

# Town Warrant

**Special Town Meeting – Monday, October 21, 2013 – 6:00 p.m.**

Town Moderator Mary-Jo Avellar reconvened the October 21, 2013 Special Town Meeting at 6:00 p.m. in the Town Hall Auditorium.

## **Preliminary Motions:**

Austin Knight moved that the Town vote to waive the reading of the warrant.

**Motion Passed.**

Austin Knight moved that the Town vote to grant permission to speak at the October 21, 2013 Special Town Meeting to the following persons who are not registered voters of the Town of Provincetown: John W. Giorgio, Esq., and other attorneys of the firm of Kopelman & Paige, P.C., *Town Counsel*; Beth Singer, *Superintendent of Schools*; Kim Y. Pike, *District Principal*; Russell Braun, *Building Commissioner*; Richard Waldo, *Deputy DPW Director*; Cody Salisbury, *Water Superintendent*; Gloria McPherson, *Town Planner*; Michelle Jarusiewicz, *Housing Specialist/Grant Administrator*; James Golden, *Lieutenant*; Maxine Notaro, *Permit Coordinator*; Morgan Clark, *Public Health and Safety Officer*; Brandon Motta, *Recreation Director*; Domenic Rosati, *Parking Administrator*; Beau Jackett, *MIS Director*; Beth O'Rourke, *Provincetown Community Television*; Rex McKinsey, *Pier Manager/Harbormaster*; Bob Graser Sr., *Vice Commander VFW Commonwealth of Massachusetts*; Harry Rae, *Veteran Affairs Officer, Provincetown, MA*; Andy Fingado, *Post Commander VFW Post 3152, Provincetown, MA*.

**Motion Passed.**

Austin Knight moved that on all matters to come before the October 21, 2013 Special Town Meeting, requiring a two-thirds vote by statute, that a count need not be taken unless the vote so declared is immediately questioned by seven or more registered voters.

**Motion Passed.**

## **Article 1. To Hear Town Reports.**

To see if the Town will vote to hear the reports of the Town Officials and Committees and to act thereon.

*[Requested by the Board of Selectmen]*

Austin Knight moved to hear the reports of the Town Officials and Committees and to act thereon.

**Motion Passed.**

Julia Perry, Chair of the Charter Review Ad Hoc Committee, provided a report from the committee of progress to date.

**Article 2. Prior Year Bills.**

To see what sum the Town will vote to raise and appropriate or transfer from available funds for the purpose of paying prior year unpaid bills; or take any other action relative thereto.

*[Requested by the Town Manager]*

**Board of Selectmen Recommends: 5-0-0**

**Finance Committee Recommends: 7-0-0**

**Nine-Tenths Vote Required**

Erik Yingling moved that the Town vote to transfer the sum of \$5,497.10 from 2012 Annual Town Meeting article 13, Fireworks Celebration for the purpose of paying the following prior year bills:

Cape Cod Oil Company \$2,153.20

Frank A. Days & Sons \$277.00

Conwell Enterprises \$377.10

Ronald C. Meservey Co. \$4.49

B & B Electric \$521.67

Howland Disposal \$1,626.64

BBE Corporation \$354.00

Outer Cape Auto & Truck Repair \$58.00

Susan Leonard \$125.00

**Motion Passed Unanimously.**

**Article 3. Contribution to OPEB Liability Fund.**

To see if the Town will vote to authorize and direct the Town Treasurer to deposit into the Other Post Employment Benefits (OPEB) Trust Fund any future refunds the Town receives from the Retiree Drug Subsidy (RDS) program in accordance with Massachusetts General Law Chapter 32B, section 20; or to take any other action relative thereto.

*[Requested by the Board of Selectmen and the Town Manager]*

**Board of Selectmen Recommends: 5-0-0**

**Finance Committee Recommends: 7-0-0**

Elaine Anderson moved that the Town vote to approve Article 3 as printed in the warrant.

**Motion Passed.**

**Article 4. Contribution to OPEB Liability Fund.**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to the OPEB Trust Fund; or to take any other action relative thereto.

*[Requested by the Board of Selectmen and the Town Manager]*

**Board of Selectmen Recommends: 5-0-0**

**Finance Committee Recommends: 7-0-0**

Elaine Anderson moved that the town vote to transfer \$440,752 from free cash into the OPEB liability trust fund.

**Motion Passed.**

**Michael Canizales moved to take Article 17 out of order and hear it after Article 4.**

**Motion to take Article 17 Out of Order Does Not Pass.**

***Article 5. Cable Reserve Fund Transfer.***

To see if the Town will vote to transfer a sum of money from the Cable Reserve Fund in order to fund upgrades needed to the Town Hall audio and video system in order to improve quality and to purchase necessary equipment to upgrade video production quality at the Provincetown Community Television public access studio and to partially fund a new full time employee.

