is not aware of any committees that want to make a report and they want to make it available.

e. Unpaid bills.

Ms. McCollem said that they are expecting just over \$200. worth of unpaid bills. She said that it looks like a Home Depot bill was lost in the mail so there are 4 different charges on the Home Depot invoice that will be listed out once the motion is put together.

f. OPEB liability.

Ms. McCollem said that this is a standing article for Fall Town Meeting. She said that they are expecting this motion to fund the liability at \$915,500., which is per Financial Policy for the General Fund at \$625,500., and then per practice at ISWM at \$260,000. and per practice at Sewer for \$30,000.

g. Community Engagement Committee – funding request.

Anne-Marie Siroonian said that the Community Engagement Committee met yesterday and put forward a warrant article to refund that line of the original amount of \$50,000. She said that they will present at Town Meeting how the money was spent.

h. Possible Capital Outlay request to fund feasibility/design for relocating Pocasset recreational facilities.

Chair Mastrangelo said that there has been some communication regarding the feasibility/design Capital Request for relocating the Pocasset recreational facilities. She said that the question is why they can't put a line item for funding of the feasibility study in the warrant in time for the deadline, so that if the Pocasset site proves to be infeasible then they would withdraw it at the Fall Town Meeting.

Jared MacDonald said that there have been numerous discussions about this site, and he doesn't see this money being spent well at this point. He said he would like to hear what the Town Administrator feels about this subject.

Ms. McCollem said that the Select Board's goals for her this year are to be focused on Capital Projects and Capital Planning and correcting some of the problems from prior Capital projects. She said that she does not want to be inconsistent with the direction in which they are going. She said that right now there is no defined scope, number, or responsible party for what this is, and when funding a Capital article, these are the things that are needed for funding the Capital request.

Ms. McCollem said that she has a compromise to present to the Board, although it is not a Capital article because she doesn't want to deviate from the good direction in which they are going in Capital planning. She proposed that they define what the scope is, and she suggests that the scope of work is to identify a feasible location on either the existing property or on a piece of unrestricted town owned land or land that is currently under negotiation for acquisition by the town within a 2-mile radius of the existing site. She said it would also to provide a conceptual design and cost estimate for the construction of new playground equipment, which will be equivalent to the existing structures as far as ages and options currently on the site, along with one tennis court to be overlayed with pickle ball lines. She said that this can be done from the Town Administrator's budget line called Contracted Services, and she could start the

work now. Chair Mastrangelo said that this sounds good, and there was more discussion about the scope of work.

Linda Fletcher of Pocasset said that the area being discussed is important as it is their center and their village, and she said that the most disturbing thing in all of this is not knowing. She said that the residents in Pocasset feel that they need to know if they are moving forward or not, and they need to know it sooner than later. Sue Baracchini echoed Ms. Fletcher's comments and said that they cannot afford to wait. She feels that it should be on the warrant, and she doesn't want to see a playground dropped somewhere else because it needs to be in the village due to the amount of people that currently use it.

Peter Meier said that if they go with what the Town Administrator is suggesting, then no article is necessary, and he feels that this is the way to go to not complicate the matter.

Voted: Peter Meier moved, and Melissa Ferretti seconded to support the utilization of \$20,000. of the Town Administrator Contracted Services budget for the purpose of identifying either the existing property or unrestricted town owned land or for land under negotiation acquisition within a 2-mile radius to provide conceptual design and cost estimate for new playground equipment equivalent for age usage of the current equipment and one tennis court lined with two pickle ball courts.

Ed Fletcher of Pocasset said that he would like to make a point of interest. He said that currently the one tennis court is lined to make 4 pickle ball courts, and it is being used all the time. There was some more discussion regarding the courts.

Vote: 5-0-0.

i. Review and discuss Town Meeting key dates and process.

Ms. McCollem said that they must execute the warrant on October 3rd, and the Select Board will vote on their final motions on October 17th. She said that the moderator's meeting is on the 18th, and on the 20th the voter handbook gets sent to the printer and will be available online and at the library.

9. Discussion regarding FY25 budget calendar and priorities.

There was some discussion about the budget calendar and there were no budget priorities discussed.

