

Annual Town Meeting -- March 29, 2008

At the Annual Town Meeting held on Saturday, March 29, 2008 at the Cohasset High School Sullivan Gymnasium the following articles were contained in the warrant and acted upon as follows.

Checkers sworn in by the Town Clerk, Marion L. Douglas at 8:30 a.m. were Carol St. Pierre, Debra Krupczak, Alison Krupczak, James Carroll, Ellen Warner and Abigail Alves. Tellers were appointed and sworn in by the Moderator, Daniel Evans.

The Moderator called the meeting to order at 9:25 a.m. and a quorum of 100 was present at that time. The registered voters checked in on the voting list totaled for Precinct 1 – 192 and Precinct 2 – 101 for a grand total of 293.

Members of the meeting called the pledge of allegiance. A moment of silence was observed for citizens listed in the memoriam of the town report.

Voted unanimously to dispense with the reading of the call of the Meeting and Return of Service having been examined by the Moderator and found to be in order.

Article 1:

To act upon the reports of the various Town Officers as printed in the Annual Town Report for 2007.

Moved that the reports of the various Town Officers as printed in the Annual Town Report for 2007 be accepted, and filed with the permanent records of the Town.

Motion adopted unanimously.

Article 2:

To hear the reports of any Committee heretofore chosen and act thereon.

Moved that the article be indefinitely postponed.

Motion adopted unanimously.

Article 3:

To see if the Town will vote to fix salaries and compensation of Elected Officers, and to see what sums the Town will vote to raise and appropriate from available funds or otherwise, for the payment of the salaries and compensation, expenses, equipment and outlays, capital and otherwise, of the several Town Departments, for the ensuing fiscal year.

MOVED that \$36,374,463 be appropriated for the Fiscal Year 2009 Annual Town Budget to be allotted as follows: \$74,206 for salaries of elected Town Officials consisting of the Town Clerk \$63,689; Clerk, Board of Registrars \$329.00; Moderator, \$1.00; Selectmen, Chairman, \$1,500.00; Members (4) at \$1,000.00, \$4,000.00; Board of Assessors, Chairman, \$1,300.00; Members (2); at \$1,200.00, \$2,400.00; and the remaining \$36,300,257 for Personal Services, Expenses and Capital Outlays, interest on Maturing Debt and other charges for various departments as recommended for purposes set forth in Appendix A as attached to these Town Manager's Recommended Motions for the 2008 Annual Town Meeting and Appendix B of the Warrant for the 2008 Annual Town Warrant, a copy of which Appendices are incorporated here by reference, and to meet the appropriation, the following transfers are made:

\$3,438,543	from Water Revenue
\$1,021,448	from Sewer Revenue
\$ 250,000	from Free Cash (Surplus Revenue)
\$ 75,000	from Overlay Surplus
\$ 60,894	from School Construction Surplus Fund
\$ 160,000	from Sewer Stabilization Fund
\$ 60,000	from Pension Reserve
\$ 11,645	from Waterways Fund
\$ 5,000	from Wetlands Fund

And \$31,291,933 is raised from taxation and other general revenues of the Town; and further that the Salary Rate and Schedule as printed in the Warrant and shown in Appendix B be adopted.

A 2/3 vote is required. Motion adopted unanimously.

Article 4: Union Contracts & Other Salary Adjustments

To see if the Town will vote to raise and appropriate borrow pursuant to any applicable statute, and/or transfer from available funds, a sum or sums of money, to be expended by the Town Manager, to fund the FY09 cost items of a collective bargaining agreement between the Town, represented by the Board of Selectmen, and the Fire Department employees represented by Local 2804, Cohasset Permanent Firefighters, Police Department employees represented by the New England Police Benevolent Association, Inc. Local 9000, the Library employees represented by SEIU Local 888, Clerical employees represented by SEIU Local 888, and Public Safety Dispatch employees represented by Teamsters Local Union No. 25 in accordance with Chapter 150E of the General laws, and to fund salary adjustments for non-union and employees with individual employment contracts, or take any other action related thereto.

MOVED that the article be indefinitely postponed.

Motion adopted.

Article 5: Capital Improvements Budget

To see if the Town will vote to raise and appropriate, transfer from available funds or borrow pursuant to any applicable statute, a sum of money to fund various capital improvements, capital projects and/or capital equipment for the various departments, boards, commissions and agencies of the town, or take any other action related thereto.

MOVED that Fifty Thousand Dollars (\$50,000) be transferred from Free Cash (Surplus Revenue) to be expended by the Town Manager for purpose of funding engineering design services for the West Corner Culvert Replacement Project.

Motion adopted unanimously.

Article 6: Community Preservation Committee

To see if the Town will vote to adopt and approve the recommendations of the Community Preservation Committee for Fiscal Year 2009, and to see if the Town will vote to implement such recommendations by appropriating a sum or sums of money from the Community Preservation Fund established pursuant to Chapter 44B of the General Laws, and by authorizing the Board of Selectmen, with the approval of the Community Preservation Committee to acquire, by purchase, gift or eminent domain such real property interests in the name of the Town, or enforceable by the Town, including real property interests in the form of permanent affordable housing restrictions and historical preservation restrictions that will meet the requirements of Chapter 184 of the General Laws, as may be necessary or proper to carry out the foregoing, or to take any action related thereto.²

Recommendation A: Sub Account Allocations

That Fiscal Year 2009 revenues to the Community Preservation Fund be divided to the following sub accounts to be administered by the Community Preservation Committee as follows:

Historical Resources Sub Account (10%)	\$ 50,000
Open Space Sub Account (10%)	\$ 50,000
Community Housing Sub Account (10%)	<u>\$ 50,000</u>
Total Budget	\$150,000

Recommendation B. Town Hall Restoration

That Three Hundred Thousand Dollars (\$300,000) be transferred from the Community Preservation Fund Discretionary Sub Account with the intention that these funds be available in FY 2008 and thereafter, which funds are to be expended by the Town Manager, for the purposes of rehabilitation and preservation to the exterior of the antique portion of Town Hall, including but not limited the restoration of the windows, gutters, downspouts, clapboard chimney, acquisition of storm windows, and other related work. All work must comply with the requirements of the Community Preservation Act (G.L. ch. 44B, section 2 “rehabilitation” or any other applicable law).

Recommendation C. Stormwater Management

That Eighty-Eight Thousand Five Hundred Dollars (\$88,500) be transferred from the Community Preservation Fund Discretionary Sub Account with the intention that these funds be available in FY 2008 and thereafter, which funds are to be expended by the Town Manager, for the purposes of designing, installing and constructing of Stormwater Best Management Practice controls within the James Brook watershed that are needed to reduce the impacts of stormwater pollution affecting James Brook, Jacobs Meadow, Cohasset Cove and Cohasset Harbor including, but not limited to, ten locations within a quarter mile radius of Jacobs Meadow on Elm Street, Pleasant Street & Cushing Road, Norfolk Road & Cushing Road, South Main Street, North Main Street & Robert Jason Road, Oak Street & Cushing Road, Cove Road, Pond Street & Cushing Road, Ash Street & Cushing Road, Ripley Road, near Pratt Court and other related work. This project is necessary to preserve James, Brook, Jacobs Meadow, Cohasset Cove, and Cohasset Harbor from destruction.

Recommendation D. Housing Perc Tests

That Twenty Thousand Dollars (\$20,000) be transferred from the Community Preservation Fund Housing Resources Sub Account with the intention that these funds be available in FY 2008 and thereafter, which funds are to be expended by the Town Manager for the purposes of performing percolation tests and other related engineering work/studies to determine whether land owned by the Town situated off Smith Place and Pleasant Lane is suitable for development.

Recommendation E. Historical Society

That Fifty One Thousand Seven Hundred Dollars (\$51,700) be transferred from the Community Preservation Fund Historical Resources Sub Account with the intention that these funds be available in FY 2008 and thereafter, which funds are to be expended by the Town Manager, for the purposes of rehabilitation and restoration of the Cohasset Historical Society's (former) Paul Pratt Memorial Library to rehabilitate the cupola windows, Front door and loggia, and Rotunda glass dome, installation of ultra-violet filtered Plexiglas inserts at each window of the Cohasset historical Society's Wilson House and Cohasset Historical Society's Maritime Museum, and the acquisition and installation of textile storage racks for the purpose of preserving the Cohasset Historical Society's archives including textiles and other artifacts all other related work, provided, however, that the Board of Selectmen be hereby authorized to acquire in return for such sum a historic preservation restriction in compliance with Chapter 184 of the General Laws and the specific work items be performed with the prior approval of the Community Preservation Committee before performing any of the work and/or contracting for services. All work to (former) Paul Pratt Memorial Library, Wilson House and Maritime Museum must comply with the requirements of the Community Preservation Act (G.L. ch. 44B, section 2 "rehabilitation" or any other applicable law).

Recommendation F. Water Department

That Twenty Five Thousand Dollars (\$25,000) be transferred from the Community Preservation Fund Open Space Account and One Hundred Fifty Thousand (\$150,000) Dollars from the Community Preservation Discretionary Sub Account, for a total of One Hundred Seventy-Five Thousand (\$175,000) Dollars, with the intention that these funds be available in FY 2008 and thereafter, which funds are to be expended by the Town Manager to acquire by purchase, gift or eminent domain the following parcel of land found on Assessor's Map Parcel 66-7 (20.43 acres) (described by deed recorded in Norfolk County Registry of Deeds in Book 5244 at Page 104. Said property is to be acquired in fee simple title for watershed, open space and recreation purposes. The parcel is the last of 15 parcels authorized by the Annual Town Meeting March 27, 2004, Article 13. The assemblage of land for open space and watershed protection came to be known as the Brass Kettle Brook Conservation Area. The town is authorized to grant a conservation restriction to the Trustees of Reservations requiring that this land be used only for watershed, open space and recreation purposes.

Recommendation G. Town Clerk

That Ten Thousand Dollars (\$10,000) be transferred from the Community Preservation Fund Historical Resources Sub Account and Forty Thousand Dollars (\$40,000) transferred from the Community Preservation Fund Discretionary Sub Account for a total of Fifty Thousand Dollars (\$50,000) with the intention that these funds be available in FY 2008 and thereafter, which funds are to be expended by the Town Manager, for the purposes of preserving and making various restorative improvements to the Town Clerk's ancient records and vital statistics.

Recommendation H. Harbor Health Committee

That Thirty-Five Thousand Dollars (\$35,000) be transferred from the Community Preservation Fund Discretionary Sub Account with the intention that these funds be available in Fiscal 2008 and thereafter, which funds are to be expended by the Town Manager for the purposes of constructing/restoring the culvert running between the Gulf River and Cohasset Harbor and other related costs, which project is necessary to preserve the Cohasset Harbor, Cohasset Cove and the Gulf River from destruction. Notwithstanding the above, the Harbor Health Committee and or the Conservation Commission must, prior to December 31, 2009, demonstrate to the Town Manager's satisfaction, that it has raised all additional money necessary for completing this project. If the Harbor Health Committee and/or the Conservation Commission fail to receive the Town Manager's endorsement that all such funds are in place by that date, then this appropriation shall expire and the money appropriated herein will return to the Community Preservation Fund Discretionary Sub Account.

Recommendation I. American Legion

That Twenty Thousand Dollars (\$20,000) be transferred from the Community Preservation Fund Discretionary Sub Account with the intention that these funds be available in Fiscal 2008 and thereafter, which funds are to be expended by the Town Manager for the purposes of installing a fire sprinkler system, and other related work to the American Legion George H. Mealy Post 118, which is a historical built circa 1850 known as the "Guild Building" or "Legion Hall" and which formerly housed the U.S. Customs and Immigration Service for the Port of Cohasset during the 1800's. Notwithstanding the above, the American Legion must, prior to December 31, 2009, demonstrate to the Town Manager's satisfaction, that it has raised all additional money necessary for completing the this project before any work may commence on this project. If the American Legion fails to receive the Town Manager's endorsement that all such funds are in place by that date, then this appropriation shall expire and the money appropriated herein will return to the Community Preservation Fund Discretionary Sub Account. The project will be supervised by the Town Manager. The American Legion must receive the Town Manager's pre-approval before performing any work item and/or entering into any contract(s) for the work. Invoices for all work performed shall be submitted to the Town Manager for his approval and subject to his inspection (or that of his agents) of the work performed. All payment shall be made by the Town directly to the vendor.