*[Requested by the Town Manager]*

**Board of Selectmen Recommends: 5-0-0**

**Finance Committee Recommends: 7-0-0**

Tom Donegan moved that the Town vote to transfer \$41,614 from the Cable Receipts Reserved for Appropriation fund to Provincetown Community Television for the purpose of purchasing and upgrading audio visual equipment and for partial funding of a new full time employee.

**Motion Passed.**

***Article 6. Acquisition of VFW Property.***

To see if the Town will vote to authorize the Board of Selectmen to acquire, by purchase, gift, and/or eminent domain, on such terms and conditions as the Board of Selectmen deems appropriate, all or portions of three (3) parcels of land with the improvements thereon located at 3 Jerome Smith Road, 3-R Jerome Smith Road, and 3-A Jerome Smith Road, which parcels are shown as Lot 3 on a plan filed with the Barnstable Registry District of the Land Court as Land Court Plan 28781-A, Lot 24 on Land Court Plan 28781-N, and Lot 30 on Land Court Plan 28781-P, and described in Certificate of Title No. 135188, for general municipal purposes, including, without limitation, for police station and/or affordable housing purposes, and for the purpose of conveyance or lease; to raise and appropriate, transfer from available funds, and/or borrow \$900,000 more or less for the foregoing acquisition and costs related thereto, provided, however, that any borrowing authorized hereunder shall be contingent on the

passage of a Proposition 2 and ½ debt exclusion by the voters of the Town in accordance with General Laws Ch. 59 section 21C(m); and, further, to authorize the Board of Selectmen to convey or lease, for a term of no more than 99 years, such portion or portions of the foregoing property that the Board of Selectmen determines is to be used for affordable housing purposes, if any, on such terms and conditions and for such consideration, which may be nominal consideration, as the Board of Selectmen deems appropriate; or take any other action relative thereto.

*[Requested by the Board of Selectmen and the Town Manager]*

**Board of Selectmen Recommends: 5-0-0**

**Finance Committee Recommends: 6-1-0**

### **Two-Thirds Vote Required**

Austin Knight moved that the Town vote to authorize the Board of Selectmen to acquire, by purchase, gift, and/or eminent domain, on such terms and conditions as the Board of Selectmen deems appropriate, all or portions of three (3) parcels of land with the improvements thereon located at 3 Jerome Smith Road, 3-R Jerome Smith Road, and 3-A Jerome Smith Road, which parcels are shown as Lot 3 on a plan filed with the Barnstable Registry District of the Land Court as Land Court Plan 28781-A, Lot 24 on Land Court Plan 28781-N, and Lot 30 on Land Court Plan 28781-P, and described in Certificate of Title No. 135188, for general municipal purposes, including, without limitation, for police station and/or affordable housing purposes, and for the purpose of conveyance or lease; to transfer from Free Cash \$900,000 for the foregoing acquisition and costs related thereto; and, further, to authorize the Board of Selectmen to convey or lease, for a term of no more than 99 years, such portion or portions of the foregoing property that the Board of Selectmen determines is to be used for affordable housing purposes, if any, on such terms and conditions and for such consideration, which may be nominal consideration, as the Board of Selectmen deems appropriate.

Barbara Rushmore moved to amend the motion to delete “for police station and/or.”

**Motion to Amend Passed. (For 113 Against 84)**

Ken Weiss moved to amend the motion by eliminating “including, without limitation, for police station and/or affordable housing purposes, and for the purpose of conveyance or lease”, and also eliminate “and, further, to authorize the Board of Selectmen to convey or lease, for a term of no more than 99 years, such portion or portions of the foregoing property that the Board of Selectmen determines is to be used for affordable housing purposes, if any, on such terms and conditions and for such consideration, which may be nominal consideration, as the Board of Selectmen deems appropriate”, and replace with the following: If after a period of three years from closing of the title on subject properties, if the

town has not identified and begun work in that effect, then the Board of Selectmen is directed to seek town meeting approval for the sale of the property.  
**Motion to Amend Does Not Pass.**

**Motion As Amended Passed. (Two-Thirds Vote Declared)**

**Article 7. Design Services Contract for a new Police Station.**

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow \$450,000 more or less for design and project management services, and all costs related thereto, in connection with design development activities, through and including the preparation of construction bid documents, for a new police station to be located at the VFW property, 3 Jerome Smith Road, Provincetown, MA; or to take any other action relative thereto.

*[Requested by the Board of Selectmen and the Town Manager]*

**Board of Selectmen Recommends Indefinite Postponement: 5-0-0**

**Finance Committee Recommends Indefinite Postponement: 7-0-0**

Austin Knight moved that the Town vote to indefinitely postpone Article 7.