10. Policy.

a. Snow plowing for condominiums with roads laid out under Subdivision Control Law.

There was a list of properties in the meeting packet that are not currently being plowed by the town. There was some discussion about certain properties that do not want plowing done by the town. Chair Mastrangelo said that the Town Administrator and the DPW are directed to inform the governing boards of each condominium to notify them that the town will provide

snow and ice removal services on their road beginning with the winter of 2023/24, unless the town is notified that services are not requested. She added that no town services shall be furnished on adjacent driveways or parking areas.

Voted: Peter Meier moved, and Jared MacDonald seconded that the Select Board has determined the roads in the following developments have been laid out as private ways in accordance with the Subdivision Control Law are open to public use and are eligible for snow and ice removal services by the Town of Bourne in accordance with Mass. General Law, Ch. 40, section 6C. The roads are Herring Lane Condominiums - Orchard Road, Forsythia Lane, Dogwood Road, Bittersweet Lane, Beach Plum Lane, Hemlock Road, Aspen Road, and Juniper Lane. Lily Pond Condominiums – Lily Pond Way and Windrush Ave., Aptucxet Village Condominiums – Ships Way– Ocean Pine Condominiums – Ocean Pines Drive, Wildwood Lane, Sycamore Ave, Crescent Oaks Drive, and Alpine Circle, Seawatch Village Condominiums – Roundhouse Road, Tradewinds Condominiums – Coach Road, Heritage Drive, Surrey Lane, Carriage Circle, and Holly Circle, The Villages at Brookside – Brookside Road, Laurel Hill Court, Holly Hill Court, Candleberry Court, Prestwick Road, Sea Knoll Court, Berrywood Court, Carnoustie Road, Hollyhock Knoll Court, Turnberry Road, Blue Meadow Court, Spring Brook Court, and Amberwood Court. And further that the Town Administrator and DPW are directed to inform the appropriate governing boards of each condominium to notify them that snow and ice removal services will be provided on the roads listed above beginning with the winter of 2023/24, unless the town is notified that services are not requested. No town services shall be furnished on adjacent driveways or parking areas.

Vote: 5-0-0.

11. Discussion regarding the process for MPO nominations.

Chair Mastrangelo said that this was in the correspondence packet if anyone is interested in being nominated. She said that she has been attending the meetings for a while and is interested. The expiration date for the current term is December 30, 2023.

12. Town Administrator's Report

Ms. McCollem gave an update on the Trane ESCO project. She said that utility rebates and incentives are being prepared for submission. Mechanical equipment is due for delivery at Fire Station 3 at the end of October with installation throughout November. Equipment is expected at the Community Building in early December, with installation extending into January. The boiler startup for the Community Building is scheduled for September 26th.

Ms. McCollem also said that she received notice from JBCC that the base has submitted a proposal to Mass Development to release a portion of their real estate holdings to be used for future development in support of the Governor's long term housing goals. She said that the plans are preliminary and conceptual currently. If this idea is selected by Mass Development for planning funds, then this could be a very important and exciting project for future discussion. She said she will forward the documentation that she has received to the Board tomorrow.

Ms. McCollem thanked and acknowledged Fire Chief Cody and Assistant Chief Pelonzi in their work for securing an additional \$32,769. through the Fire Prevention and Safety grant to continue the town's community risk reduction initiative.

13. Minutes – None.

14. Future Agenda items - None.

15. Committee reports – None.

16. Correspondence

Anne-Marie Siroonian read aloud the correspondence:

- o DEP letter J-1 Range Northern Environmental Monitoring
- o DEP letter Otis Gun Club Munitions Response Area
- o DEP letter 6th 5-year review – Superfund site
- o Email J. Froman re: Finance Dept. reorganization
- o J. Gabdois – Talent Bank Form

These are all on the Town's website.

**17. Next meeting date: September 26, 2023 – (BOSC),
September 28, 2023, with Wareham BOSC
October 3, 10 & 17, 2023
October 24 (BOSC)**

18. Adjourn

Voted: Anne-Marie Siroonian moved, and Jare MacDonald seconded to adjourn.