Recommendation J. Harbor Study

That Twenty Thousand Dollars (\$20,000) be transferred from the Community Preservation Fund Discretionary Sub Account with the intention that these funds be available in Fiscal 2008 and thereafter, which funds are to be expended by the Town Manager, for the purposes paying a portion of the costs for retaining a municipal planner to prepare a concept plan for the future uses of Cohasset Harbor and the land surrounding it. The plan will focus on opportunities for open space, public access to the harbor, community housing, historical preservation, economic viability and include a build out analysis and recommendations for potential zoning changes.

Recommendation K. Debt Service Payment

That Thirty-Eight Thousand Four Hundred Seventy Nine Dollars (\$38,479) be transferred from the Community Preservation Fund Discretionary Sub Account to be expended by the Town Manager for payment of debt service for the project approved under Article 12 (Recommendation E) of the 2004 annual town meeting (open space land acquisition).

Moved to vote the appropriation as recommended by the Community Preservation Committee as set forth in Appendix D of the warrant shown as recommendations A through I, and K. Recommendation J was withdrawn.

Motion adopted unanimously.

Article 7: Unpaid Bills from Previous Years

To see if the Town will vote to raise and appropriate, transfer from available funds, and/or borrow, pursuant to any applicable statute, a sum or sums of money, to be expended by the Town Manager, to pay for unpaid bills from previous fiscal years, or to take any other action related thereto.

MOVED that the article be indefinitely postponed.

Motion adopted unanimously.

Article 8: Supplemental Appropriations for Fiscal 2008

To see if the Town will vote to raise and appropriate, borrow pursuant to any applicable statute and/or transfer from available funds, a sum or sums of money, to be expended by the Town Manager, needed by various departmental budgets and appropriations to complete the fiscal year ending June 30, 2008, or to take any other action related thereto.

MOVED that One Hundred Seventy Five Thousand Dollars (\$175,000), be hereby appropriated to the Fiscal 2008 budgetary items set forth below amending the amounts appropriated by the Town pursuant to Article 3 of the 2006 Annual Town Meeting (which appropriations may have been amended at the November 13, 2007 Special Town Meeting), which funds after transfer are to be expended by the Town Manager, to supplement certain departmental budgets and appropriations set forth below to complete the fiscal year ending June 30, 2008, as follows.

Transfer Funds to:

Legal Services Budget	\$ 75,000	Legal Services
Planning Board General Expenses	\$ 10,000	Zoning Bylaw Recodification
Police Department Salaries	\$ 80,000	Overtime
Facilities Maintenance Salaries	\$ 10,000	Overtime

TOTAL AMOUNT TRANSFERRED \$ 175,000

And to fund this appropriation, One Hundred Seventy Five Thousand Dollars (\$175,000) be transferred from Free Cash (Surplus Revenue).

Motion adopted.

Article 9: Capital Stabilization Fund

To see if the Town will vote to create a Capital Stabilization Fund pursuant to Chapter 40, Section 5B of the General Laws for the purpose of funding various capital improvements, capital projects and/or capital equipment for the various departments, boards, commissions and agencies of the town; and to raise and appropriate, transfer from available funds and/or borrow pursuant to any applicable statute a sum of money to be deposited into said Capital Stabilization Fund, any other action related thereto.

MOVED that a Capital Stabilization Fund be hereby established in the treasury of the town pursuant to Chapter 40, Section 5B of the General Laws beginning July 1, 2008 and continuing thereafter, for the purpose of funding various capital improvements, capital projects and/or capital equipment for the various departments, boards, commissions and agencies of the town; and further that the sum of Two Hundred Fifty Thousand Dollars (\$250,000) be hereby appropriated for deposit into the Capital Stabilization Fund; and to meet this appropriation, One Hundred Twenty Five Thousand Dollars (\$125,000) be raised and appropriated from taxation and other general revenues of the Town and One Hundred Twenty Five Thousand Dollars (\$125,000) be transferred from Free Cash (Surplus Revenue) in the treasury of the town.

A 2/3 vote required. Motion adopted unanimously.

Article 10: Post-Retirement Health Insurance Liability Stabilization Fund

To see if the Town will vote to create a Post-Retirement Health Insurance Liability Stabilization Fund pursuant to Chapter 40, Section 5B of the General Laws for the purpose of funding health insurance expenses for future retired town employees, and to raise and appropriate, transfer from available funds and/or borrow pursuant to any applicable statute a sum of money to be deposited into said Post-Retirement Health Insurance Liability Stabilization Fund, or take any other action related thereto.

MOVED that a Post-Retirement Health Insurance Liability Stabilization Fund be hereby established in the treasury of the town pursuant to Chapter 40, Section 5B of the General Laws beginning July 1, 2008 and continuing thereafter for the purpose of funding health insurance expenses for future retired town employees, and that the sum of One Hundred Thousand Dollars (\$100,000) be hereby appropriated for deposit into the Post-Retirement Health Insurance Liability Stabilization Fund; and to meet this appropriation, the sum of One Hundred Thousand Dollars (\$100,000) be transferred from the Health Insurance budget approved for Fiscal 2008 as appropriated under Article 3 of the 2007 Annual Town Meeting.

A 2/3 vote required. Motion adopted unanimously.

Article 11: Amendments to Personnel Classification and Compensation Plan Bylaw

To see if the Town will vote to amend Article XI (Personnel Classification and Compensation Plan), Section 6 (Fringe Benefits), said amendments on file in the Office of the Board of Selectmen, or take any other action related thereto.

MOVED that General Bylaws, Article XI, Personnel Classification and Compensation Plan be hereby amended as follows:

Section 6(a) Vacation Leave is hereby amended by deleting the words "Upon completion of ten (10) years of service – four (4) weeks/year" and adding the following at the end of the first paragraph: "From ten (10) years to nineteen (19) years of service – four (4) weeks/year. Upon completion of twenty (20) years of service – five (5) weeks/year.

Section 6 (c) is hereby amended by substituting the words "two (2) days" for the words "one (1) day" in the first sentence.

Motion adopted unanimously.

Article 12: Amendment to Smoking Bylaw

To see if the Town will vote to amend the General Bylaws, Article VII, Safety and Public Order, Section 33, Smoking Bylaw, as follows, by amending Section 33.(b)v. by inserting in the fifth line after "libraries;" the following: "membership association;"

and by inserting the following new Section 33.(b)v. and renumbering existing Sections 33.(b)v. through xii. accordingly:

v. Membership Association", a not-for-profit entity that has been established and operates, for a charitable, philanthropic, civic, social, benevolent, educational, religious, athletic, recreation or similar purpose, and is comprised of members who collectively belong to:

(1) a society, organization or association of a fraternal nature that operates under the lodge system, and having 1 or more affiliated chapters or branches incorporated in any state; or

(2) a corporation organized under chapter 180 ; or

(3) an established religious place of worship or instruction in the commonwealth whose real or personal property is exempt from taxation; or

(4) a veterans' organization incorporated or chartered by the Congress of the United States, or otherwise, having 1 or more affiliated chapters or branches incorporated in any state.

(5) Except for a religious place of worship or instruction, an entity shall not be a membership association for the purposes of this definition, unless individual membership is required for all members of the association for a period of not less than 90 days. or take any other action related thereto.

MOVED that this article be indefinitely postponed.

Motion adopted unanimously.

Article 13: South Shore Recycling Cooperative Memorandum of Agreement

To see if the Town will vote to authorize the Board of Selectmen to enter into a five year extension of the Intermunicipal Agreement relative to the South Shore Recycling Cooperative, effective July 1, 2008, or take any other action related thereto.

MOVED that the Town the Board of Selectmen be hereby authorized to enter into a five year extension of the Intermunicipal Agreement relative to the South Shore Recycling Cooperative, effective July 1, 2008. thereto.

Motion adopted unanimously.

Commendation offered by Ralph Dormitzer for Gary Vanderweil.

COMMENDATION

WHEREAS, Gary Vanderweil previously served 18 years as a member of the Cohasset Sewer Commission, including 5 years as Chairman; and

WHEREAS, Gary Vanderweil was elected to the Board of Selectmen in 2005 and has served with honor and distinction over the past three years, including the past year as Chairman of the Board; and

WHEREAS, as a member of the Board of Selectmen, **Gary Vanderweil** has brought great wisdom to the many issues that face our community; and

WHEREAS, as Chairman of the Board of Selectman, **Gary Vanderweil** has helped the Board discharge its responsibilities in a very effective and efficient manner; and

WHEREAS, such dedication and service to the Town can not come without great sacrifice to personal matters and family life;

WHEREAS, the Board of Selectmen now recommends this Unanimous Motion for Commendation to **Gary Vanderweil:**

NOW THEREFORE BE IT RESOLVED that the Citizens of Cohasset, assembled at Annual Town Meeting hereby acknowledge and affirm their appreciation to Selectman Gary Vanderweil for his many years of dedicated service to the Town of Cohasset.

GIVEN under our hands and the seal of the **TOWN OF COHASSET** on this twenty ninth day of March in the year Two Thousand Eight.

Commendation adopted unanimously.

Article 14: Zoning Bylaw Amendment: Wind Energy Conversion Facility Bylaw

To see if the town will vote to amend the zoning bylaws by adding a new Section 19: Town of Cohasset Wind Energy Conversion Facility Bylaw to read as follows:

19.1 Purpose and Intent

It is the express purpose of this bylaw to accommodate large distributed generation, wind energy conversion facilities, hereinafter referred to as a wind turbine(s), in appropriate locations, while minimizing any adverse visual, safety and environmental impacts of the facilities. The bylaw enables the review of wind turbines by the town's Planning Board in keeping with the Town's existing bylaws. This bylaw is intended to be used in conjunction with other regulations adopted by the Town, including historic district regulations, site plan review and other local bylaws designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in Cohasset.

19.2. Definitions

Height: The height of a turbine(s) is measured to the highest point reached by the blades. The height of the tower will be measured to the top of the nacelle.

Nacelle: The frame and housing at the top of the tower that encloses the gearbox and generators and protects them from the weather.

Rotor: The blades and hub of the wind turbine(s) that rotate during turbine operation.

Set Back: The base of the tower to the nearest lot line.

Size: Only wind turbines greater than 500 kilowatts are covered by this Bylaw

Special Permit Granting Authority (SPGA): Board designated by zoning ordinance or bylaw with the authority to issue permits.

Wind energy conversion facility: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, all transmission, storage, collection and supply equipment, substations, transformers, site access, service roads and machinery associated with the use. A wind energy conversion facility may consist of one or more wind turbines.

Wind Turbine Flickering: The blinking effect while the rotor is in motion. Attention will be paid to siting the wind turbine(s) to reduce significant flickering.

Wind Monitoring or Meteorological (“test” or “met”) Towers: Tower used for supporting anemometer, wind vane and other equipment to assess the wind resource at a predetermined height above the ground.

Wind turbine: A device that converts kinetic energy of the wind into rotational energy to turn an electrical generator shaft. A wind turbine typically consists of a rotor, nacelle and supporting tower.

19.3 District Regulations

19.3.1 Use Regulations:

19.3.1 Wind Turbine

The construction of any wind turbine under this Bylaw shall be permitted in all zoning districts, subject to issuance of a Special Permit and provided the proposed use complies with all Dimensional and Special Permit Requirements set forth in Sections 19.3 and 19.4 of this bylaw.

19.3.1.2. Wind Monitoring or Meteorological Towers

Temporary erection of Wind Monitoring or Meteorological Towers shall be permitted in all zoning districts subject to the issuance of a building permit for a temporary structure for not more than eighteen months.

19.3.2 Site Control

The applicant shall submit with the application documentation of the applicant's legal right to install and use the proposed facility at the subject property. Documentation should also include proof of control over the setback areas.

19.3.3 Dimensional Requirements

All wind turbines shall comply with the requirements set forth in this Section 19.3.3.

19.3.3.1 Height

Wind turbines shall have a maximum height of 350-feet, as measured from the Pre-Construction Grade to the highest point reached by the nacelle. The SPGA may allow this height to be exceeded as part of the special permit process if the project proponent can demonstrate that the additional height is needed and that the additional benefits of the higher tower outweigh any adverse impacts. Monopole towers are the preferred type of support for wind turbines.

19.3.3.2 Setback

- a) Each wind energy conversion facility and its associated equipment shall comply with the building setback provisions of the zoning district in which the facility is located.
- b) In addition, the following setbacks shall be observed:
 1. In order to ensure public safety and to protect the interest of neighboring property owners, the minimum distance from the base of any wind turbine tower to any property line in a residential district, shall be equal to the total height of the turbine to the highest point.

19.4 Special Permit Criteria

The SPGA may grant a Special Permit only if it finds that the proposal complies with the provisions of this bylaw and is consistent with the applicable criteria for granting Special Permits.

19.4.1 General

Proposed wind turbine(s) shall comply with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements.