**Motion Passed.**

**Article 8. PROPERTY Acquire Lot 5, Parcel 37-17 in Truro for Wellhead Protection.**

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise, for water supply protection purposes, the fee simple interest in 0.938 acres, more or less, of land, in the Town of Truro located off Route 6, consisting of the land shown as Parcel 5, on the plan entitled "Subdivision Plan of Land in Truro Owned By Wallace A. Kelly, recorded with the Barnstable County Registry of Deeds and being Parcel 5 and further that the deed of said land be accepted by the Town of Provincetown acting by and through its Water and Sewer Board under the provisions of G.L. Chapter 40, §39B, and that the Board of Selectmen and the Water and Sewer Board are authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town to effect said purchase, and as funding therefor to raise and appropriate, transfer from available funds, or borrow a sum of money, pursuant to Massachusetts General Laws Chapter 44, Section 8(3), or any other general or special law for said purchase, and further, that the Board of Selectmen is authorized to convey a permanent conservation restriction meeting the requirements of Massachusetts General Laws Chapter 184, Sections 31-32, limiting the use of said land to the purpose for which it is to be acquired; or to take any other action relative thereto.

*[Requested by the Board of Selectmen and the Town Manager]*

**Board of Selectmen Recommends: 5-0-0**

**Finance Committee Recommends: 7-0-0**

**Conservation Commission Recommends: 4-0-0**

## **Two-Thirds Vote Required**

David McChesney moved that the Town vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise, for water supply protection purposes, the fee simple interest in 0.938 acres, more or less, of land, in the Town of Truro located off Route 6, consisting of the land shown as Parcel 5, on the plan entitled "Subdivision Plan of Land in Truro Owned By Wallace A. Kelly, recorded with the Barnstable County Registry of Deeds and being Parcel 5 and further that the deed of said land be accepted by the Town of Provincetown acting by and through its Water and Sewer Board under the provisions of G.L. Chapter 40, §39B, and that the Board of Selectmen and the Water and Sewer Board are authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town to effect said purchase, and further, that the Board of Selectmen is authorized to convey a permanent conservation restriction meeting the requirements of Massachusetts General Laws Chapter 184, Sections 31-32, limiting the use of said land to the purpose for which it is to be acquired; that to meet this purchase, the Town Treasurer, with the approval of the Board of Selectmen, is hereby authorized to borrow the sum of \$280,000, pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 7 and/or 8 or any other enabling authority, and to issue bonds and notes of the Town therefor; and further, to authorize the Town Manager and the Board of Selectmen to take all actions necessary to carry out the project and apply for, accept, and expend grant funds for this project and further that although the bonds issued for this project shall be general obligations of the Town, it is the intent of the Town that the principal and interest payments for this project shall be paid from the Water Enterprise Fund.

**Motion Passed Unanimously.**

### ***Article 9. Replacement of Existing Water Service Connections in Support of Pavement Management Plan and Reduction of Unaccounted-for Water.***

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of \$50,000 more or less, to replace and/or upgrade existing water service connections on various streets in support of the Town's pavement management plan and the reduction of unaccounted-for water, including all costs incidental and related thereto; and further, to authorize the Town Manager and the Board of Selectmen to take all actions necessary to carry out the project and apply for, accept, and expend grant funds for this project; or to take any other action relative thereto.

*[Requested by the Board of Selectmen and the Town Manager]*

**Board of Selectmen Recommends: 5-0-0**

**Finance Committee Recommends: 6-0-0**

**Conservation Commission Recommends: 4-0-0**

**Two-Thirds Vote Required**

David McChesney moved that the Town vote to appropriate the sum of \$50,000 to replace and/or upgrade existing water service connections on various streets; that to meet this appropriation, the Town Treasurer, with the approval of the Board of Selectmen, is hereby authorized to borrow the sum of \$50,000, pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 7 and/or 8 or any other enabling authority, and to issue bonds and notes of the Town therefor; and further, to authorize the Town Manager and the Board of Selectmen to take all actions necessary to carry out the project and apply for, accept, and expend grant funds for this project and further that although the bonds issued for this project shall be general obligations of the Town, it is the intent of the Town that the principal and interest payments for this project shall be paid from the Water Enterprise Fund.

**Motion Passed. (Two-Thirds Vote Declared)**

***Article 10. Community-Police Complaint Review Board.***

To see if the Town will vote to support the following Resolution: Be it resolved: First, that the citizens of the Town of Provincetown reaffirm their commitment to the principles and practices of Community Oriented Policing and urge adoption of these proven police practices.

Second, that the Board of Selectmen brings forward an article to create a Community-Police Complaint Review Board to Annual Town Meeting in April 2014.

And further, the Board of Selectmen work collaboratively and expeditiously to bring these improvements to Provincetown; or to take any other action relative thereto.

