



Meeting Agenda

The Provincetown Select Board will hold a public meeting on Monday, August 27, 2018, at 6:00 p.m. in Judge Welsh Room, Town Hall, 260 Commercial Street, Provincetown, MA 02657.

Consent Agenda – Approval without objection required for the following items:

- A. Refer Zoning Bylaw Amendments to the Planning Board for a public hearing prior to the October 29, 2018 Special Town Meeting*
- B. Police Vehicle Surplus - Declare the following list of equipment as surplus, pursuant to M.G.L. c. 30B and Provincetown General By-law §6-4-6, and to authorize the Town Manager to dispose of same in the manner deemed most advantageous to the Town.*
- D. Treasurer's Transfer – Public Fountain Gift Fund – Approve use of gifted funds for \$336.69 to Cape Associates for Town Hall Fountain Replacement*

- 1. Public Hearings - Votes may be taken on the following items:
 - A. Curb Cut - Application by Clifford Shorer, requesting approval to install a **Curb Cut at 4 Commercial Street** (Assessor's Map 5-1, Parcel 5G) **and 6 Commercial Street** (Assessor's Map 5-1, Parcel 5H), Provincetown, MA. (Continued)
 - B. FY2019 Property Tax Rate Classification
- 2. Public Statements – Three (3) minutes maximum. Select Board Members do not respond to Public Statements.
- 3. Select Board Members' Statements – Initial comments from the Select Board. Discussion dependent- votes may be taken.
- 4. Joint meeting / Presentations - Votes may be taken on the following items:
- 5. Appointments - Votes may be taken on the following items:
 - A. Open Space Committee – Ansley Pierce
 - B. Animal Welfare Committee – Ansley Pierce
 - C. Recreation Commission – Catherine A. Nagorski
- 6. Requests - Votes may be taken on the following items:
 - A. Select Board Agenda Items
 - B. Special Town Meeting Draft Warrant Review
 - 1) Draft Warrant
 - 2) Town Counsel John Giorgio Memo of July 25, 2018
 - 3) Calendar/Timeline Review
 - C. Commercial Street Improvement – Phase 4 Review, Phase 5 Update
 - D. Treasurer's Notification – Tax Title – Intent to Initiate Foreclosure Petition:
 - 1) 19 U2 Tremont Street – Raymond Trevion Jr. - \$77,471.52

- 2) 41 R Howland Street – Paul Tasha, et al - \$16,802.62
 - 3) 28 R Creek Road – Unknown Owner - \$10,465.13
 - 4) 29 R Nickerson Street – Unknown Owner - \$469.91
 - 5) 73 R Franklin Street – Unknown Owner - \$5,110.73
 - 6) 438 R Commercial Street – Unknown Owner - \$3,656.26
 - 7) 26 A Bangs Street – Unknown Owner - \$3,443.85
 - E. Select Board Role in Provincetown 400
 - F. Town Talk Facebook Page: Set Policy for Town Manager's Page
 - G. Town Manager's Evaluation
7. Town Manager / Assistant Town Manager - Votes may be taken on the following items:
 - A. 99-101 Commercial Street Report
 - B. Town Manager's Report – Administrative Updates.
 8. Minutes – Approve minutes of previous meetings. Votes may be taken.
 9. Closing Statements/Administrative Updates - Closing comments from the Select Board. Discussion dependent; motions may be made; votes may be taken.

Posted by the Town Clerk: www.provincetown-ma.gov, 8/23/18 12:45 pm dv



**Provincetown Board of Selectmen
AGENDA ACTION REQUEST
Monday, August 27, 2018**

00A

ZONING BYLAW AMENDMENTS

Referral to the Planning Board

Requested by: Town Manager

Action Sought: Procedural

Proposed Motion(s)

Move that the Board of Selectmen vote, pursuant to Massachusetts General Law Chapter 40A Section 5, to submit the attached proposed Zoning Bylaw amendments to the Planning Board for review and public hearing on Thursday, October 11, 2018 in order to be placed on the October 29, 2018 Special Town Meeting Warrant.

Additional Information

Pursuant to Massachusetts General Law Chapter 40A Section 5 the Board of Selectmen procedurally refer all land use zoning articles to the Planning Board for a public hearing prior to a Town Meeting. Attached is a proposed Zoning Bylaw amendments from staff and the Planning Board, including any from any known petitioner.

The Planning Board will hold the required public hearing on the final warrant language on Thursday, October 11, 2018 and will make formal recommendations to town meeting.

Board Action

<i>Motion</i>	<i>Second</i>	<i>In favor</i>	<i>Opposed</i>	<i>Disposition</i>

2018 Fall Special Town Meeting Bylaw Amendment Calendar

October 29, 2018

Thursday, August 9, 2018	Planning Board Meeting – Introduction to proposed bylaws
Thursday, August 23, 2018	Planning Board Meeting – Planning Board reviews first draft of language
Monday, August 27, 2018	Board of Selectmen referral to Planning Board
Thursday, September 13, 2018	Planning Board Meeting – Review bylaw language, consider comments from Selectmen FINALIZE articles
Thursday, September 20, 2018	Hearing Notice Publication deadline
Friday, September 28, 2018	Warrant Closes
Thursday, October 11, 2018	Planning Board Meeting - Public Hearing on the Warrant 6:30 PM – Recommendations to Town Meeting
Friday, October 19, 2018	Planning Report Due
Monday, October 29, 2018	Special Town meeting