19.4.1.1 Visual Impact

The proponent shall demonstrate through project siting and proposed mitigation that the wind turbine minimizes any impact on the visual character of surrounding neighborhoods and the community; this may include, without limitation, information regarding site selection, turbine design, buffering, lighting and cable layout.

19.4.1.2. Color

Wind turbine(s) shall be painted a non-reflective color.

19.4.1.3. Lighting and Signage

Wind turbine(s) shall be lighted only if required by the Federal Aviation Administration (FAA). The proponent shall provide a copy of the FAA's determination to establish the required marking and /or lights for the structure.

- a) Lighting of equipment structures and any other facilities on site (except lighting) required by the FAA shall be shielded from abutting properties.
- b) Signs on the facility shall be limited to:
 1. those needed to identify the property and the owner and warn of any danger; and,
 2. educational signs providing information on the technology and renewable energy usage.

- c) All signs shall comply with the requirements of the Town's sign regulations unless relief is granted by the S.P.G.A.

19.4.2.1 Land Clearing/Open Space/Rare Species

Wind turbines shall be designed to minimize land clearing and fragmentation of open space areas and shall avoid permanently protected open space when feasible. Wind turbines should be sited to make use of previously developed areas wherever possible. Wind turbines facilities shall also be located in a manner that does not have significant negative impacts on rare species in the vicinity (particularly avian species, bats, etc.) as may be applicable law.

19.4.2.2. Storm water

Storm water run-off and erosion control shall be managed in a manner consistent with all applicable state and local law.

19.4.2.3 Noise

The wind turbine and associated equipment shall conform with Massachusetts noise regulations (310 CMR 7.10). An analysis prepared by a qualified engineer shall be presented to demonstrate compliance with these noise standards and shall be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.

19.4.2.4. Shadowing/Flicker

Wind turbines shall be sited in a manner that does not result in significant shadowing or flicker impacts. Applicant must demonstrate that this effect does not have significant adverse impact on adjacent uses through siting.

19.5 Uses by Telecommunications Carriers

Wind turbines may be used to locate telecommunications antennas, subject to applicable law governing such uses and structures, and subject to the following additional requirements:

- a) All ground-mounted telecommunications equipment shall be located in either a shelter, within the wind turbine tower or otherwise screened from view year-round(either through effective landscaping or existing natural vegetated buffers);
- b) Antennas shall be flush-mounted to be in keeping with the design of the wind turbine tower; and;
- c) All cabling associated with the personal wireless facility shall be contained within the tower structure or enclosed within a conduit painted to match the turbine mount.

19.6 Monitoring and Maintenance

19.6.1 After the wind turbine is operational, the applicant shall submit to the SPGA at annual intervals from the date of issuance of the Special Permit, a report detailing operating data for the facility (including but not limited to days of operation, energy production in accordance with the special permit conditions)

19.6.2 The applicant shall maintain the wind energy conversion facility in good condition. Such maintenance shall include, without limitations, painting, structural integrity of the foundation and support structure and security barrier (if applicable), and maintenance of the buffer areas and landscaping if present.

19.6.3 Notice shall be provided to the SPGA of any change in ownership of the facility.

19.7 Abandonment or Discontinuation of Use

- 19.7.1** Within six months that a wind turbine(s) is scheduled to be discontinued, the applicant will notify the SPGA by certified U.S. mail of the proposed date of abandonment or discontinuance of operations. In the event that an applicant fails to give such notice, the facility shall be considered abandoned or discontinued if the facility is inoperable for 190 days. In the case of a multi-turbine facility, the SPGA shall determine in its decision what proportion of the facility would be inoperable for the facility to be considered abandoned.
- 19.7.2** Upon abandonment or discontinuation of use, the owner shall physically remove the wind turbine(s) within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the SPGA." Physically remove" shall include, but not be limited to:
- a) Removal of the wind turbine(s) and tower(s), all machinery, equipment, equipment shelters, security barriers and all appurtenant structures from the subject property.
 - b) Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local and state solid waste disposal regulations,
 - c) Restoration of the location of the wind turbine(s) to its natural condition, except that any landscaping, grading or below grade foundation may remain in the after-condition.
- 19.7.3** If an applicant fails to remove a wind turbine in accordance with this section of this bylaw, the Town shall have the authority to enter the subject property and physically remove the facility. The SPGA may in its decision provide a form of surety (i.e. post a bond, letter of credit or establish an escrow account or other) at the SPGA's election to cover costs of removal in the event the town must remove the facility. The amount of such surety shall be equal to 150 percent of the cost of removal of the facility as determined by a qualified engineer. The amount shall include a mechanism for a Cost of Living Adjustment after 10 and 15 years.

19.8 Terms of Special Permit

A Special Permit issued for any wind turbine(s) facility shall be valid for 25 years unless extended or renewed. At the end of that time period, the wind turbine(s) shall be removed by the applicant.

19.9 Application Procedures

19.9.1 Special Permit Granting Authority (SPGA)

The SPGA for wind energy conversion facilities, also referred to as Wind Turbine(s) is this bylaw shall be the Planning Board.

Or, take any other action related thereto.

MOVED that the town vote to amend the zoning bylaws by adding a new Section 19: Town of Cohasset Wind Energy Conversion Facility Bylaw to read as follows:

19.1 Purpose and Intent

It is the express purpose of this bylaw to accommodate large distributed generation, wind energy conversion facilities, hereinafter referred to as a wind turbine(s), in appropriate locations, while minimizing any adverse visual, safety and environmental impacts of the facilities. The bylaw enables the review of wind turbines by the town's Planning Board in keeping with the Town's existing bylaws. This bylaw is intended to be used in conjunction with other regulations adopted by the Town, including historic district regulations, site plan review and other local bylaws designed to encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in Cohasset.

19.2. Definitions

Height: The height of a turbine(s) is measured to the highest point reached by the blades. The height of the tower will be measured to the top of the nacelle.

Nacelle: The frame and housing at the top of the tower that encloses the gearbox and generators and protects them from the weather.

Rotor: The blades and hub of the wind turbine(s) that rotate during turbine operation.

Set Back: The base of the tower to the nearest lot line.

Size: Only wind turbines greater than 500 kilowatts are covered by this Bylaw

Special Permit Granting Authority (SPGA): Board designated by zoning ordinance or bylaw with the authority to issue permits.

Wind energy conversion facility: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, all transmission, storage, collection and supply equipment, substations, transformers, site access, service roads and machinery associated with the use. A wind energy conversion facility may consist of one or more wind turbines.

Wind Turbine Flickering: The blinking effect while the rotor is in motion. Attention will be paid to siting the wind turbine(s) to reduce significant flickering.

Wind Monitoring or Meteorological ("test" or "met ") Towers: Tower used for supporting anemometer, wind vane and other equipment to assess the wind resource at a predetermined height above the ground.

Wind turbine: A device that converts kinetic energy of the wind into rotational energy to turn an electrical generator shaft. A wind turbine typically consists of a rotor, nacelle and supporting tower.

19.3 District Regulations

19.3.1 Use Regulations:

19.3.1 Wind Turbine

The construction of any wind turbine under this Bylaw shall be permitted in all zoning districts, subject to issuance of a Special Permit and provided the proposed use complies with all Dimensional and Special Permit Requirements set forth in Sections 19.3 and 19.4 of this bylaw.

19.3.1.2. Wind Monitoring or Meteorological Towers

Temporary erection of Wind Monitoring or Meteorological Towers shall be permitted in all zoning districts subject to the issuance of a building permit for a temporary structure for not more than eighteen months.

19.3.2 Site Control

The applicant shall submit with the application documentation of the applicant's legal right to install and use the proposed facility at the subject property. Documentation should also include proof of control over the setback areas.

19.3.3 Dimensional Requirements

All wind turbines shall comply with the requirements set forth in this Section 19.3.3.

19.3.3.1 Height

Wind turbines shall have a maximum height of 350-feet, as measured from the Pre-Construction Grade to the highest point reached by the nacelle. The SPGA may allow this height to be exceeded as part of the special permit process if the project proponent can demonstrate that the additional height is needed and that the additional benefits of the higher tower outweigh any adverse impacts. Monopole towers are the preferred type of support for wind turbines.

19.3.3.2 Setback

- a) Each wind energy conversion facility and its associated equipment shall comply with the building setback provisions of the zoning district in which the facility is located.
- b) In addition, the following setbacks shall be observed:
 1. In order to ensure public safety and to protect the interest of neighboring property owners, the minimum distance from the base of any wind turbine tower to any property line in a residential district, shall be equal to the total height of the turbine to the highest point.

19.4 Special Permit Criteria

The SPGA may grant a Special Permit only if it finds that the proposal complies with the provisions of this bylaw and is consistent with the applicable criteria for granting Special Permits.

19.4.1 General

Proposed wind turbine(s) shall comply with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements.

19.4.1.1 Visual Impact

The proponent shall demonstrate through project siting and proposed mitigation that the wind turbine minimizes any impact on the visual character of surrounding neighborhoods and the community; this may include, without limitation, information regarding site selection, turbine design, buffering, lighting and cable layout.

19.4.1.2. Color

Wind turbine(s) shall be painted a non-reflective color.

19.4.1.3. Lighting and Signage

Wind turbine(s) shall be lighted only if required by the Federal Aviation Administration (FAA). The proponent shall provide a copy of the FAA's determination to establish the required marking and /or lights for the structure.

- d) Lighting of equipment structures and any other facilities on site (except lighting) required by the FAA shall be shielded from abutting properties.
- e) Signs on the facility shall be limited to:
 - 1. those needed to identify the property and the owner and warn of any danger; and,
 - 2. educational signs providing information on the technology and renewable energy usage.
- f) All signs shall comply with the requirements of the Town's sign regulations unless relief is granted by the S.P.G.A.

19.4.2.1 Land Clearing/Open Space/Rare Species

Wind turbines shall be designed to minimize land clearing and fragmentation of open space areas and shall avoid permanently protected open space when feasible. Wind turbines should be sited to make use of previously developed areas wherever possible. Wind turbine facilities shall also be located in a manner that does not have significant negative impacts on rare species in the vicinity (particularly avian species, bats, etc.) as may be applicable law.

19.4.2.2. Storm water

Storm water run-off and erosion control shall be managed in a manner consistent with all applicable state and local law.

19.4.2.3 Noise

The wind turbine and associated equipment shall conform with Massachusetts noise regulations (310 CMR 7.10). An analysis prepared by a qualified engineer shall be presented to demonstrate compliance with these noise standards and shall be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.

19.4.2.4. Shadowing/Flicker

Wind turbines shall be sited in a manner that does not result in significant shadowing or flicker impacts. Applicant must demonstrate that this effect does not have significant adverse impact on adjacent uses through siting.

19.5 Uses by Telecommunications Carriers

Wind turbines may be used to locate telecommunications antennas, subject to applicable law governing such uses and structures, and subject to the following additional requirements:

- d) All ground-mounted telecommunications equipment shall be located in either a shelter, within the wind turbine tower or otherwise screened from view year-round(either through effective landscaping or existing natural vegetated buffers);
- e) Antennas shall be flush-mounted to be in keeping with the design of the wind turbine tower; and;

- f) All cabling associated with the personal wireless facility shall be contained within the tower structure or enclosed within a conduit painted to match the turbine mount.

19.6 Monitoring and Maintenance

19.6.1 After the wind turbine is operational, the applicant shall submit to the SPGA at annual intervals from the date of issuance of the Special Permit, a report detailing operating data for the facility (including but not limited to days of operation, energy production in accordance with the special permit conditions)

19.6.2 The applicant shall maintain the wind energy conversion facility in good condition. Such maintenance shall include, without limitations, painting, structural integrity of the foundation and support structure and security barrier (if applicable), and maintenance of the buffer areas and landscaping if present.

19.6.3 Notice shall be provided to the SPGA of any change in ownership of the facility.

19.7 Abandonment or Discontinuation of Use

19.7.1 Within six months that a wind turbine(s) is scheduled to be discontinued, the applicant will notify the SPGA by certified U.S. mail of the proposed date of abandonment or discontinuance of operations. In the event that an applicant fails to give such notice, the facility shall be considered abandoned or discontinued if the facility is inoperable for 190 days. In the case of a multi-turbine facility, the SPGA shall determine in its decision what proportion of the facility would be inoperable for the facility to be considered abandoned.

19.7.2 Upon abandonment or discontinuation of use, the owner shall physically remove the wind turbine(s) within 90 days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the SPGA." Physically remove" shall include, but not be limited to:

- d) Removal of the wind turbine(s) and tower(s), all machinery, equipment, equipment shelters, security barriers and all appurtenant structures from the subject property.
- e) Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local and state solid waste disposal regulations,
- f) Restoration of the location of the wind turbine(s) to its natural condition, except that any landscaping, grading or below grade foundation may remain in the after-condition.