*[Requested by the Board of Selectmen]*

**Board of Selectmen Recommends: 5-0-0  
Finance Committee Has No Recommendation**

Tom Donegan moved that the Town vote to approve Article 10 as printed in the warrant.

**Motion Passed.**

***Article 11. Article to Alter Layout of Atlantic Avenue and Authorize Conveyance of a Discontinued Portion.***

To see if the Town will vote to accept the altered layout of Atlantic Avenue as a public way to exclude from the layout of said way the parcel of land shown as "Discontinued Portion" on a plan entitled "Plan of Land in Provincetown Showing a Portion of Atlantic Avenue," dated March 4, 2013, prepared by Slade Associates, Inc., on file with the Town Clerk, and to transfer the care, custody, management and control of the aforesaid Discontinued Portion from the Board of Selectmen for public way purposes to the Board of Selectmen for general municipal purposes and for the purpose of conveyance, and further to authorize the Board of Selectmen to convey said Discontinued Portion of land on such

terms and conditions and for such consideration, which may be nominal consideration, as the Selectmen deem appropriate; or take any other action relative thereto.

*[Requested by the Board of Selectmen and the Town Manager]*

**Board of Selectmen Recommends: 5-0-0**  
**Finance Committee Has No Recommendation**  
**Planning Board Recommends: 5-0-0**

### **Two-Thirds Vote Required**

Erik Yingling moved that the Town accept the altered layout of Atlantic Avenue as a public way to exclude from the layout of said way the parcel of land shown as "Discontinued Portion" on a plan entitled "Plan of Land in Provincetown Showing a Portion of Atlantic Avenue," dated March 4, 2013, prepared by Slade Associates, Inc., on file with the Town Clerk, and to transfer the care, custody, management and control of the aforesaid Discontinued Portion from the Board of Selectmen for public way purposes to the Board of Selectmen for general municipal purposes and for the purpose of conveyance, and further to authorize the Board of Selectmen to convey said Discontinued Portion of land on such terms and conditions and for such consideration, which may be nominal consideration, as the Selectmen deem appropriate.

**Motion Passed. (Two-Thirds Vote Declared)**

### **Article 12. General Bylaw Chapter 15, Section 7-5.**

*To see if the Town will vote, under G.L. c.40C, §3, ¶1 and G.L. c.40C, §10(i), to amend the Provincetown General Bylaw, Chapter 15, Local Historic District Section 15-7-5, as follows:*

#### **15-7-5 Administrative Approvals:**

If an application for a Certificate involves an Exterior Architectural Feature which is subject to review by the Commission under the provisions of this Bylaw, but the proposed Alteration clearly conforms to the purposes of this Bylaw and Guidelines because the Alteration is merely a replacement of an existing design element, which is allowed under G.L. c.40C, §9, and, therefore, is insubstantial in its affect on the District, ~~this the Application shall be placed upon the next available meeting agenda, with notice to abutters as provided in Section 7.3 for ratification. Ten (10) days shall elapse after the mailing of such notice before the Commission may act upon such application and issue a Certificate, and may be approved by the Commission, or a sub-committee as appointed, as an administrative approval without a public hearing or notice to abutters;~~ or take any other action relative thereto.

*[Requested by the Provincetown Historic District Commission]*

**Board of Selectmen Recommends: 5-0-0**  
**Finance Committee Has No Recommendation**

**Planning Board Recommends: 5-0-0**  
**Historic District Commission Recommends: 4-0-0**

**Two-Thirds Vote Required**

Marcene Marcoux moved that the Town vote to amend the General Bylaws, Chapter 15, Local Historic District Section 15-7-5 as printed in the warrant.

**Motion Passed Unanimously.**

**Article 13. Zoning By-law Article 1. Medical Marijuana Treatment Center Zoning Bylaw Amendment.**

To see if the Town will vote to amend the Provincetown Zoning Bylaw, Article 1, Definitions, by adding the following:

**Medical Marijuana Treatment Center (MMTC):** means a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, MMTC refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

And further to make the following modifications to Section 2440 as follows:

D.	Institutional	Res1	Res2	Res 3 Res B	TCC	GC	S	M
<u>D7</u>	<u>Medical Marijuana Treatment Center</u>	<u>NO</u>	<u>NO</u>	<u>BA<sup>19</sup></u>	<u>NO</u>	<u>BA<sup>19</sup></u>	<u>NO</u>	<u>NO</u>

And add footnote 19.

<sup>19</sup> The Planning Board shall be the Special Permit Granting Authority for Medical Marijuana Treatment Centers. Except no MMTC shall be permitted with a radius of 100 feet of a school or daycare center. The 100 foot distance is measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed MMTC.

or take any other action relative thereto.