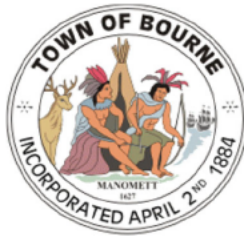
Vote: 5-0-0.

This meeting of the Bourne Select Board was adjourned at 9:23 PM.

Respectfully Submitted,

Kim Johnson, Recording Secretary

Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can and include a way we can contact you if we need more information. Please allow advance notice. Send an email to kthut@townofbourne.com or call the Town Administrator's Office at 508-759-0600 x1503.



Select Board's Correspondence

October 17, 2023

- A. DEP letter – Annual Land Use Control Letter Report for 2022
- B. J. Buckley letter re marijuana zoning
- C. Email from J. Hensley re Marijuana Overlay District



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Bonnie Heiple
Commissioner

October 11, 2023

Air Force Civil Engineer Center/JBCC
Attn: Rose Forbes
Remediation Program Manager
322 East Inner Road
Otis ANG Base, Massachusetts 02542

RE: **BOURNE – BWSC**
Release Tracking Number: 4-0000037
Joint Base Cape Cod (JBCC)
**Draft Annual Land Use Control Letter Report
for 2022 - RCL, Comments**

Dear Ms. Forbes:

The Massachusetts Department of Environmental Protection (MassDEP) has reviewed the Air Force Civil Engineer Center (AFCEC) response to comments letter (RCL) dated September 20, 2023, in response to MassDEP comments dated August 11, 2023, for the document **"Draft Annual Land Use Control Letter Report for 2022"** dated June 22, 2023 (Report). The Report evaluates the status of the Land Use Controls (LUCs) for the Installation Restoration Program groundwater and source area sites requiring an annual LUC monitoring report in accordance with their respective Records of Decision, Explanation of Significant Differences, or other decision documents.

MassDEP has no further comments on the Report and no comments on the RCL.

Please incorporate this letter into the Administrative Record for the Installation Restoration Program Land Use Control Program at JBCC. If you have any questions regarding this matter, please contact me at (617) 694-2644 or Elliott Jacobs at (857) 207-0815.

Sincerely,

Leonard J. Pinaud, Chief
Federal Site Management
Bureau of Waste Site Cleanup

P/ej

Ec: Upper Cape Select Boards
Upper Cape Boards of Health
JBCC Cleanup Team
MassDEP Boston/Southeast Region

[REDACTED]
Pocasset, MA 02559
October 1, 2023

Ms. Mastrangelo, Select Board Chair and Board Members
Town of Bourne

Dear Ms Mastrangelo and Board Members:

I'm writing to you as you deliberate the proposed repeal of the general bylaw prohibition of marijuana establishments, the proposed MOD zoning bylaw, or, alternatively, the proposed citizen's petition Zoning Bylaw amendment to prohibit all types of marijuana establishments, not medically prescribed, and keeping the Town's general bylaw prohibition in place.

Please consider that the recent regulatory changes by the Cannabis Control Commission remove all semblance of local control of HCAs from local government. The Commission will now have absolute statutory authority to mandate, review, regulate, approve and enforce HCAs. The CCC has said they can make changes retroactively, remove disqualifiers to employment in marijuana establishments and allow marijuana establishments to take legal action against municipalities, including the ability of licensees to access equitable relief if a municipality decides to no longer continue as their host community.

Therefore, the real operating agreement of every marijuana establishment will reside in the HCA, set by the CCC, not local authority. Zoning bylaws such as the proposed MOD will also take a backseat to the CCC mandate and any regulatory changes the CCC decides to make going forward. Such unpredictable conditions should warrant no further consideration be given to introducing adult-use marijuana into our community. Local government should maintain control over local matters where possible, learning from other Towns' experience. Our general bylaw ban has proven prudent. We should not abandon it at this juncture.