19.7.3 If an applicant fails to remove a wind turbine in accordance with this section of this bylaw, the Town shall have the authority to enter the subject property and physically remove the facility. The SPGA may in its decision provide a form of surety (i.e. post a bond, letter of credit or establish an escrow account or other) at the SPGA's election to cover costs of removal in the event the town must remove the facility. The amount of such surety shall be equal to 150 percent of the cost of removal of the facility as determined by a qualified engineer. The amount shall include a mechanism for a Cost of Living Adjustment after 10 and 15 years.

19.8 Terms of Special Permit

A Special Permit issued for any wind turbine(s) facility shall be valid for 25 years unless extended or renewed. At the end of that time period, the wind turbine(s) shall be removed by the applicant.

19.9 Application Procedures

19.9.1 Special Permit Granting Authority (SPGA)

The SPGA for wind energy conversion facilities, also referred to as Wind Turbine(s) is this bylaw shall be the Planning Board.

Planning Board recommends passage of this article.

A 2/3's vote required. Motion adopted unanimously.

Article 15: Zoning Bylaw Amendment – Section 4.2 Permitted Uses – Table of Use Regulations

To see if the Town will vote to amend Section 4.2, "Permitted Uses, Table of Use Regulations", of the Zoning Bylaws to indicate that Wind Energy Conversion Facilities are allowed in all zoning districts by special permit issued by the Planning Board (SPP) by inserting the following after "Helicopter landing area and commercial communication towers" under the heading "Retail & Service:"

USE	Residential			Non-Residential					Office & Open Space District
	R-A	R-B	R-C	DB	WB	HB	TB	LI	OS
Wind energy conversion facility	SPP	SPP	SPP	SPP	SPP	SPP	SPP	SPP	SPP

Or take any other action related thereto.

MOVED that the Town vote to amend Section 4.2, "Permitted Uses, Table of Use Regulations", of the Zoning Bylaws to indicate that Wind Energy Conversion Facilities are allowed in all zoning districts by special permit issued by the Planning Board (SPP) by inserting the following after "Helicopter landing area and commercial communication towers" under the heading "Retail & Service:"

USE	Residential			Non-Residential					Office & Open Space District
	R-A	R-B	R-C	DB	WB	HB	TB	LI	OS
Wind energy conversion facility	SPP	SPP	SPP	SPP	SPP	SPP	SPP	SPP	SPP

Planning Board recommends passage of this article.

A 2/3's vote required. Motion adopted unanimously.

Commendation offered by Robin Lawrence, member of the Board of Health.

COMMENDATION

WHEREAS, Judy Fitzsimmons has served as Cohasset's Public Health Nurse for the past twenty-two years, fifteen years as a contract employee with the Social Service League and the past seven years as a town employee; and

WHEREAS, Judy Fitzsimmons has now retired from her position as Public Health Nurse after many years of dedicated and professional service; and

WHEREAS, during **Judy Fitzsimmons'** tenure as Public Health Nurse, she ran the important vaccine distribution program, diligently pursued communicable disease surveillance and epidemiological follow up while always maintaining patient privacy; and

WHEREAS, **Judy Fitzsimmons** initiated Medicare reimbursement for vaccine administration, making Cohasset one of the first communities in the Commonwealth to receive such reimbursement; and

WHEREAS, as Public Health Nurse, **Judy Fitzsimmons** has been influential in developing the Pandemic Flu Response Plan and other emergency plans; and

WHEREAS, **Judy Fitzsimmons** will be sorely missed by her clients to whom she provided outstanding personalized care; and

WHEREAS, the Board of Health now recommends this Unanimous Motion for Commendation to **Judy Fitzsimmons**:

NOW THEREFORE BE IT RESOLVED that the **Citizens of Cohasset, assembled at the Annual Town Meeting hereby acknowledge and affirm their appreciation to Judy Fitzsimmons for her many years of dedicated service to the Town of Cohasset.**

GIVEN under our hands and the seal of the **TOWN OF COHASSET** on this twenty ninth day of March in the year Two Thousand Eight.

Commendation adopted unanimously.

Article 16: Zoning Bylaw Amendment – Amendment to Section 8

To see if the Town will vote to amend Section 8 of the Zoning Bylaw by:

(a) adding to the end of subsection 8.1 the sentence:

The planning board shall be the special permit granting authority under this section in the VB district and the board of appeals shall be the special permit granting authority under this section in all other districts; and,

(b) replacing the words “board of appeals” where they appear in subsections 8.7, 8.8 and 8.10 with the words “special permit granting authority”.

MOVED that the Town vote to amend Section 8 of the Zoning Bylaw by:

(a) adding to the end of subsection 8.1 the sentence:

The planning board shall be the special permit granting authority under this section in the VB district and the board of appeals shall be the special permit granting authority under this section in all other districts; and,

(b) replacing the words “board of appeals” where they appear in subsections 8.7, 8.8 and 8.10 with the words “special permit granting authority”.

Planning Board recommends passage of this article.

A 2/3's vote required. Motion adopted unanimously.

Article 17: Photovoltaic Array System at Paul Pratt Memorial Library

To see if the Town will vote to raise and appropriate, transfer from available funds or borrow pursuant to any applicable statute a sum of money to be expended by the Town Manager to install a photovoltaic array at the Paul Pratt Memorial Library, or take any other action related thereto.

MOVED that the article be indefinitely postponed.

Motion adopted unanimously.

At this time the Girls Basketball Team was introduced and recognized for winning the State Championship.

Article 18: Sewer Betterment Abatement

To see if the town will vote to raise and appropriate, transfer from available funds or otherwise provide the sum of \$6066.99 for the purpose of returning the sewer betterment assessed and paid for the property located at Map 32 Plot 55, or take any other action relative thereto.

MOVED that Six Thousand Sixty Six Dollars and Ninety Nine Cents (\$6,066.99) be appropriated for the purpose of returning the sewer betterment assessed and paid for the property located at Map 32 Plot 55; and to meet this appropriation, the sum of Six Thousand Sixty Six Dollars and Ninety Nine Cents (\$6,066.99) be transferred from Free Cash (Surplus Revenue) in the treasury of the town.

Motion adopted unanimously.

Commendation offered by Gary Vanderweil for Raymond Kasperowicz.

COMMENDATION

WHEREAS, Raymond Kasperowicz previously served three years as a member of the Advisory Committee; and

WHEREAS, Raymond Kasperowicz previously served three years as a member of the Personnel Committee; and

WHEREAS, Raymond Kasperowicz has served nine years as a member of the Cohasset Sewer Commission, including several years as its Chairman; and

WHEREAS, as a member of the Cohasset Sewer Commission, **Raymond Kasperowicz** discharge his responsibilities with great wisdom, judgment during a period of time where sewer system expansion was debated; and

WHEREAS, Raymond Kasperowicz applied his financial experience and qualifications to decision-making that was always in the interest of the citizens of Cohasset; and

WHEREAS, such dedication and service to the Town can not come without great sacrifice to personal matters and family life;

B. There shall be a board of trustees which shall include seven (7) trustees. The trustees shall be appointed by the Board of Selectmen and shall include one (1) member of the Board of Selectmen and are designated as public agents for purposes of the constitution of the Commonwealth. The initial terms of the trustees shall be staggered as one (1) or two (2) year terms. All terms thereafter shall be for two (2) years.

SECTION 2

A. The powers of the board of trustees shall include the following:

1. to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with the provisions of the Cohasset Zoning By-Law or General By-laws, or any general or special law or any other source, or money from the Community Preservation Act, G.L. Chapter 44B;
2. to accept and receive municipal, school or other public property, subject to a majority vote of Town Meeting to transfer said property to the trust, for the purposes of the trust;
3. to purchase and retain real or personal property for the purposes of the trust, including without restriction investments that yield a high rate of income or no income, and to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate;
4. to manage or improve real property;
5. to sell, lease, exchange, transfer or convey any real property for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to trust property as the board deems advisable, notwithstanding the length of any such lease or contract;
6. to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;
7. to employ and pay reasonable compensation to advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary.
8. to apportion receipts and charges between income and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation, depletion or otherwise;
9. to carry property for accounting purposes at other than acquisition date values;
10. to borrow money on such terms and conditions and from such sources as the trustees deem advisable, to mortgage and pledge trust assets as collateral, subject to approval by a majority vote of the Board of Selectmen .(Any debt issued by the Trust shall not be deemed to constitute a debt or liability of the Town of Cohasset or a pledge of the faith and credit of the Town, but shall be payable solely from the revenues, funds and/or assets of the Trust. Any debt instrument executed by the Trust shall contain on the face thereof a statement to the effect that the Town of Cohasset is not obligated to pay the same or the interest thereof except from revenues, funds and/or assets of the Trust and that neither the faith and credit nor the taxing power of the Town of Cohasset is pledged to the payment of the principal of or the interest on such debt. The issuance of debt by the Trust shall not directly or indirectly or contingently obligate the Town of Cohasset to levy or to pledge any form of taxation whatever therefore or to make any appropriation for their payment);
11. to make distributions or divisions of principal in kind;
12. to defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this Article, to continue to hold the same for such period of time as the board may deem appropriate;
13. to extend the time for payment of any obligation to the trust;

14. to provide grants or loans to assist low- or moderate-income homebuyers to purchase or rehabilitate a dwelling unit in the Town of Cohasset;
15. to convey, through sale, lease or transfer, real property purchased under this act, to any for-profit or non-profit developer or any public agency to provide low- or moderate-income housing, subject to an affordable housing restriction under Section 26 or Sections 31-33 of Chapter 184 of the General Laws;
16. Expenditures for the acquisition or disposition of real property shall be subject to approval by a majority vote of the Board of Selectmen; and
17. in each fiscal year, expenditures from the fund shall be in accordance with an allocation plan approved by the Town at the Annual Town Meeting and upon the recommendation of the trustees, for purposes consistent with this by-law. The allocation plan shall be a general plan for the use of funds during the fiscal year to which the plan applies, and may provide for moneys to be held in reserve for expenditure in later years. The plan may be amended at a Town Meeting upon favorable recommendation of the board of trustees.

SECTION 3

A. As a means of providing available assets for the trust, all moneys received by the Town through the following means shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust:

1. cash payments made by developers to the Town for purposes of creating or preserving affordable housing, under any development agreements or development approvals pursuant to the Cohasset Zoning By-Law;
2. gifts, grants, donations, contributions or other cash payments to the trust for the purpose of providing low- or moderate-income housing;

B. General revenues appropriated into the trust become trust property, and to be expended these funds need not be further appropriated;

C. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board of trustees within one year of the date they were appropriated into the trust, shall remain trust property;

D. The trust is exempt from G.L. Chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any political subdivision thereof; and

E. The books and records of the trust shall be reviewed annually by an independent auditor in accordance with accepted accounting practices.

SECTION 4

As used in this act, the term “low or moderate income housing” shall mean “low income housing” or “moderate income housing” as defined in Section 2 of Chapter 44B of the General Laws.

SECTION 5

The Town Treasurer shall be the custodian of the trust’s funds. Any income or proceeds received from the investment of funds shall be credited to and become part of the fund.