[Requested by the Provincetown Planning Board]

**Board of Selectmen Recommends: 5-0-0**  
**Finance Committee Has No Recommendation**  
**Planning Board Recommends: 5-0-0**

**Two-Thirds Vote Required**

Grace Ryder-O'Malley moved that the Town vote to amend the Zoning Bylaw, Article 1, Definitions, by adding a definition of Medical Marijuana Treatment Center, as printed in the warrant.

**Motion Passed. (Two-Thirds Vote Declared)**

**Article 14. Zoning Bylaw Article 2, Section 2470 Parking Requirements.**

To see if the Town will vote to amend the Provincetown Zoning Bylaw, Article 2, Section 2472 as follows:

**2472 All Districts** The following minimums must be complied with in all districts:

USE	NUMBER OF SPACES
Multi-family dwelling <u>Residential</u>	1 space/dwelling unit (studio or 1 bedroom); 1.5 spaces /dwelling unit (2 bedrooms or more) <u>(applies to new units, existing development is grandfathered. Required spaces shall be rounded up to the nearest whole number.)</u>
Hotel, Motel, Dormitory, Inn	1 space/guest unit plus: 1 space/resident employee; 1 space/3 non-resident employee plus 1 temporary space/10 guest units or fraction thereof
Boarding, Lodging or Tourist Home	1 space/guest unit
Affordable, elderly & or handicapped housing	1 space per two residential units

**2474 Egresses** In a GC Commercial District, each parking area for ~~five~~ three or more vehicles shall have a point of entry, turn-around and exit to eliminate the need to back out upon the street. ~~A simple point of entry and exit may be employed if sufficient space is provided to overcome the possibility of congestion.~~ A single or shared point of entry and exit is encouraged wherever feasible. ~~or take any other action relative thereto.~~

*[Requested by the Provincetown Planning Board]*

**Board of Selectmen Recommends: 5-0-0**

**Finance Committee Has No Recommendation**

**Planning Board Recommends: 5-0-0**

**Two-Thirds Vote Required**

Dorothy Palanza moved that the Town vote to amend the Zoning Bylaw, Article 2, Section 2470, Parking Requirements, as printed in the warrant.

Jonathan Sinaiko moved to amend the motion to increase number of spaces to 2 instead of 1.5.

**Motion to Amend Does Not Pass.**

Amy Germain moved to indefinitely postpone Article 14.

**Motion to Indefinitely Postpone Does Not Pass.**

**Motion Passed. For 82, Against 38 Two-Third's Vote Achieved**

**Article 15. Zoning Bylaw Article 6, Section 6500 Growth Management Use Categories and Priorities.**

*To see if the Town will vote to amend the Provincetown Zoning Bylaw, Article 6, Section 6500 as follows:*

Section 6500 Table of Use Categories and Priorities

**GENERAL USE CATEGORY 3**

- 3a. Expansions or alterations to existing residential structures or uses that result in increased Title 5 flow, not to exceed the Title 5 Design Flow pursuant to 310 CMR 15.203(2). A total of 330 gallons per year will be reserved for one bedroom per year per applicant.
- 3b. Single-family dwelling on one lot; two single-family dwellings on one lot; or a two family dwelling on one lot.
- 3c. All other market rate residential projects without affordable housing components that result in increased Title 5 flow, except that no one applicant may gain access to 65% of allowable growth within this category within any given year.

*or take any other action relative thereto.*

*[Requested by the Provincetown Planning Board]*

**Board of Selectmen Recommends: 4-0-1**

**Finance Committee Has No Recommendation**

**Planning Board Recommends: 5-0-0**

**Two-Thirds Vote Required**

John Golden moved that the Town vote to amend the Zoning Bylaw, Article 6, Section 6500, Growth Management Use Categories and Priorities, as printed in the warrant.

**Motion Passed. (Two-Thirds Vote Declared)**

**Article 16. Zoning Bylaw Article 2 Section 2440 Permitted Principal Uses and Article 4 Special Regulations, Section 4000 Site Plan Review Bylaw.**

*To see if the Town will vote to amend the Provincetown Zoning Bylaw, Article 2 Section 2440, as follows:*

*Change footnote 8 to read as follows:*

- 8. Except "BA" pursuant to Article 4 if the total number of dwelling units on the lot ~~exceeds six (6) three~~ will result in four (4) or more dwelling units. ~~Obtaining a Special Permit does not relieve the applicant from the obligation of complying with the Plan Review under Section 4160 nor any other applicable By-law provision.~~

*And to see if the Town will vote to amend the Provincetown Zoning Bylaw, Article 4, as follows:*

*Delete Section 4000 through Section 4052 and replace with the following Sections:*

**Section 4000. Site Plan Review (SPR)**

**Section 4001. Transitional Provision** The revised site plan provisions adopted by the October 21, 2013 Town Meeting under Article 16 shall not apply to any site plan approval decision or any special permit decision that was approved and in effect as of October 21, 2013, with "in effect" to mean either that the site plan or special permit decision granting favorable relief was duly filed with the Town Clerk's Office on or before October 21, 2013 and had not expired or lapsed or that the site plan or special permit decision denying relief was duly filed with the Town Clerk's Office by October 21, 2013 and the denial then was timely appealed and then overturned on appeal and a grant of favorable relief was perfected.