In addition, please look at the proposed MOD bylaw sponsored by the Planning Board, written with the cannabis petitioners. I ask you to consider the description in 4852 Applicability (d) of the STM2023 – Marijuana Overlay District wherein "The number of Medical-use and Adult-use Marijuana Retailers shall be limited to a maximum of three (3) separate retailers within the Town Of Bourne. A Medical-use Marijuana and Adult-use Marijuana retailer that are co-located on the same parcel or adjoining parcels shall be considered one retailer for purposes of this provision." This language asserts there is to be a maximum of (3) retailers, but there could be 6 buildings housing marijuana-related businesses under this provision, if an Adult-use Retailer and a Medical-use Marijuana Establishment occupy adjacent parcels in separate buildings in each case.

“One retailer” is also defined as an Adult-Use Marijuana Retailer and Medical-use Establishment on the same parcel in two different buildings. In that case there could be up to 6 buildings on 3 Lots, 2 buildings on each lot, if the lot size accommodates this. Thus, the presence and visibility of marijuana establishments could be doubled from the number, “to not be more than (3) retailers”, widely discussed at meetings and in the press. The distinction is not being elaborated upon that one retailer can mean two buildings and two lots. I think this is a disservice to residents.

Mr. Strojny has recently included figures from the town of Mashpee as part of his campaign to encourage the repeal of the general bylaw prohibiting marijuana establishments. He urges the Finance Committee to make a decision based strictly on the possibility of greater revenues for Bourne. Societal costs are not included in his equation. I ask the Select Board to weigh those heavily. They are numerous and widely reported. Youth use increases after introduction of recreational marijuana in communities where implemented, as perception of risk decreases. Legalization is associated with a 25% increase in marijuana use disorder among 12-17 year olds.” (Smart Approaches to Marijuana) “30% of marijuana users have some form of marijuana use disorder.” (SAM) There are many more.

The year-round populations of Springfield (154,064), Lowell (113,608, Brockton (104, 826), Boston (650,706), New Bedford (100, 682) are documented by US Census of 7/1/22. All are considerably greater than Bourne’s 20,667 year-round population, increasing to approximately 40,000 for 10 weeks in summer. Mr Strojny’s 6/22/2023 handout to the Planning Board includes outlier revenue data from these 5 large population centers with several times the year-round population of Bourne to show big numbers and seduce the public with promises of money. There are ways to increase revenues to the town as town boards have previously shown very well without embarking on this daily changing social engineering experiment.

I hope you also consider the costs that will offset the revenues not covered by the 3% impact fees the town can assess on marijuana establishments. The fees themselves require staff time for careful monthly documentation; can only begin to be assessed on the date the CCC issues the marijuana business a final license; towns can be sued for the return of fees if licensees dispute the fees are reasonably related to costs incurred by the towns; and the CCC can assess penalties confiscating the monies from all impact fees charged town wide if the CCC makes a determination the HOST community has not adhered to their minimum acceptable standards to promote and encourage the full participation in the regulated marijuana industry.

Also, while towns may not be allowed to assess “indirect costs” as well as “direct costs,” their existence must be acknowledged. Town counsel

advice, litigation, liability insurance, increased auto insurance (reflecting an increase in impaired driving) are possible costs. Monies spent on surveys of impacts the introduction of adult-use marijuana cause in the community may not be considered reasonably related.

Some costs may not be readily apparent and only emerge over time. Additional school staffing such as drug counselors, nurses, ambulance service, mediation to assist young people who overuse cannabis substances and need rehabilitation treatment are impacts the town or families may experience, as well as the very real human cost of losing some portion of our population or a member of our family to addiction.

Thank you for your consideration.

Sincerely,

Janet Buckley

Kathleen Thut

From: Jody Hensley [REDACTED]
Sent: Friday, October 13, 2023 9:07 AM
To: Marlene McCollem
Cc: Hensley (Sinner) Jody
Subject: Fwd: Town Counsel Advises On Trio Of Marijuana Articles Ahead Of STM | Bourne | capenews.net 10/13/23

Dear Town Administrator McCollem,

I was concerned after reading this morning's article in the Bourne Enterprise.

There is talk on the Select Board of voting on the Marijuana Overlay District [MOD], **even if the General Bylaw banning marijuana is not repealed**, stating that the MOD, if passed, would be acted on only if the General Bylaw Ban was ever repealed.