SECTION 6

A. The trust is a governmental body for purposes of Sections 23A, 23B and 23C of Chapter 39 of the General Laws.

3. to purchase and retain real or personal property for the purposes of the trust, including without restriction investments that yield a high rate of income or no income, and to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate;
4. to manage or improve real property;
5. to sell, lease, exchange, transfer or convey any real property for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to trust property as the board deems advisable, notwithstanding the length of any such lease or contract;
6. to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;
7. to employ and pay reasonable compensation to advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary.
8. to apportion receipts and charges between income and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation, depletion or otherwise;
9. to carry property for accounting purposes at other than acquisition date values;
10. to borrow money on such terms and conditions and from such sources as the trustees deem advisable, to mortgage and pledge trust assets as collateral, subject to approval by a majority vote of the Board of Selectmen .(Any debt issued by the Trust shall not be deemed to constitute a debt or liability of the Town of Cohasset or a pledge of the faith and credit of the Town, but shall be payable solely from the revenues, funds and/or assets of the Trust. Any debt instrument executed by the Trust shall contain on the face thereof a statement to the effect that the Town of Cohasset is not obligated to pay the same or the interest thereof except from revenues, funds and/or assets of the Trust and that neither the faith and credit nor the taxing power of the Town of Cohasset is pledged to the payment of the principal of or the interest on such debt. The issuance of debt by the Trust shall not directly or indirectly or contingently obligate the Town of Cohasset to levy or to pledge any form of taxation whatever therefore or to make any appropriation for their payment);
11. to make distributions or divisions of principal in kind;
12. to defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this Article, to continue to hold the same for such period of time as the board may deem appropriate;
13. to extend the time for payment of any obligation to the trust;
14. to provide grants or loans to assist low- or moderate-income homebuyers to purchase or rehabilitate a dwelling unit in the Town of Cohasset;
15. to convey, through sale, lease or transfer, real property purchased under this act, to any for-profit or non-profit developer or any public agency to provide low- or moderate-income housing, subject to an affordable housing restriction under Section 26 or Sections 31-33 of Chapter 184 of the General Laws;
16. Expenditures for the acquisition or disposition of real property shall be subject to approval by a majority vote of the Board of Selectmen; and
17. in each fiscal year, expenditures from the fund shall be in accordance with an allocation plan approved by the Town at the Annual Town Meeting and upon the recommendation of the trustees, for purposes consistent with this by-law. The allocation plan shall be a general plan for the use of funds during the fiscal year to which the plan applies, and may provide for moneys to be held in reserve for expenditure in later years. The plan may be amended at a Town Meeting upon favorable recommendation of the board of trustees.

SECTION 3

A. As a means of providing available assets for the trust, all moneys received by the Town through the following means shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust:

- 1 cash payments made by developers to the Town for purposes of creating or preserving affordable housing, under any development agreements or development approvals pursuant to the Cohasset Zoning By-Law;
- 2 gifts, grants, donations, contributions or other cash payments to the trust for the purpose of providing low- or moderate-income housing;

B. General revenues appropriated into the trust become trust property, and to be expended these funds need not be further appropriated;

C. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board of trustees within one year of the date they were appropriated into the trust, shall remain trust property;

D. The trust is exempt from G.L. Chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any political subdivision thereof; and

E. The books and records of the trust shall be reviewed annually by an independent auditor in accordance with accepted accounting practices.

SECTION 4

As used in this act, the term "low or moderate income housing" shall mean "low income housing" or "moderate income housing" as defined in Section 2 of Chapter 44B of the General Laws.

SECTION 5

The Town Treasurer shall be the custodian of the trust's funds. Any income or proceeds received from the investment of funds shall be credited to and become part of the fund.

SECTION 6

A. The trust is a governmental body for purposes of Sections 23A, 23B and 23C of Chapter 39 of the General Laws.

B. The trust is a board of the Town for purposes of Chapter 30B and Section 15A of Chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, department and public instrumentalities of the Town shall be exempt from Chapter 30B.

C. The trust is a public employer and the members of the board are public employees for purposes of Chapter 258.

D. The trust shall be deemed a public agency and trustees as special municipal employees for purposes of Chapter 268A.

E. All projects for new construction of affordable housing or conversion of existing units into affordable housing that are proposed to be funded or subsidized by the trust shall be so constructed or converted through the Local Initiative or Local Access Programs as governed by the then-applicable regulations of the Department of Housing and Community Development, or its successor.

F. At any time after the expiration of five years after the date on which this trust is created by the Town, it may be terminated in the same manner as it was created, except that it shall remain in existence to complete any pending undertakings or obligations. During such winding down, the then-membership of the Board of Selectmen shall serve as the trustees. The balance of any funds held by the trust after winding down shall pass to the Town's Community Preservation Fund or some other substitute affordable housing fund created by the Town. Non-monetary assets of the trust shall pass to the Town under the control of the Board of Selectmen under such restrictions as applicable law may require or as may have been prior imposed upon such assets.

Motion adopted.

Article 20: Zoning Bylaw Amendment – Inclusionary Zoning

To see if the Town will amend the provisions of the Zoning Bylaw by striking Subsection 14 of Section 4.3 and Section 17.8 and replacing them with the following new Section 20, in order to better encourage and facilitate the development of affordable housing:

SECTION 20 – Inclusionary Zoning

1. Definitions. In addition to the definitions found in Section 2, the following definitions shall apply for purposes of implementation of this Section.

Affordable unit: housing or housing units constituting Low or Moderate Income Housing as such terms are defined by M.G.L. c 40B, Sections 20 through 23, as amended, or successor law, and its implementing regulations in 760 CMR 30.00 et seq. and 31.00 et seq. or successor regulations.

2. Purpose and Intent

- a. To recognize the affordable housing need in Cohasset;
- b. To require applicants for development projects having a significant impact on the Town to contribute toward this need;
- c. To encourage the expansion and upgrade of the Town's affordable housing in order to provide for a full range of housing choices for households of all families, ages and sizes;
- d. To prevent the displacement of low to moderate income Cohasset residents;
- e. To increase the production of affordable housing units;
- f. To meet the requirements of the Local Initiative Program; and
- g. To qualify housing for inclusion on the Subsidized Housing Inventory.

3. Applicability

- a. The provisions of this Section shall apply to all projects requiring approval as any and all commercial, residential or mixed-use projects requiring Site Plan Review, to single family residential subdivisions on sites having a development potential under current zoning of five or more lots, and to the construction of "multiple unit" developments of five (5) or more dwelling units in accordance with any Section of the Zoning Bylaw, whether on one or more contiguous parcels, and including, but not limited to, any characterization of units, such as "multifamily", "apartments", "condominiums", "cooperatives" and any other development governed by a common scheme, restrictions or covenants, and without regard to how many dwelling units exist per building in the development.
- b. The provisions of this Section shall not apply to any project undertaken by the Town for any municipal purposes.

- c. The provisions of this Section shall not apply to any project undertaken pursuant to MGL c. 40B.

4. Mandatory Provision of Affordable Units

The Planning Board or Board of Appeals or any other authority giving permission for construction of dwelling units, shall, as a condition of approval of any development referred to in Subsections 3 above, require that the applicant for site plan review, subdivision, special permit or building permit approval comply with the obligation to provide affordable housing pursuant to this Bylaw and more fully described in Subsection 5 below.

5. Provision of Affordable Units

- a. Residential-Only Development. To facilitate the provision of affordable housing in an all residential-only development, the number of units that are required to be affordable shall be ten percent (10%) of the number of units that could be developed "as of right" (AOR), rounded up to the nearest whole number. The number of affordable units required shall not subtract from the number of AOR units, but instead shall be added to the AOR units as a density bonus. Thus, a proposal that would have 5 AOR units would include those 5 plus 1 affordable unit. If the number of affordable units plus the AOR units yields a result where the number of affordable units is less than 10% of the total number of units being provided with the density bonus, then an additional affordable unit shall be added to bring overall percentage at or above 10%.
- b. Commercial-Only Development. In a commercial development, affordable units are not expected to be provided on-site unless "mixed-use" zoning is available. Nevertheless, such development should also and is compelled to contribute to the need for affordable housing by a fee-in-lieu-of-construction payment, per subsection (e) and Section 11 below. The required number of affordable units shall be calculated as follows: .02 affordable housing units per each 2,000 square feet of floor area in the development.
- c. Mixed-Use Development. In the VB and TOD districts, and in any other location where "mixed use" development is permitted, both the calculations of required affordable units set forth in subsections (a) and (b) above shall be made, and the one yielding the larger number of affordable units shall be applied.

In the VB district, if there is a conflict between (i) the density allowed under this subsection (c) (referenced in terms of number of units) and the number of units this Section 5 requires of a development in the VB district and (ii) the density allowed under Section 18(1) (referenced in terms of Floor Area Ratio and allowable apartment sizes) and the number of units such density bonus would yield, the density limits and affordable unit number results of Section 18.1 will control.

- d. An applicant may offer, and the Planning Board or Board of Appeals, in concert with the Board of Selectmen, may accept a parcel of land in fee simple, on or off-site, that the Planning Board or Board of Appeals determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units. The Planning Board or Board of Appeals may require, prior to accepting land as satisfaction of the requirements of this Section, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value;
- e. In substitution for providing affordable housing units, a cash payment to the Cohasset Housing Trust Fund (or similar affordable housing fund) may be made subject to Subsection 11 below.

- f. The applicant may offer, and the Planning Board or Board of Appeals may accept, any combination of the above requirements provided that in no event shall the total number of units or land area provided be less than the equivalent number or value of affordable units required by this Section.

6. Provisions Applicable to Affordable Housing Units On-and Off-Site

- a. Siting of affordable units - All affordable units constructed or rehabilitated under this Section shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.
- b. Minimum design and construction standards for affordable units - Affordable housing units within market rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units, and built in accordance with the following ratios:

Market Rate Unit %	Affordable Housing Unit %
Up to 30%	None required
30% + 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% + 1 unit	At least 70%
Up to 90%	100%

Fractions of units shall not be counted.

7. Marketing Plan for Affordable Units

Applicants under this Bylaw shall submit a marketing plan or other method, prepared with the assistance of and approved by, the Cohasset Housing Partnership approved by to the Planning Board or Board of Appeals for approval, which describes how the affordable units will be marketed to potential homebuyers. This plan shall include a description of the lottery or other process to be used for selecting buyers. The marketing plan must describe how the applicant will accommodate local preference requirements, if any, established by the Board of Selectmen, in a manner that complies with the nondiscrimination in tenant or buyer selection guidelines of the Local Initiative Program.

8. Provision of Affordable Housing Units Off-Site

As an alternative to the requirements of Subsection 5(a), (b) and (c) above, an applicant subject to this Section may develop, construct or otherwise provide affordable units equivalent to those required by Subsection 5 off-site. All requirements of this Section that apply to on-site provision of affordable units, shall apply to provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the Planning Board or Board of Appeals as an integral element of the review and approval process for the permit requested..

9. Maximum Incomes and Selling Prices: Initial Sale

- a. The developer of the housing units or his/her agent shall verify prior to transferring title or executing a lease that each prospective purchaser or renter of an affordable housing unit created under this Section is a household of low or moderate income, as defined by the Commonwealth's Local Initiative Program (LIP). Toward this end:

- (1) the developer shall engage a qualified certifying agent acceptable to the Planning Board or to the Board of Appeals to receive purchase or rental applications, obtain and review documentation concerning sources and amounts of household income, and certify to the Town that all purchasers or renters approved for an affordable unit meet LIP income eligibility requirements (which certifying agent may be the Town's Housing Partnership, Housing Authority or consultant(s) thereto).
 - (2) The developer is responsible for making arrangements acceptable to the Planning Board or to the Board of Appeals to provide annual certifications to the Town as may be required to place and maintain the affordable units on the Commonwealth's Chapter 40B Subsidized Housing Inventory.
- b. The maximum allowable purchase price or maximum allowable rent for affordable units created under this Bylaw shall comply with the regulations and guidelines of the Local Initiative Program (LIP).

10. Preservation of Affordability; Restrictions on Resale

- a. Each affordable unit created in accordance with this Section shall have the following limitations governing its resale. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability to qualified purchasers in the future. The resale controls shall be established through a deed rider or an affordable housing restriction as defined by M.G.L. c.184, Section 31, recorded at the Norfolk County Registry of Deeds or the Land Court, and shall be in force for as long a period as is lawful. The affordable housing use restriction shall meet the requirements of the Local Initiative Program.
- b. Resale price -Sales beyond the initial sale to a qualified affordable income purchaser shall include the initial discount rate between the sale price and the unit's appraised value at the time of resale. This percentage shall be recorded as part of the restriction on the property noted in this Subsection 10. For example, if a unit appraised for \$300,000 is sold for \$225,000 as a result of this Section, it has sold for 75% of its appraised value. If, several years later, the appraised value of the unit at the time of proposed resale is \$325,000, the unit may be sold for no more than \$243,750, or 75% of the appraised value of \$325,000.
- c. Right of first refusal to purchase -The purchaser of an affordable housing unit developed as a result of this Section shall agree to execute a deed rider prepared by the Town, granting, among other things, the Town's right of first refusal for a period not less than the maximum period allowable under guidelines set by the Department of Housing and Community Development for Local Initiative Units as defined by the Local Initiative Program, to purchase the property or assignment thereof, in the event that, despite diligent efforts to sell the property, a subsequent qualified purchaser cannot be located.
- d. The Planning Board or Board of Appeals shall require, as a condition for subdivision, special permit or building permit approval under this Section, that the deeds to the affordable housing units contain a restriction against renting or leasing said unit during the period for which the housing unit contains a restriction on affordability.
- e. The Planning Board or Board of Appeals shall require, as a condition for special permit approval under this Bylaw, that the applicant comply with the mandatory set- asides and accompanying restrictions on affordability, including the execution of the deed rider noted in this Subsection 10. The Zoning Enforcement Officer shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded at the Norfolk County Registry of Deeds or the Land Court.