#### **4005. Purpose**

The purpose of this section is to provide for comprehensive review of projects as described below which represent an impact to either the Town as a whole, and/or one or more of its neighborhoods, so as to protect the health, safety, convenience, and general welfare of the inhabitants of the Town of Provincetown.

The location and development of all buildings, structures, and site improvements affect the economic, social and environmental resources of the Town of Provincetown and that many developments, due to their magnitude and character, may cause significant alterations to the natural and built environments of the Town; that authority is rightfully vested in our Municipal government to regulate the location, character and impact of developments which may substantially affect the quality of life in Provincetown.

The SPR process regulates the use of land and structures to minimize adverse impact on the natural environment and the Town Character and protect the health, safety and general welfare of the people and to ensure the following:

- a. The safety and convenience of pedestrian and vehicular movement internal to the site, and in relationship to abutting properties and rights-of-way;
- b. The consideration of the protection of the use and enjoyment of the property of abutters;
- c. The protection of the historic character of the community in a manner consistent with the Local Comprehensive Plan;
- d. The protection of natural features and environmental resources.

The bylaw establishes the application procedure and requirements for site plan review for such uses and structures in order to further the intent of the Zoning By-laws and the Local Comprehensive Plan and to ensure that new development and redevelopment which may have significant impacts upon abutting land, the Town, or any neighborhood, is designed in a manner that complies with the Zoning By-laws and addresses other community needs.

#### **4010. Administrative Site Plan Review**

4011. Projects requiring Administrative Site Plan Review by the Planning Board. Except as exempted by Section 4012 or requiring review under Section 4015, all alteration of land, construction, exterior structural alteration, structural relocation, and change in use of any building or residential, commercial, industrial, cultural or institutional uses shall require Administrative Site Plan Review.

**4012. Projects exempted from Site Plan Review**

a. The construction or enlargement of any single-family, two-family dwelling, two dwelling units on one lot, or building accessory to such dwelling,

1) except where such dwellings are located in the High Elevation District;

2) except where the development of such dwellings requires the excavating or grading of an area greater than the minimum lot size in the zone in which the parcel is located.

b. Any construction or alteration which has no effect on the footprint of an existing residential building or accessory structures, and does not add parking.

c. Any construction or alteration which has no effect on the footprint of an existing commercial building (s) or accessory structures, and does not add parking, except if the alteration of premises containing such uses is greater than 50% ;of the floor area for developments of more than 2000 square feet of total commercial space, interior and exterior.

d. Any use specifically exempted from regulation pursuant to the Massachusetts General Laws c.40A §3.

**4015. Site plan Review by Special Permit**

a. The following developments shall require Site Plan Review by Special Permit by the Planning Board:

(1) developments consisting of the aggregate of residential units that will result in four or more residential units on any parcel;

(2). developments consisting of more than 2,000 square feet of new commercial area;

(3). development of properties consisting of an existing or proposed drive-through facility or raised loading dock;

(4). development of commercial properties that have curb cuts greater than 25% of their existing or proposed street frontage;

(5). All new construction or additions or any excavation, land removal or earth moving of more than 2000 cubic yards that will alter the topography from natural grade, whether or not subject to a building permit;

- b. The Planning Board may, at its discretion, require a surety to guarantee completion of the elements and conditions of plan approved by Site Plan Special Permit.

#### **4020. Procedure**

- a. Pre-application review process. Any prospective applicant shall arrange for a pre-application conference with the professional staff of the Community Development Department. One or more coordinated review meetings may be scheduled prior to application submission for the purpose of reviewing alternative schematic plans, and to give technical feedback before the applicant makes a significant investment in the project. The prospective applicant may also request the review of schematic plans with the Planning Board on an informal basis.
- b. Application submission. An applicant for a site plan review shall submit to the Community Development Department copies of a site plan containing the information required by the Planning Board as described below, together with an application form and fee prescribed. The official date of receipt of such plans shall be the day such plans are deemed complete and stamped in the Community Development Department. The applicant may be required to amend the application or provide additional information prior to being deemed complete.
- c. Public Hearing. Within 65 days of submission, the Planning Board shall hold a public hearing to review the site plan.
- d. Decision. Within 30 days of the conclusion of the public hearing, the Planning Board shall either approve, approve with conditions, or disapprove the application with a statement of reasons.
  - (1) Administrative Site Plan: action on an administrative site plan requires a majority vote of the Planning Board.
  - (2) Special Permit Site Plan: action on a special permit site plan requires a super-majority vote of the Planning Board.
- e. Site Plan Approval Conditions. Where the Planning Board approves a site plan "with conditions", the conditions imposed by the Planning Board will be incorporated into the issuance of a Building Permit.
- f. Modifications. No deviation from an approved site plan shall be permitted without modification of the Site Plan utilizing the process set forth in Section 4020(b)-(e).
- g. Extension of Time Limits. The applicant may request and the Planning Board may grant an extension of the time limits set forth herein. Failure