I fear that that offer on the **Article for the MOD, saying it will be enacted only if the ban is repealed**, could be a **stalking horse**. I would expect that the zoning bylaw would in fact supersede the general bylaw in enforceability.

The SJC argued in 2022, when ruling that Bourne's General Bylaw Ban could stand, that the **General Bylaw would be upheld because no Zoning had ever been passed to raise property owner's expectations** that they could develop marijuana investments.

The people should not be told that their ban on commercial marijuana by general bylaw is safe if a Marijuana Overlay District is created.

"A Land Court ruling, . . . , stated that a **subject can be regulated by a general bylaw only if there is no history in the town of the subject being treated under zoning.**"

If the MOD Zoning Bylaw is passed, it would supersede the General Bylaw to prohibit marijuana establishment.

https://www.capenews.net/bourne/news/sjc-rules-against-marijuana-retailer-in-lawsuit-against-bourne/article_655e9d17-fce0-5e0a-8098-158dfc8649f9.html

My notes are embedded below.

I hope you can share my concerns with Town Counsel and the Select Board. The people of Bourne must clearly understand the implications of their votes at Town Meeting.

Thank you for your service and leadership.

Respectfully,

Jody Hensley
[REDACTED]

Begin forwarded message:

Subject: Town Counsel Advises On Trio Of Marijuana Articles Ahead Of STM | Bourne | capenews.net 10/13/23

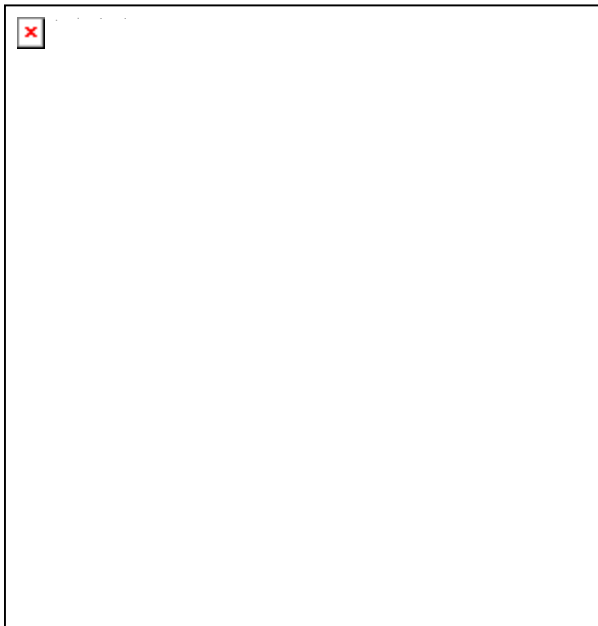
https://www.capenews.net/bourne/town-counsel-advises-on-trio-of-marijuana-articles-ahead-of-stm/article_1de4ef7f-1cb6-59bf-8e18-b6276e32f0cc.html