- f. Affordability restrictions as set forth herein shall be in perpetuity.

11. Fees in Lieu of Affordable Housing Units

As a further alternative to Subsection 5 above, an applicant may contribute a cash payment to the Cohasset Housing Trust Fund (or if none exists to the Cohasset Community Preservation Fund), to be used for the development of affordable housing by the Town or its designees, in lieu of constructing and offering affordable units within the locus of the proposed development or off-site.

- a. Calculation of fees-in-lieu of units. The applicant for development subject to this Section may pay a fee in lieu of the construction of affordable units. For each affordable unit not constructed or provided through one or a combination of the methods specified in Subsection 5 above, the fee shall be an amount equal to the difference between the median sale price for new single-family homes built in Cohasset during the preceding three fiscal years, as determined and reported by the Board of Assessors, and the purchase price of a similar home that is affordable to a qualified purchaser. For developments of multi-family condominiums, the Planning Board or Zoning Board of Appeals may substitute the median sale price for new condominiums built in Cohasset during the preceding three fiscal years for the median sale price of new single-family homes.
- b. The methodology used to determine an affordable purchase price shall comply with Local Initiative Program guidelines in effect at the time of application for a special permit.
- c. The assumptions used to determine an affordable purchase price, including but not limited to minimum down payment, mortgage interest rate, term, closing and other costs shall be consistent with first-time homebuyer mortgage products available from commercial lending institutions located in or serving Cohasset at the time of application for a special permit, all in accordance with the Inclusionary Housing Submission Requirements and Procedures Manual adopted by the Planning Board and filed with the Town Clerk.
- d. Upon adoption of this Section by town meeting, the Planning Board shall prepare and adopt an Inclusionary Housing Submission Requirements and Procedures Manual after holding a public hearing on the same. This will be used by Zoning Board of Appeals where it is the permit granting authority. Or take any other action related thereto.

MOVED that the article be indefinitely postponed.

Motion adopted unanimously.

Article 21: Harbor Study Funding

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow pursuant to any applicable statute, a sum of money in order to retain a professional consulting/planning firm overseen by the Planning Board acting under its powers and duties of the General Laws of the Commonwealth and the General and Zoning Bylaws of the Town, to assist the Planning Board and Board of Selectmen in the development of bylaws which enhance the vitality of the Waterfront Business District (WB), the Harbor portion of the Downtown Business District (DB), the Harbor portion of the Light Industry District (LI), the Harbor portion of the Official and Open Space District and the all other properties abutting the Harbor around its perimeter, while maintaining its general.

MOVED that the article be indefinitely postponed.

Motion adopted unanimously.

Commendation offered by Frederick Koed, member of the Board of Selectmen for Jack Worley.

COMMENDATION

WHEREAS, Jack Worley was appointed as Recreation Director for the Town of Cohasset in November of 1976; and

WHEREAS, Jack Worley will soon retire after serving the Town of Cohasset for over 31 years in a highly professional, dedicated manner; and

WHEREAS, during **Jack Worley's** tenure as Recreation Director, he has introduced many recreation programs and activities that have been the source of great fun and education for children and adults of all ages in the Town of Cohasset; and

WHEREAS, Jack Worley in his capacity of Recreation Director has put his heart and soul into his responsibilities, including always working from early morning to late at night and on weekends to serve the needs of this community; and

WHEREAS, during his tenure as Recreation Director, **Jack Worley** has always served this community with a smile on his face and a good word for everyone; and

WHEREAS, the Board of Selectmen now recommends this Unanimous Motion for Commendation to **Jack Worley:**

NOW THEREFORE BE IT RESOLVED that the Citizens of Cohasset, assembled at the Annual Town Meeting hereby acknowledge and affirm their appreciation to Jack Worley for his many years of dedicated service to the Town of Cohasset.

GIVEN under our hands and the seal of the **TOWN OF COHASSET** on this twenty ninth day of March in the year Two Thousand Eight.

Commendation voted unanimously.

Article 22: Treat's Pond Restoration Project Funding

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow pursuant to any applicable statute, a sum of money to be expended by the Town Manager in combination with other federal and/or state funds for engineering and design professional services for the designing and permitting, construction supervision and related services in connection with the Treat's Pond ecosystem restoration project, and for the construction of such project and all related construction expenses, including, an independent engineering and environmental assessment, and further to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain such easements or other property interests as may be advisable to carry out this project, or take any other action related thereto.

MOVED that Three Hundred Thousand Dollars (\$300,000) be appropriated, with the intention that these funds be available in FY 2008 and, thereafter, to be expended by the Town Manager in combination with other federal and/or state funds for engineering and design professional services for the designing and permitting, construction, supervision and related services in connection with the Treat's Pond ecosystem restoration project, and for the construction of such project and all related construction expenses, including, an independent engineering and environmental assessment, and that to fund this appropriation, the Treasurer, with the approval of the Board of Selectmen, is hereby authorized to borrow Three Hundred Thousand Dollars (\$300,000), under and pursuant to Chapter 44, of the General Laws of the Commonwealth, as amended, or any other enabling authority, and to issue bonds or notes of the Town, therefore, and that the Board of Selectmen be authorized to accept, as gifts, grants of deeds, easements or other instruments of transfer of all or portions of Treat's Pond located on the parcels known as Assessor Map 31, Parcel 021F and 021G.

Amendment offered by Ralph Dormitzer, member of the Board of Selectmen who has reclosed himself from deliberations on Article 22 and who is speaking as a private citizen.

Moved that the motion under Article 22 be amended by substituting the following language in its entirety:

That Forty Five Thousand Dollars (\$45,000) be appropriated with the intention that these funds be available in FY 2008 and thereafter, which funds are to be expended by the Town Manager in addition to and in combination with any other available Federal and/or State grant funds, as a supplement thereto, for the purpose of funding professional services to conduct an independent review of the United States Army Corps of Engineers Treat's Pond ecosystem restoration project and to meet this appropriation, Forty Five Thousand Dollars (\$45,000) be transferred from Free Cash (Surplus Revenue) in the treasury of the town.

Amendment offered by Peter Brown.

That Forty Five Thousand Dollars (\$45,000) be appropriated with the intention that these funds be available in FY 2008 and thereafter, which funds are to be expended by the Town Manager in addition to and in combination with any other available Federal and/or State grant funds, as a supplement thereto, for the purpose of funding professional services to conduct an independent review of the United States Army Corps of Engineers Treat's Pond ecosystem restoration project and to meet this appropriation, Forty Five Thousand Dollars (\$45,000) be transferred from Free Cash (Surplus Revenue) in the treasury of the town.

The scope of which review shall be determined by a committee appointed by the Board of Selectmen, comprised of a member of the Cohasset Conservation Commission, the special engineering assistant to the Town Manager for special project, and a citizen of the town with extensive environmental expertise.

Amendment offered by Peter Brown is defeated.

Amendment offered by Ralph Dormitzer is defeated.

Amendment offered by Frederick Koed, member of the Board of Selectmen in the form of a proclamation.

PROCLAMATION

Resolved,

- 1 That the Town of Cohasset recognizes both the serious nature of the environmental health of Treat's Pond and flooding issues in its surrounding area;
- 2 That the Town of Cohasset wishes to pursue solutions to these problems and does not wish to foreclose the possibility of Federal Funds to support possible solutions;
- 3 That the Town of Cohasset, however, needs to further study the issues and proposals that have been made to solve them, owing to the relatively little time they have been public;
- 4 That the Town of Cohasset is undertaking to comprehensively study town wide flooding issues, the report on which is due in 2008.

Therefore, the town requests the Army Corp of Engineers and Congressman Delahunt provide additional time to the town until the fall town meeting to address the issue at Treat's Pond.

Proclamation adopted.

This amendment of a proclamation is now the main motion. Motion adopted.

Article 23: Repurchase of Cemetery Lots Funding

To see if the Town will vote to raise and appropriate, transfer from available funds, or otherwise provide a sum of money to be expended by the Town Manager for the repurchase of cemetery lots at Town cemeteries, or take any other action related thereto.

MOVED that Eleven Thousand Dollars (\$11,000), be appropriated to be expended by the Town Manager for the repurchase of cemetery lots at Town cemeteries, and to meet this appropriation, the sum of Eleven Thousand Dollars (\$11,000) be transferred from Free Cash (Surplus Revenue) in the treasury of the town.

Motion adopted unanimously.

Article 24: Stormwater Management Bylaw

To see if the Town will vote to amend the General Bylaws by adding the following new Article XV, or take any other action related thereto:

COHASSET STORMWATER MANAGEMENT BYLAW

1. Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the federal Clean Water Act, 33 U. S. C. §§ 1251-1386 (the "Act") and regulations issued pursuant to the Act which are found at 40 CFR 122.34.

2. Purpose

- A. The purpose of this Bylaw is to:
 - 1. Prevent and reduce existing and future flooding.
 - 2. Protect water quality.
 - 3. Increase groundwater recharge.
 - 4. Reduce erosion and sedimentation.
 - 5. Promote environmentally sensitive site design practices.
 - 6. Ensure long-term maintenance of stormwater controls.
 - 7. Help the Town of Cohasset meet federal requirements under Phase II of the National Pollutant Discharge Elimination System.
 - 8. Establish the legal authority by which the Town of Cohasset can enforce the provisions of this Bylaw and accompanying regulations.

3. Definitions

- A. The following definitions shall apply in the interpretation and implementation of this Bylaw. The term "alter" shall include, without limitation, the following activities:
 - 1. Changing of pre-existing drainage characteristics, adding impervious area or changing type of land cover, or changing sedimentation patterns, flow patterns or flood retention characteristics;
 - 2. Dumping, discharging or filling with any material, or removal of material, which would alter elevations or change drainage patterns or degrade water quality;
 - 3. Driving of piles, erection, or expansion of buildings or structures of any kind;
 - 4. Destruction of plant life, including clearing of trees;
 - 5. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater.

4. Regulated Activities

- A. Regulated Activities Requiring a Stormwater Permit. The following activities, developments or redevelopments require the issuance of a full Stormwater Permit by the Conservation Commission (the "Commission") after the filing by the Applicant of a full application and full review by the Commission through a public hearing:
 - 1. Any activity that will alter 5,000 square feet or more of land.
 - 2. Any construction or development activity on an undeveloped parcel of any size that will increase the impervious surface area, or increase the amount or rate of runoff from the parcel.
 - 3. Any development or redevelopment of Land Uses with Higher Potential Pollutant Loads as defined in the Massachusetts Stormwater Management Policy, which include, for example:
 - a. auto salvage yards (auto recycler facilities)
 - b. auto fueling facilities (gas stations)
 - c. exterior fleet storage areas (cars, buses, trucks, public works equipment)
 - d. exterior vehicle service, maintenance and equipment cleaning areas
 - e. commercial parking lots
 - f. road salt storage and loading areas
 - g. commercial nurseries
 - h. outdoor storage and loading/unloading of hazardous substances
 - i. marinas (service, painting and hull maintenance areas)
- B. Regulated Activities Requiring Administrative Approval. The following activities, which are smaller than activities requiring a full Stormwater Permit, shall require approval under an Administrative Approval process by the Commission or its Stormwater Agent:
 - 1. Any activity that will result in a net increase in impervious surface area of more than 500 square feet of land but which will alter less than 5,000 square feet of land.
 - 2. Any replacement of an existing building with a new building of more than 500 square feet.
- C. Regulated Activities Completed in Phases Requiring a Stormwater Permit or Administrative Approval:

1. Activities that are completed in phases, such as subdivision developments and phased commercial developments which could be reasonably expected to alter more than the thresholds in 4.A and 4.B shall require a Stormwater Permit or Administrative Approval prior to beginning construction, even if the planned alteration is conducted over separate phases and/or by separate owners.

5. Exempt Activities

- A. This Bylaw shall not apply to the following activities:
 1. Normal use, maintenance and improvement of land in agricultural use.
 2. Maintenance of existing landscaping.
 3. Repair or modification of a building that remains within its existing footprint.
 4. Construction of a fence that will not alter existing terrain or drainage patterns.
 5. Repairs or alterations to any stormwater management facility or practice that poses a threat to public health, safety, or the environment.
 6. Emergency work associated with accidents, spills or releases of oil or hazardous wastes, or natural disasters.
 7. Repair or maintenance of a sewage disposal system when required by the Board of Health for protection of public health, provided the post-repair condition drainage is similar or more effective than the pre-repair condition.
 8. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.