by the Board to act in the time specified shall be considered approval of the site plan. Failure of the applicant to submit the necessary information may be grounds for denial. The decision of the Planning Board shall be in writing. The Planning Board shall notify the Town Clerk and the applicant within seven days of action taken by the Board.

**4025. Required contents of site plan**

4026. The Planning Board may require that all site plans be signed and bear the stamp of a professional engineer when such plans require the design of drainage improvements. Otherwise, the review authority may require plans prepared by a professional land surveyor, registered architect, or registered landscape architect. The Planning Board may require that all plans showing property lines and/or dimensions from structures to property lines shall bear the stamp of a professional land surveyor.

4027. All site plans shall be on standard 18" x 24" or 24" x 36" sheets, or otherwise as deemed appropriate by the review authority, and shall be prepared at a standard engineering scale appropriate to the size of the site, and the level of detail required. At least one set of drawings shall be provided at 11" x 17". All drawings at this size shall also include a graphic scale. Plans in an acceptable electronic format shall also be provided. Separate plans shall be provided for following:

- a. Existing condition including contours, utilities and vegetation
- b. Proposed Grading (2' contours, max.) Layout (fully dimensioned),
- c. Proposed Utilities
- d. Proposed Landscaping

4028. The Planning Board may require the following information in connection with site plan review. In deciding which requirements will apply to a specific application, the review authority shall consider the size and intensity of the use, and the unique circumstances of each application.

- a. Name of the project, locus, boundaries, North arrow, date, and scale of the plan;
- b. Key Map at a scale of 1" = 500', depicting the property with reference to surrounding properties, roads, and zoning district lines;
- c. Name and address of the owner of record, developer, and professional seal and certification of the certifying professional;
- d. Names and addresses of all owners of record of all abutting property owners;
- e. Existing lot lines, easements, and rights-of-way;
- f. The location, dimensions, and use of all existing and proposed structures within the site;
- g. Location and identification of all existing and proposed site improvements;
- h. General location and identity of all present and proposed utility systems;
- i. Erosion and sedimentation control measures;
- j. Grading Plan with existing and proposed topography at two-foot contour intervals, only if new, or expanded parking and/or drainage structures are

- proposed, including the volume and area of graded or excavation material if expected to exceed greater than 2000 cubic yards or an area greater than the minimum lot size in the zone in which the parcel is located;
- k. Floodplain District boundary, base flood elevation, and existing and proposed lowest floor elevation, pursuant to Section 2330, as applicable;
  - l. A landscape plan, depicting existing and proposed vegetation; including the identity and location of trees four inches in diameter or greater; and the location, size and type of proposed landscaping, conforming to the landscaping and buffering standards of this section;
  - m. The location of wetlands pursuant to Local and State Wetlands Regulations as applicable and the illustration of the 100 and 50 foot wetland buffers.
  - n. A Zoning Table, demonstrating compliance with the dimensional requirements of this chapter.
  - o. Abutting land uses and the location and use of structures and appurtenant improvements on abutting properties;
  - p. Location and identification of all existing and proposed site improvements, including public and private ways, parking areas, driveways, sidewalks, ramps, curbs, including traffic directional arrows and paintstriping; fences and buffers for screening purposes; paths; outdoor lighting fixtures; walls; service areas; refuse, and other waste disposal containers; standard specifications and typical cross-sections shall be provided, as appropriate;

#### **4030 Waiver**

Any applicant for site plan review may request a waiver of any requirements of this section. Waiver requests shall be made in writing to Planning Board. The Planning Board may waive any such requirements which it determines are unnecessary in its judgment in order to make a finding that the review objectives and performance standards have been met. In granting such waivers, the Planning shall document for the record their reasons for each such waiver, and such waivers shall be approved by a majority vote of the Board present and voting.

#### **4162 Consideration 4035 Review Criteria**

In its review of the site plan, the Planning Board shall consider the following:

- a. That the plan is in accordance with the Provincetown Zoning By-Laws and is consistent with the goals of the Local Comprehensive Plan.
- b. That the plan meets the design requirements outlined in Section 4163.
- c. That the plan shall address the requirements of Section 5331.
- d. Protection of public amenities and abutting properties through the mitigation of any detrimental impacts of any proposed use;
- e. Protection of unique, natural, scenic, or historic features of the site,

- f. The safety and convenience of pedestrian and vehicular movement within the site, and in relation to rights-of-way and properties in proximity to the site;
- g. Protection of the public health and safety within and adjacent to flood hazard areas;
- h. That the plan shall conform to the Illumination Standards of Section 3430 Illumination.