Town Counsel Advises On Trio Of Marijuana Articles Ahead Of STM

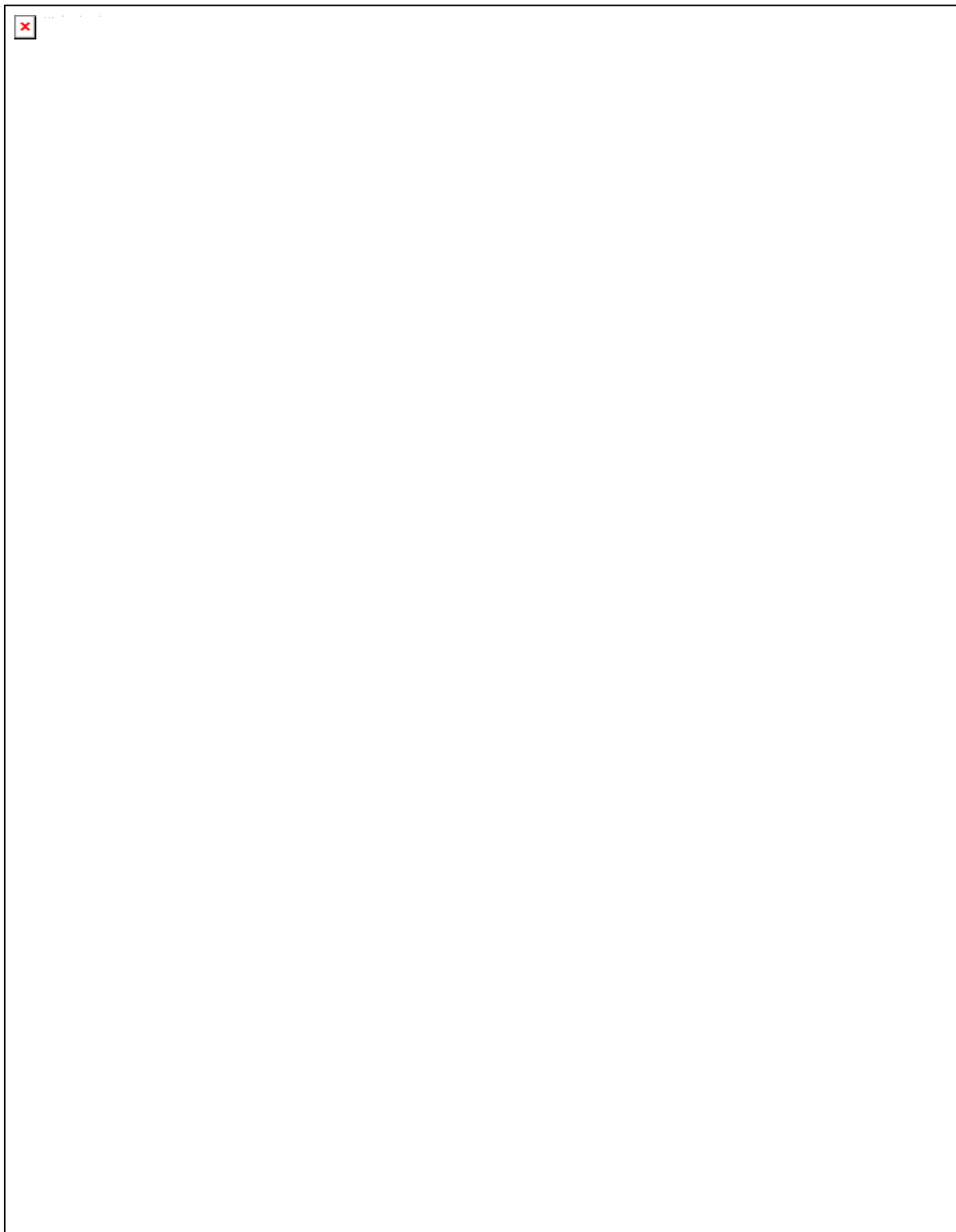
- By MICHAEL J. RAUSCH

- 9 hrs ago

- 0



1. [Home](#)
2. [Bourne](#)



Bryan Bertram

At the behest of the Bourne Select Board, **Town Counsel Bryan Bertram has offered his opinion on how voting should be conducted for the three separate marijuana-related articles on next month's Special Town Meeting warrant.** Board members sought Mr.

Bertram's advice regarding the opposing articles and how to proceed with each come November 6.

The Articles, Explained

Article 15 is a private citizen's petition seeking to repeal the town's current prohibition bylaw, which outlaws all retail marijuana sales with the exclusion of medical marijuana in accordance with state law. A similar article was on the May Special Town Meeting warrant and was defeated by one vote: 249 opposed to 248 in favor.

Article 13 is a Bourne Planning Board article that seeks residents' approval of zoning bylaws, jointly **drafted by the planning board and advocates of repealing the ban**, to govern marijuana establishments in the Town of Bourne. The proposed bylaw **establishes three marijuana overlay districts (MOD)**: one in North and South Sagamore, one in Buzzards Bay, and one on MacArthur Boulevard.

The proposed bylaw limits the number of establishments in each district to one and similarly limits the type of establishment allowed in the overlay districts to retail stores. Any other type of business, such as cultivation, manufacturing or distribution, is not permitted. State law prohibits medical marijuana establishments from being banned.

The **planning board believes the zoning needs to be in place to protect the town in the event the ban is repealed**. Without established zoning, marijuana shops would be treated like any other retail business and allowed to open anywhere in town, the board has said.