6. Conservation Commission Authority

- A. The Commission shall be responsible for issuing a Stormwater Permit.
- B. The Commission may appoint a Licensed Professional Engineer with expertise in stormwater management as its Stormwater Agent to assist the Commission. This position shall be funded from application and review fees charged to applicants during the Stormwater Permit and Administrative Approval process.
- C. The Commission shall review Stormwater Permit applications, conduct necessary site inspections and investigations, issue final permits, and monitor and enforce permit conditions. For Administrative Approval of projects regulated under Section 4.B of this Stormwater Management Bylaw, the Stormwater Agent may represent the Commission by conducting site inspections as necessary, issuing a decision based on review, and monitoring conditions stated in the Administrative Approval.
- D. The Commission shall establish (1) Application Fees and (2) Review Fees which are sufficient to recover the cost for application review including assistance from the Stormwater Agent. Separate application and review fees shall be established for the Stormwater Permit process and for the Administrative Approval process which requires no public hearing. Said fees and charges shall be established by regulations issued by the Commission.

7. Rules and Regulations

- A. The Commission shall adopt and amend Rules and Regulations related to the submittal requirements and performance standards required to obtain a Stormwater Permit or Administrative Approval conducted pursuant to this Bylaw. Rules and Regulations shall be adopted and amended after a public hearing and public comment period. The public hearing shall be advertised in a newspaper of general local circulation at least seven days before the hearing date.
- B. Other boards, commissions, and departments are encouraged to adopt those Rules and Regulations by reference.
- C. Failure to promulgate such Rules and Regulations shall not have the effect of suspending or invalidating this Bylaw.

8. Performance Standards

- A. The purpose of the Stormwater Permit and Administrative Approval Program shall be to maintain the post-development runoff characteristics (including peak flow, total volume of runoff, and water quality of the runoff) for development and redevelopment projects as equal to or less than the pre-development runoff characteristics.
- B. Performance standards for site design, erosion control, stormwater management, materials, vegetation, and other aspects of developments shall be outlined in the Rules and Regulations. Performance standards shall include (but are not limited to) standards for the following:
 - 1. Peak discharge rates and runoff volumes (flooding protection and channel protection).
 - 2. Recharge volume.
 - 3. Pretreatment and water quality.
 - 4. Erosion control and property damage.
 - 5. Vegetation, site design, and site restoration.
 - 6. Integrity of stream channels, surface water, and aquatic habitats.
 - 7. Application of Low-Impact Development measures to facilitate the maximum possible infiltration of precipitation on-site.
- C. Applicants shall meet these performance standards and those of the Massachusetts Stormwater Management Policy (as may be amended), whichever are more stringent.

9. Submittal Requirements

- A. Submittal requirements for a Stormwater Permit, or for Administrative Approval, shall be as required below and as further defined in the Rules and Regulations.
- B. Submittal requirements for a Stormwater Permit shall include (but may not be limited to) the following:
 - 1. Stormwater management plan stamped by a Professional Engineer certifying post-development runoff characteristics (including peak flow, total volume of runoff, and water quality of the runoff) for development and redevelopment projects as equal to or less than the pre-development runoff characteristics. The plan shall show proposed grading, description of stormwater management system with map of pre- and post-development drainage, existing and proposed vegetation, recharge analysis, hydrologic calculations, and estimated seasonal high groundwater.
 - 2. Abutters list.
 - 3. Erosion control plan.
 - 4. Operations and maintenance plan listing responsible parties, maintenance agreements, maintenance schedule, and estimated annual budget (including anticipated sources of funding) for operations and maintenance.
 - 5. Record(s) of stormwater easements.
 - 6. For subdivision applications, a plan showing the building envelope within each house lot and proposed grading, drainage, and stormwater disposal for each lot.
 - 7. Application and review fees.
- C. Submittal requirements for an Administrative Approval shall include (but may not be limited to) the following:

1. A stormwater management plan stamped by a Professional Engineer describing the proposed alteration activities and the mitigation measures and best management practices to be employed to manage stormwater generated by the alteration, and certifying post-development runoff characteristics (including peak flow, total volume of runoff, and water quality of the runoff) for development and redevelopment projects as equal to or less than the pre-development runoff characteristics. The following additional submittals may be required, but only if determined necessary by the Commission or their Stormwater Agent to support the engineer's stormwater Management plan and certification: Plan of proposed grading, more detailed description and/or drawings of proposed stormwater management system with map of pre- and post-development drainage, existing and proposed vegetation, recharge analysis, hydrologic calculations, estimated seasonal high groundwater, and erosion control plan.
2. Abutters list.
3. Application and review fees.

10. Application Review

- A. Pre-Application Meeting. If a Stormwater Permit or Administrative Approval is required under Section 4 of this bylaw, then applicants are strongly encouraged to schedule a pre-application meeting with the Commission and/or its Stormwater Agent to review the proposed development plans at the earliest feasible time.
- B. Review and Comment by Town Boards and Departments. Following receipt of a completed application for Stormwater Permit or for Administrative Approval, the Commission shall provide the opportunity for review and comments from the Planning Board, Board of Health, Sewer Commission, Water Commission, Building Inspector and Department of Public Works. Failure by these other Town Boards or Departments to make recommendations within fourteen days of receipt shall be deemed lack of opposition.
- C. Stormwater Permit. If a Stormwater Permit application is filed, then the review process shall include a public hearing held by the Commission in conjunction with public hearings held for other aspects of the project when practicable. The Commission shall hold a separate hearing for the stormwater permit application if necessary. If a separate hearing is required, then written notice shall be given, at the expense of the applicant, in a newspaper of general circulation in the Town at least seven (7) working days prior to the hearing; and the Commission shall also give written notice of the hearing to all abutters, as that term may be defined by the Commission, also at least seven (7) working days prior to the hearing. Such notice shall be given in the form and manner that the Commission shall prescribe.
 1. The Commission shall commence the public hearing within twenty-one (21) calendar days from the receipt of a complete application and shall issue its permit, denial or determination in writing within twenty-one (21) calendar days after the close of said public hearing. The Commission shall have the authority to continue any hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant deemed necessary by the Commission in its discretion, or comments and recommendations of other Town boards and officials.
 2. After review of the Stormwater Permit application, circulation to other boards, and public hearing, the Commission may take one of the following actions within twenty-one days after closing the public hearing:
 - a. Approve the application and issue a Stormwater Permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this Bylaw.
 - b. Approve the application and issue a Stormwater Permit with conditions, modifications, or restrictions as necessary to ensure protection of water resources or to meet the objectives of this Bylaw.

- c. Disapprove the application and deny a permit if it finds the proposed plan will not protect water resources or fails to meet the objectives of this Bylaw; or if it finds that the applicant has not submitted information sufficient for the Commission to make such a determination.
 - 3. A decision by the Commission shall be final. Appeal should be to a court of competent jurisdiction pursuant to applicable law. The remedies listed in this Bylaw are not exclusive of other remedies available under applicable federal, state, or local law.
- D. Administrative Approval. The Administrative Approval process shall require notification of abutters, as that term may be defined by the Commission, but will not require a public hearing and may be conducted by the Stormwater Agent acting on behalf of the Commission. After completing a review and after circulating the application to other boards, the Commission or its Stormwater Agent may take one of the following actions within twenty-one (21) calendar days of receiving a complete application:
 - 1. Approve the application if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this Bylaw.
 - 2. Approve the application with conditions, modifications, or restrictions as necessary to ensure protection of water resources or to meet the objectives of this Bylaw.
 - 3. Disapprove the application and require submission of a Stormwater Permit to the Commission.
 - 4. Disapprove the application if it finds the proposed plan will not protect water resources or fails to meet the objectives of this Bylaw; or if it finds that the applicant has not submitted information sufficient for the Commission or its Stormwater Agent to make such a determination.
 - 5. A decision by the Commission or its Stormwater Agent shall be final. A decision by the Stormwater Agent made under this Bylaw shall be reviewable by the Commission if an appeal of the decision is filed with the Town Clerk within twenty days thereof, and if the applicant files with such appeal a complete application for a Stormwater Permit.

11. Site Inspection

Submittal of the Stormwater Permit or Administrative Approval application shall grant the Commission and its agents with permission to enter the site for inspection.

12. Surety

For projects requiring a Stormwater Permit under 4.A, the Commission may require the posting of a surety bond until work is completed.

13. Enforcement

- A. The Commission shall enforce this Bylaw with violation notices, administrative orders and enforcement orders, and may pursue all civil and criminal remedies for such violations. Mechanisms and procedures for enforcement shall be detailed in Rules and Regulations adopted by the Commission pursuant to this Bylaw.
- B. Any person who violates any provision of this Article, regulations thereunder, or permits issued thereunder, shall be punished by a fine of one hundred (\$100) dollars. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations or permit violated shall constitute a separate offense.
- C. Non-criminal disposition. As an alternative to criminal prosecution or civil action, the Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, § 21D and Section 1(h) of the Town's General Bylaws. The penalty for violation shall be \$100. Each day or part thereof that such violation occurs or continues shall constitute a separate offence.

14. Severability

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

MOVED that the Town amend the General Bylaws by adding the following new Article XV:

COHASSET STORMWATER MANAGEMENT BYLAW

1. Authority

This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the federal Clean Water Act, 33 U. S. C. §§ 1251-1386 (the "Act") and regulations issued pursuant to the Act which are found at 40 CFR 122.34.

2. Purpose

The purpose of this Bylaw is to:

1. Prevent and reduce existing and future flooding.
2. Protect water quality.
3. Increase groundwater recharge.
4. Reduce erosion and sedimentation.
5. Promote environmentally sensitive site design practices.
6. Ensure long-term maintenance of stormwater controls.
7. Help the Town of Cohasset meet federal requirements under Phase II of the National Pollutant Discharge Elimination System.
8. Establish the legal authority by which the Town of Cohasset can enforce the provisions of this Bylaw and accompanying regulations.

3. Definitions

The following definitions shall apply in the interpretation and implementation of this Bylaw. The term "alter" shall include, without limitation, the following activities:

1. Changing of pre-existing drainage characteristics, adding impervious area or changing type of land cover, or changing sedimentation patterns, flow patterns or flood retention characteristics;
2. Dumping, discharging or filling with any material, or removal of material, which would alter elevations or change drainage patterns or degrade water quality;
3. Driving of piles, erection, or expansion of buildings or structures of any kind;
4. Destruction of plant life, including clearing of trees;
5. Any activities, changes or work which may cause or tend to contribute to pollution of any body of water or groundwater.

4. Regulated Activities

A. Regulated Activities Requiring a Stormwater Permit. The following activities, developments or redevelopments require the issuance of a full Stormwater Permit by the Conservation Commission (the "Commission") after the filing by the Applicant of a full application and full review by the Commission through a public hearing:

1. Any activity that will alter 5,000 square feet or more of land.
2. Any construction or development activity on an undeveloped parcel of any size that will increase the impervious surface area, or increase the amount or rate of runoff from the parcel.
3. Any development or redevelopment of Land Uses with Higher Potential Pollutant Loads as defined in the Massachusetts Stormwater Management Policy, which include, for example:
 - a. auto salvage yards (auto recycler facilities)
 - b. auto fueling facilities (gas stations)
 - c. exterior fleet storage areas (cars, buses, trucks, public works equipment)
 - d. exterior vehicle service, maintenance and equipment cleaning areas
 - e. commercial parking lots
 - f. road salt storage and loading areas
 - g. commercial nurseries
 - h. outdoor storage and loading/unloading of hazardous substances
 - i. marinas (service, painting and hull maintenance areas)

B. Regulated Activities Requiring Administrative Approval. The following activities, which are smaller than activities requiring a full Stormwater Permit, shall require approval under an Administrative Approval process by the Commission or its Stormwater Agent:

1. Any activity that will result in a net increase in impervious surface area of more than 500 square feet of land but which will alter less than 5,000 square feet of land.
2. Any replacement of an existing building with a new building of more than 500 square feet.

C. Regulated Activities Completed in Phases Requiring a Stormwater Permit or Administrative Approval:

1. Activities that are completed in phases, such as subdivision developments and phased commercial developments which could be reasonably expected to alter more than the thresholds in 4.A and 4.B shall require a Stormwater Permit or Administrative Approval prior to beginning construction, even if the planned alteration is conducted over separate phases and/or by separate owners.

