



FRANCIS X. BELLOTTI
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF THE ATTORNEY GENERAL

JOHN W. MC CORMACK STATE OFFICE BUILDING
ONE ASHBURTON PLACE, BOSTON 02108

RECEIVED BY
OFFICE OF THE ATTORNEY GENERAL
AUG 30 1 08 PM '83
CAMBRIDGE, MASS.

July 19, 1983

Heidi Schultz
Town Clerk
Office of Town Clerk
West Tisbury, MA 02575

Dear Ms. Schultz:

I regret that I must enclose the amendment to general by-laws adopted under Article 36 of the warrant for the West Tisbury Annual Town Meeting held May 17, 1983, with the disapproval of the Attorney General endorsed thereon.

The United States Constitution Article I, Section 8, Clause 1, provides that the Congress shall have power to provide for the common defense. A state or a subdivision thereof cannot interfere with this power granted to the United States by adopting a local legislative enactment establishing "nuclear free zones." Pauling v. McElroy, 278 F.2d 252, 254 (1960), cert. den., 364 U.S. 835 (10/10/60). Holdbridge v. United States of America, 286 F.2d 302, 303 (1960).

A local community may not appropriate money for the purpose of providing for the common defense. Stetson v. Kempton, 13 Mass. 271 (1816).

Heidi Schultz
Town Clerk
Page Two

A resolution or a nonbinding public opinion advisory question
would be a more proper method for the voters to express their
feelings on nuclear weapons.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Henry F. O'Connell".

Henry F. O'Connell
Assistant Attorney General

HFOF/bap
Enclosure

Town of West Tisbury Annual Town Meeting 17 MAY 1983 con'd

Article 33. Passed unanimously:

To see if the Town will vote to appropriate from Available Funds a sum not to exceed \$3,000.00 for use by the Conservation Commission to help procure land for agricultural preservation restriction in the Town of West Tisbury jointly with the Commonwealth of Massachusetts, Department of Food and Agriculture, under Chapter 780, Acts of 1977.
(AGRICULTURAL LAND PRESERVATION)

Article 34. Defeated (ARTS COUNCIL)

Article 35. Passed by majority vote:

To see if the Town will vote to appropriate from Available Funds the sum of \$95,000.00 to be used by the Board of Assessors to keep the tax rate down.

✓ Article 36. Passed by majority vote:

To see if the Town will vote to adopt the following by-law:

*no floor
amendment*

The Town of West Tisbury is hereby declared and shall remain a Nuclear Free Zone, wherein all nuclear armaments and associated products and processes are prohibited.
(NUCLEAR ARMAMENTS)

*General (by
petition)*

Article 37. Passed by majority vote:

To see if the Town of West Tisbury will vote the following:

Recognizing the dangers and severe consequences of acid rain to the health, environment and economy of the Town, we the people of West Tisbury strongly urge the President and Congress of the United States to take immediate and adequate action to reduce and control the major causes of acid rain, especially industrial emissions of sulphur dioxide.
(ACID RAIN) (RESOLUTIONS)

Article 38. Passed by majority vote:

To see if the Town of West Tisbury will vote the following:

We the people of West Tisbury are deeply concerned about the civil conflict in Central America and in particular the role of the United States Government in supporting governments in that region guilty of corruption, brutality and inhumanity. Since economic aid given through a corrupt government will not reach the needy, we strongly urge the President and Congress of the United States to immediately cease all military and economic aid to the governments of El Salvador and Honduras.
(CENTRAL AMERICA) (RESOLUTIONS)

The Moderator called for a vote on the non-binding Question: Shall the Selectmen look into the possibility of purchasing the property behind the Public Library now belonging to George Athearn. This was voted, passing by majority.
(LAND PURCHASE)

S-436

Comm. from Henry F. O'Connell, Asst. Attorney General, transmitting a copy of a comm. sent to the West Tisbury Town Clerk Re: Attorney General's disapproval of a resolution adopted by the West Tisbury Town Council to declare itself a nuclear free zone.

In City Council,

September 12, 1983

9/12/83

-Placed on File-