[NOTE: LEGALLY, MARIJUANA SHOPS ARE NOT TREATED LIKE ANY OTHER RETAIL BUSINESS. TO GET A STATE LICENSE APPLICANTS HAVE TO DEMONSTRATE COMPLIANCE WITH LOCAL MARIJUANA BYLAWS. IF THERE IS NO MARIJUANA ZONING BYLAW TO COMPLY WITH IT IS A DEFACTO BAN.]

The third marijuana-related article is diametrically opposed to the other two. **Article 14 is a private petition sponsored by the anti-marijuana advocacy group Bourne Alliance and calls for a zoning bylaw that prohibits all marijuana establishments**, not including medical marijuana, within the Town of Bourne.

Bourne Alliance believes that prohibiting marijuana establishments through zoning will strengthen the town's current general bylaw outlawing marijuana retailers. Zoning bylaws require a two-thirds majority threshold to adopt or repeal, so the reasoning is that should the zoning bylaw goes into effect, it would take a two-thirds majority of voters at a future Town Meeting to repeal it.

Avoiding Procedural Conflicts

All three articles—and the implications one may have on the others—were discussed by the select board during its meeting on Tuesday, October 10. Board chairwoman Mary Jane Mastrangelo asked if passage of the planning board's zoning article to create the overlay districts would mean that marijuana retail stores would be permitted, even if the article seeking to repeal the current ban on marijuana stores failed.

Mr. Bertram explained his opinion, which is that if voters uphold the ban, then marijuana would remain prohibited even if the planning board's zoning article is approved. General bylaws regulate conduct, he said, while zoning regulates land use and, because they regulate different things, it can be argued that the two bylaws can coexist.

[I RESPECTFULLY DISAGREE WITH THIS. **“A Land Court ruling, . . . , stated that a subject can be regulated by a general bylaw only if there is no history in the town of the subject being treated under zoning.”**

THE PEOPLE SHOULD NOT BE TOLD THEIR BAN BY GENERAL BYLAW IS SAFE IF THE MOD ZONING IS PASSED.

If the MOD Zoning Bylaw is passed, it would supersede the General Bylaw to prohibit marijuana establishment.

https://www.capenews.net/bourne/news/sjc-rules-against-marijuana-retailer-in-lawsuit-against-bourne/article_655e9d17-fce0-5e0a-8098-158dfc8649f9.html]

“Even though the use of the land would have been allowed by the zoning bylaw, it would, at present, be prohibited by the general bylaw,” he said, adding that the zoning would be on the books in the event the ban is eventually lifted.

[THIS UNFORTUNATELY IS WRONG. 🖐️ I WISH IT WERE SO, BUT IT IS NOT.]

Mr. Bertram said that **Article 15 should be voted on first because if the ban is not repealed, Town Meeting might not want to act on the other two articles.** He said that **the scenario of the general bylaw contrasting with the zoning bylaw is uncharted territory and suggested the possibility of a legal challenge.**

“It may be that, if everyone is content to let the prohibition stand, we take no action on the other two articles,” he said, “but we won’t know that until Town Meeting tells us what they think about the general bylaw.”

Ms. Mastrangelo suggested that the select board’s recommendation on the zoning articles may be different depending on how the town votes on the repeal article. She noted that **at May’s Special Town Meeting, when the ban repeal article failed, a related zoning warrant article was not voted on and instead indefinitely postponed.**

She **questioned whether the same approach should be taken next month or whether an up-or-down vote should be held on the planning board’s article, minding the possibility of a legal challenge,** as Mr. Bertram said, **as to the validity of the general bylaw ban.**

[NOTE: 🖐️ THE PASSAGE OF MARIJUANA ZONING WOULD SUPERSEDE THE BAN BY GENERAL BYLAW.]

If the repeal is successful, she said, the board should recommend approval of the planning board’s zoning article.

Assessing Validity, Enforceability

Ms. Mastrangelo asked Mr. Bertram’s opinion on the wording of Bourne Alliance’s zoning article and whether it is enforceable. **At an previous board meeting, she criticized the article for its use of the phrase “medically prescribed marijuana,”** noting that marijuana is not prescribed by doctors; rather, patients must seek medical authorization to use it.