5. Exempt Activities

A. This Bylaw shall not apply to the following activities:

1. Normal use, maintenance and improvement of land in agricultural use.
2. Maintenance of existing landscaping.
3. Repair or modification of a building that remains within its existing footprint.
4. Construction of a fence that will not alter existing terrain or drainage patterns.
5. Repairs or alterations to any stormwater management facility or practice that poses a threat to public health, safety, or the environment.
6. Emergency work associated with accidents, spills or releases of oil or hazardous wastes, or natural disasters.
7. Repair or maintenance of a sewage disposal system when required by the Board of Health for protection of public health, provided the post-repair condition drainage is similar or more effective than the pre-repair condition.
8. Any work or projects for which all necessary approvals and permits have been issued before the effective date of this Bylaw.

6. Conservation Commission Authority

A. The Commission shall be responsible for issuing a Stormwater Permit.

B. The Commission may appoint a Licensed Professional Engineer with expertise in stormwater management as its Stormwater Agent to assist the Commission. This position shall be funded from application and review fees charged to applicants during the Stormwater Permit and Administrative Approval process.

C. The Commission shall review Stormwater Permit applications, conduct necessary site inspections and investigations, issue final permits, and monitor and enforce permit conditions. For Administrative Approval of projects regulated under Section 4.B of this Stormwater Management Bylaw, the Stormwater Agent may represent the Commission by conducting site inspections as necessary, issuing a decision based on review, and monitoring conditions stated in the Administrative Approval.

D. The Commission shall establish (1) Application Fees and (2) Review Fees which are sufficient to recover the cost for application review including assistance from the Stormwater Agent. Separate application and review fees shall be established for the Stormwater Permit process and for the Administrative Approval process which requires no public hearing. Said fees and charges shall be established by regulations issued by the Commission.

7. Rules and Regulations

A. The Commission shall adopt and amend Rules and Regulations related to the submittal requirements and performance standards required to obtain a Stormwater Permit or Administrative Approval conducted pursuant to this Bylaw. Rules and Regulations shall be adopted and amended after a public hearing and public comment period. The public hearing shall be advertised in a newspaper of general local circulation at least seven days before the hearing date.

B. Other boards, commissions, and departments are encouraged to adopt those Rules and Regulations by reference.

C. Failure to promulgate such Rules and Regulations shall not have the effect of suspending or invalidating this Bylaw.

8. Performance Standards

A. The purpose of the Stormwater Permit and Administrative Approval Program shall be to maintain the post-development runoff characteristics (including peak flow, total volume of runoff, and water quality of the runoff) for development and redevelopment projects as equal to or less than the pre-development runoff characteristics.

B. Performance standards for site design, erosion control, stormwater management, materials, vegetation, and other aspects of developments shall be outlined in the Rules and Regulations. Performance standards shall include (but are not limited to) standards for the following:

1. Peak discharge rates and runoff volumes (flooding protection and channel protection).

2. Recharge volume.

3. Pretreatment and water quality.

4. Erosion control and property damage.

5. Vegetation, site design, and site restoration.

6. Integrity of stream channels, surface water, and aquatic habitats.

7. Application of Low-Impact Development measures to facilitate the maximum possible infiltration of precipitation on-site.

C. Applicants shall meet these performance standards and those of the Massachusetts Stormwater Management Policy (as may be amended), whichever are more stringent.

9. Submittal Requirements

A. Submittal requirements for a Stormwater Permit, or for Administrative Approval, shall be as required below and as further defined in the Rules and Regulations.

B. Submittal requirements for a Stormwater Permit shall include (but may not be limited to) the following:

1. Stormwater management plan stamped by a Professional Engineer certifying post-development runoff characteristics (including peak flow, total volume of runoff, and water quality of the runoff) for development and redevelopment projects as equal to or less than the pre-development runoff characteristics. The plan shall show proposed grading, description of stormwater management system with map of pre- and post-development drainage, existing and proposed vegetation, recharge analysis, hydrologic calculations, and estimated seasonal high groundwater.
2. Abutters list.
3. Erosion control plan.
4. Operations and maintenance plan listing responsible parties, maintenance agreements, maintenance schedule, and estimated annual budget (including anticipated sources of funding) for operations and maintenance.
5. Record(s) of stormwater easements.
6. For subdivision applications, a plan showing the building envelope within each house lot and proposed grading, drainage, and stormwater disposal for each lot.
7. Application and review fees.

C. Submittal requirements for an Administrative Approval shall include (but may not be limited to) the following:

1. A stormwater management plan stamped by a Professional Engineer describing the proposed alteration activities and the mitigation measures and best management practices to be employed to manage stormwater generated by the alteration, and certifying post-development runoff characteristics (including peak flow, total volume of runoff, and water quality of the runoff) for development and redevelopment projects as equal to or less than the pre-development runoff characteristics. The following additional submittals may be required, but only if determined necessary by the Commission or their Stormwater Agent to support the engineer's stormwater Management plan and certification: Plan of proposed grading, more detailed description and/or drawings of proposed stormwater management system with map of pre- and post-development drainage, existing and proposed vegetation, recharge analysis, hydrologic calculations, estimated seasonal high groundwater, and erosion control plan.
2. Abutters list.
3. Application and review fees.

10. Application Review

A. Pre-Application Meeting. If a Stormwater Permit or Administrative Approval is required under Section 4 of this bylaw, then applicants are strongly encouraged to schedule a pre-application meeting with the Commission and/or its Stormwater Agent to review the proposed development plans at the earliest feasible time.

B. Review and Comment by Town Boards and Departments. Following receipt of a completed application for Stormwater Permit or for Administrative Approval, the Commission shall provide the opportunity for review and comments from the Planning Board, Board of Health, Sewer Commission, Water Commission, Building Inspector and Department of Public Works. Failure by these other Town Boards or Departments to make recommendations within fourteen days of receipt shall be deemed lack of opposition.

C. Stormwater Permit. If a Stormwater Permit application is filed, then the review process shall include a public hearing held by the Commission in conjunction with public hearings held for other aspects of the project when practicable. The Commission shall hold a separate hearing for the stormwater permit application if necessary. If a separate hearing is required, then written notice shall be given, at the expense of the applicant, in a newspaper of general circulation in the Town at least seven (7) working days prior to the hearing; and the Commission shall also give written notice of the hearing to all abutters, as that term may be defined by the Commission, also at least seven (7) working days prior to the hearing. Such notice shall be given in the form and manner that the Commission shall prescribe.

1. The Commission shall commence the public hearing within twenty-one (21) calendar days from the receipt of a complete application and shall issue its permit, denial or determination in writing within twenty-one (21) calendar days after the close of said public hearing. The Commission shall have the authority to continue any hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant deemed necessary by the Commission in its discretion, or comments and recommendations of other Town boards and officials.

2. After review of the Stormwater Permit application, circulation to other boards, and public hearing, the Commission may take one of the following actions within twenty-one days after closing the public hearing:

a. Approve the application and issue a Stormwater Permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this Bylaw.

b. Approve the application and issue a Stormwater Permit with conditions, modifications, or restrictions as necessary to ensure protection of water resources or to meet the objectives of this Bylaw.

c. Disapprove the application and deny a permit if it finds the proposed plan will not protect water resources or fails to meet the objectives of this Bylaw; or if it finds that the applicant has not submitted information sufficient for the Commission to make such a determination.

3. A decision by the Commission shall be final. Appeal should be to a court of competent jurisdiction pursuant to applicable law. The remedies listed in this Bylaw are not exclusive of other remedies available under applicable federal, state, or local law.

D. Administrative Approval. The Administrative Approval process shall require notification of abutters, as that term may be defined by the Commission, but will not require a public hearing and may be conducted by the Stormwater Agent acting on behalf of the Commission. After completing a review and after circulating the application to other boards, the Commission or its Stormwater Agent may take one of the following actions within twenty-one (21) calendar days of receiving a complete application:

1. Approve the application if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this Bylaw.

2. Approve the application with conditions, modifications, or restrictions as necessary to ensure protection of water resources or to meet the objectives of this Bylaw.
3. Disapprove the application and require submission of a Stormwater Permit application to the Commission.
4. Disapprove the application if it finds the proposed plan will not protect water resources or fails to meet the objectives of this Bylaw; or if it finds that the applicant has not submitted information sufficient for the Commission or its Stormwater Agent to make such a determination.
5. A decision by the Commission or its Stormwater Agent shall be final. A decision by the Stormwater Agent made under this Bylaw shall be reviewable by the Commission if an appeal of the decision is filed with the Town Clerk within twenty days thereof, and if the applicant files with such appeal a complete application for a Stormwater Permit.

11. Site Inspection

Submittal of the Stormwater Permit or Administrative Approval application shall grant the Commission and its agents with permission to enter the site for inspection.

12. Surety

For projects requiring a Stormwater Permit under 4.A, the Commission may require the posting of a surety bond until work is completed.

13. Enforcement

A. The Commission shall enforce this Bylaw with violation notices, administrative orders and enforcement orders, and may pursue all civil and criminal remedies for such violations. Mechanisms and procedures for enforcement shall be detailed in Rules and Regulations adopted by the Commission pursuant to this Bylaw.

B. Any person who violates any provision of this Article, regulations thereunder, or permits issued thereunder, shall be punished by a fine of one hundred (\$100) dollars. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations or permit violated shall constitute a separate offense.

C. Non-criminal disposition. As an alternative to criminal prosecution or civil action, the Commission may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Ch. 40, § 21D and Section 1(h) of the Town's General Bylaws. The penalty for violation shall be \$100. Each day or part thereof that such violation occurs or continues shall constitute a separate offence.

14. Severability

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

Motion adopted.

Article 25: Citizens Petition – Operation of Leaf Blowers Bylaw

Proposed Bylaw: To limit gas and gas-generated electric leaf-blower usage to the following hours: Tuesday-Saturday, 9 am – 5 pm. Violation of this ordinance will result in the assessment of a two hundred fine upon the offending property owner.

<u>NAME</u>	<u>ADDRESS</u>	<u>NAME</u>	<u>ADDRESS</u>
Doris Mandeville	25 Oak St.	Walter Ross	159 So. Main St
Kristin Norton	320 No. Main St.	Lorraine Cunningham	11 Oak St.
Woodworth Chittick	98 So. Main St.	Davenport Crocker	79 Spring St.
James Porter	194 So. Main St.	George MacCleave	9 James Ln.
Robert Sweeney	15 James Ln.	Mary Louise Clark Slotnick	190 So. Main St

MOVED, that the following bylaw be inserted into the General Bylaws of the Town of Cohasset as section 42, "Noise from Leaf Blowers" of Article VII ("Safety and Public Order", as follows:

Section 42, Noise from Leaf Blowers

(a) No property owner shall operate, nor allow others to operate on his or her property, Gas - Powered, and Gas or Diesel - Generated Electric Leaf Blowers, as defined hereinafter, other than during the following hours: weekly, Tuesday - Saturday, 9 a.m. - 5 p.m.

(b) Definitions

'Gas - Powered Leaf Blowers' are defined as portable power equipment that is powered by a self - contained fuel combustion engine and used in any landscape, maintenance, construction, property repair, or property maintenance for the purpose of blowing, dispersing, redistributing dust, dirt, leaves, grass clippings, cuttings and trimmings from trees and shrubs, or other debris.

'Gas or Diesel - Generated Electric Leaf Blowers' are defined as portable power equipment that is powered by any free - standing, exterior generator that converts gas or diesel fuel into electricity, and used in any landscape, maintenance, construction, property repair, or property maintenance for the purpose of blowing, dispersing, or redistributing dust, dirt, leaves, grass clippings, cuttings and trimmings from trees and shrubs, or other debris.

(c) Notice

of the provisions of this bylaw, including penalties for violations of such provisions and the effective date thereof, shall be posted in all stores selling leaf blowers of any kind, and in all businesses selling landscape, maintenance, construction, property repair or maintenance tools or material. Notice of this bylaw shall also be conspicuously displayed at the Town Hall, and at the Cohasset Public Library.

(d) Violations

Each instance in which a property owner operates or allows the operation of a Gas - Powered, or Gas or Diesel - Generated Electric Leaf Blower as defined in this bylaw, upon his or her property shall constitute a separate violation of this ordinance.

(e) Effective date

The provisions of this bylaw shall become effective on and after January 1, 2009.

(f) Enforcement

The provisions of this bylaw shall be enforced by the town of Cohasset police, who may utilize non criminal ticketing for the violation of this bylaw pursuant to Cohasset General Bylaws Article I General Provisions, section 1(h).

(g)Penalties

First offense: warning to the owner and/or operator.

Second and subsequent offenses: \$200 penalty, to be levied upon the property owner.

Motion defeated.

It was moved and seconded at 4 p.m. that this meeting stand adjourned to Saturday, April 5, 2008 for the election of town officers.

A True Record, ATTEST:

Marion L. Douglas, Town Clerk