*Change the heading of Section 4053 Design Standards to read Section 4053 Commercial Design Standards;*

*Delete Section 4054 Parking, Section 4100 Dwelling Units and Commercial Accommodation; Section 4110 Purpose;*

*Change the heading of Section 4120 Lot Area to read Section 4120 Density Schedule;*

*No change to Section 4130 Yards; Section 4140 Lot Coverage; Section 4150 Green Area;*

*Delete Section 4160 Plan Review; Section 4161 Procedure; Section 4162 Consideration;*

*Change the heading of Section 4163 Design Standards to read 4163 Residential Design Standards;*

*Make no further changes to Article 4; or take any other action relative thereto.*

*[Requested by the Provincetown Planning Board]*

**Board of Selectmen Recommends: 4-0-1**  
**Finance Committee Has No Recommendation**  
**Planning Board Recommends: 5-0-0**

### **Two-Thirds Vote Required**

Mark Weinress moved that the Town vote to amend the Zoning Bylaw, Article 2 Section 2440, Permitted Principal Uses and Article 4 Special Regulations, Section 4000 Site Plan Review Bylaw, as printed in the warrant.

Randy Jansen moved to amend the motion by adding the sentence to the end of section 4030 as follows: "Before any waiver request is voted upon by the Planning Board, that the waiver request be publically posted and the abutters be notified via certified letter."

**Motion to Amend Passed.**

Jonathan Sinaiko moved to amend 2,000 cubic yards to 750 cubic yards in section 4015 (5).

**Motion to Amend Passed.**

**Duane Steele moved to indefinitely postpone Article 16.**

**Motion to Indefinitely Postpone Does Not Pass.**

**Motion As Amended Passed. (Two-Thirds Vote Declared)**

**Article 17. Finance Committee Recommendations.**

To see if the Town will endorse the following five recommendations passed by the Finance Committee and recommended to Town Staff and the Board of Selectmen. These recommendations were passed by a vote of 5-1 with Mr. Steele recusing:

A. The number one priority of the Town should be to fund our pension and retiree health care premiums and/or OPEB Trust Funds (retiree health care).

B. The Town's annual OPEB Trust payment + Retiree Health Premium payment should not be less than the total minimum required annual contribution (ARC) necessary to stabilize the Town's unfunded liability as presented by Segal Consulting in their report to the Town dated 8/27/2013. The minimum payment for Fiscal 2014 is approximately \$2,200,000. (This would require the Town to add an additional amount not to exceed \$1,100,000 to the OPEB Trust Fund in Fiscal 2014.)

C. The Finance Committee recommends an operating budget increase in fiscal 2015 inclusive of the above AND all debt service of 2.5%.

D. The Finance Committee recommends a revised Capital Improvements Plan be produced which supports a 2.5% per annum and a five-year growth rate of 13%.

E. The Finance Committee recommends the first \$800,000 of 2014 certified free cash be moved to the OPEB Trust Fund.

*or take any other action relative thereto.*

*[Requested by the Finance Committee]*

**Board of Selectmen Reserves Recommendation: 4-1-0**

**Finance Committee Recommends as Amended: 7-0-0**

Douglas Cliggott moved to see if the Town will endorse the following recommendations passed by the Finance Committee and recommended to Town Staff and the Board of Selectmen:

A) Beginning in FY15, funding for the town's OPEB Trust Fund will become a part of the operating budget and the long term goal will be to fully fund the outstanding OPEB liability over 25 years.

B) The Finance Committee recommends that the town's overall operating budget will increase by 2.5% per year.

Elaine Anderson moved to indefinitely postpone Article 17.

**Motion to Indefinitely Postpone Does Not Pass.**

**Motion Passed.**

**Article 18. Defund the Marine Patrol Program.**

To see if the Town will endorse the following recommendation regarding the Marine Patrol Pilot Program:

The Finance Committee recommends to Town Staff and Board of Selectmen that for fiscal 2015 they transfer or eliminate any monies from the police department budget which were used in the MPP Pilot for the purpose of eliminating the Marine Patrol Program.

*or take any other action relative thereto.*

*[Requested by the Finance Committee]*

**Board of Selectmen Reserves Recommendation: 3-2-0**  
**Finance Committee Recommends: 6-0-0**

Michael Canizales moved Article 18 as printed in the warrant.

**Motion Passed.**

Town Moderator Mary-Jo Avellar motioned to dissolve the October 21, 2013 Special Town Meeting at 10:45 p.m. **Motion Passed.**

**October 21, 2013 Special Town Meeting dissolved at 10:45 p.m.**