[NOTE: MGL **Chapter 94G: REGULATION OF THE USE AND DISTRIBUTION OF MARIJUANA NOT MEDICALLY PRESCRIBED**
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter94G>]

The article also suggests a prohibition on medical marijuana facilities, which is not permitted under state law. **Mr. Bertram said he was not troubled by the text of the article**, but he did find it problematic that the article does not specify where the measure would be inserted in the town's bylaws.

[NOTE: LEARNED THAT INSERTION INTO THE BYLAWS WOULD REPLACE THE EXPIRED MORATORIUM ON MARIJUANA ESTABLISHMENTS]

Ms. Mastrangelo also noted that she **requested from Bourne Alliance examples of other towns having adopted zoning bylaws that used the same wording contained in Article 14**, but she had not received a response. **Pamela Mascetta of Buzzards Bay provided the board with a copy of a zoning bylaw passed by the Town of Westborough that was worded like Article 14 and was approved by the state attorney general's office.**

Working Out The What Ifs

The **question was raised then as to what position the select board should take on the planning board's article should the repeal fail again**. Ms. Mastrangelo asked **if the board should seek to indefinitely postpone the article governing marijuana zoning, or take a position (yea or nay) on approving the measure**. **Mr. Bertram recommended postponement.**

"We don't know if or when there may be another vote, if the [November 6] vote does indeed fail to repeal the general bylaw prohibition," he said. "If it takes two or three years, we might have different thoughts about what we want the zoning bylaw to look like, where we want the overlay districts, things like that, so it would be easiest just to take no action on it."


[NOTE: IF ACTION IS TAKEN AND THE ZONING ARTICLE FAILS, IT CANNOT COME UP AGAIN FOR 2 YEARS.]

Mr. Bertram also **suggested adding a clause to the planning board’s article stipulating that the bylaw will only go into effect if/when the ban is lifted.** Doing so, he said, would make it clear that the repeal and the zoning work together, and the intent of Town Meeting was not to authorize marijuana retailers when residents had, in fact, voted to keep the prohibition in place.

[NICE THOUGHT. BUT LAND COURT HAS RULED THAT ZONING SUPERSEDES A GENERAL BYLAW.]

Planning board chairman Daniel L. **Doucette** said his group’s position is that **even if the repeal is not approved, a vote should be held on the zoning article that establishes the marijuana overlay districts.** The majority of the planning board wants zoning that regulates marijuana establishments on the books, he said.

Mr. Doucette reminded the select board that if the ban does get rescinded and neither of the zoning articles are approved and/or voted on, **then marijuana stores will be treated like any other retail business and allowed to open anywhere in town,** as opposed to the proposed three marijuana overlay districts.

[I AM NOT CONVINCED THIS  IS ACCURATE. MARIJUANA IS NOT TREATED LIKE ANY OTHER RETAIL BUSINESS. IT IS SUBJECT TO A STATE MARIJUANA LAW, WHICH REQUIRES A LICENSE APPLICANT TO DEMONSTRATE COMPLIANCE WITH LOCAL MARIJUANA BYLAWS.]

Select board member Anne-Marie Siroonian raised questioned of what would happen in the admittedly unlikely event that the ban is repealed and both zoning articles are approved. Mr. Bertram concurred that such a scenario is highly unlikely.

The discussion ended with no votes taken by the board. The fate of all three articles will be in the hands of residents attending Special Town Meeting, scheduled for Monday, November 6, in the Bourne High School auditorium. The opening gavel will sound at 7 PM.

-
- Facebook
 - Twitter
 - WhatsApp
 - SMS
 - Email
 - Copy article link
 - Save
-

“It may be that, if everyone is content to let the prohibition stand, we take no action on the other two articles,” Mr. Bertram said, “but we won’t know that until Town Meeting tells us what they think about the general bylaw.”

MORE INFORMATION



Figure 10-10

Select Board Divided On Marijuana Ban Repeal

- A Look At Bourne's History With Pot
- Select Board Calls For Town Counsel Opinion On

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.