Public Hearing

Proposed Zoning Bylaw changes

The Provincetown Planning Board will hold a public hearing on **Thursday, October 11, 2018, at 6 P.M. in the Judge Welsh Room, Town Hall, 260 Commercial Street, Provincetown, MA 02657** to hear comments from the public and vote on the following proposed amendments to the Provincetown Zoning Bylaws for the October 29, 2018 Special Town Meeting Warrant, as well as any proposed petitioned articles concerning land use or development. (proposed deletions are ~~stricken through~~ and proposed additions are underlined): **A copy of this proposed zoning bylaw is available for public inspection at the Office of the Town Clerk, Provincetown Town Hall, 260 Commercial Street, Provincetown, MA 02657.**

Article __. Zoning Bylaw Amendment: Article 6 Growth Management. (*Deletions shown in strike through and new text shown as underlined*) To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 6, Growth Management Bylaw, Section 6600, Growth Limitation Goal Allocations, in order to allow a one-time increase in the number of gallons allocated to General Use Category 4 (Economic Development) that will allow for expansion of economic development in the downtown corridor due to wastewater expansion as follows:

(c) Annually, during the Growth Management Review, the Select Board may allocate up to 3,750 gpd to General Use Category 4, except that in 2019, the Select Board may allocate an additional amount of up to 10,000 gpd to General Use Category 4, provided that the Select Board shall have made a finding that the Town is in compliance with the water withdrawal permit issued by the Department of Environmental Protection ("DEP") pursuant to 310 CMR 36.00 and all applicable rules and regulations promulgated by DEP with respect thereto; or to take any other action relative thereto.

[Requested by the Planning Board]

Article __. Zoning Bylaw Amendment: Public Utilities. (*Deletions shown in strike-through and new text shown as underlined.*) To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 1, Definitions and Article 2, Districts and District Regulations, Section 2440 Table of Permitted Uses as follows:

Add the following definition to Article 1:

Public Utility shall mean an organization, subject to public control and regulation, that maintains the infrastructure for a public service, including: electricity, natural gas, water, sewage, telephone, and broadband internet.

And amend the use table for C8 Public Utility as follows:

2440 Permitted Principal Uses

C. Industrial		Res1	Res2	Res3 ResB	TCC	GC	S	M
C8	Public Utility	NO <u>BA</u>	NO <u>BA</u>	BA	BA	BA	NO <u>BA</u>	NO <u>YES</u>

or to take any other action relative thereto.

[Requested by the Planning Board]

Article __. Zoning Bylaw Amendment: Design Standards. (Deletions shown in strike-through and new text shown as underlined.) To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 2, Districts and District Regulation Section 2650 Dimensional Schedule as follows:

Amend Footnote 5 (Building Heights) as follows:

- Height limitations shall not apply to chimneys, TV antennae with poles of ten (10) feet or less, or spires, cupolas and widow walks that do not enclose more than thirty-five (35) square feet of floor space or exceed ten (10) feet in height or occupy more than five (5) percent of the roof area. If the roof is composed of multiple forms, the maximum height for each type of roof shall apply to each respectively. For Building Height allowed in High Elevation District, see Section 2320 High Elevation District. Municipal and Public Safety facilities may exceed height limitations when authorized by a Special Permit issued by the Zoning Board of Appeals as provided in Section 5300 with additional findings that the proposed height: 1) is influenced by unique design characteristics or constraints necessitated by the particular use, purpose or program of the structure, and 2) where it would be beneficial to the general public by decreasing costs, providing greater functionality or enhanced public safety.

or to take any other action relative thereto.

[Requested by the Planning Board]

Article __. Zoning Bylaw Amendment: Harborfront Overlay. (Deletions shown in strike-through and new text shown as underlined.) To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 2, Districts and District Regulations, Section 2300 Overlay Districts as follows:

Section 2300 Overlay Districts

2310 Harborfront Regulation

2311 Purpose The purpose of this section is to regulate the uses permitted in the harborfront area in order to promote appropriate waterfront activities and efficient use of the harbor frontage while minimizing adverse impacts to pedestrian and visual access and protecting harbor water quality.

2312 Applicability The following requirements apply to the "Harborfront Area", defined as all that area which is ~~either more than 495~~ 160 feet seaward (i.e., southward) from the northern edge of the traveled ways of Commercial Street in the Class TCC, Town Center Commercial zone ~~or seaward of mean high water, or both.~~

2313 Allowed Uses Any of the following uses is allowed in the Harborfront Area without necessity of a Special Permit unless it is prohibited or requires a Special Permit in the underlying district:

Use Item	Name
B4d	Marine service, boat sales
C1	Seafood processing
C2	Boatbuilding, repair, overhaul
C3	On-shore boat storage
D1a	Religious or educational use exempt from zoning prohibition
E3b	Picnic area, commercial beach, bathhouse
F1 (part)	Aquaculture
F2	Other farms, nurseries, greenhouses
G3	Home occupation (see Section 4400)
G4	Sale of seafood caught by a resident of the premises
G6	Temporary construction office or shelter

2314 Special Permit Uses ~~The following~~ All other uses are allowed in the Harborfront Area on Special Permit from the ~~Zoning Board of Appeals~~ Planning Board unless prohibited in ~~an~~ the underlying district, except that Residential Uses as listed in Section 2440 shall not occupy more than 20% of the gross floor area of any structure or portion thereof within the Harborfront Area.

Use Item	Name
B4a	Neighborhood
B4b	Art Gallery
B4e	Package Store
B4f	All other retail
B5	Restaurant, Bar
B7	Parking Lots

Such use shall be authorized with a Special Permit from the ~~Zoning Board of Appeals~~ Planning Board as provided for in Section 5300 and after considering the degree to which the proposal would:

- a. Interrelate productively with, and help promote, other waterfront activities;
- b. Make efficient use of harbor frontage in relation to jobs supported or taxes contributed or other public benefits conferred;
- c. Improve opportunities for visual and pedestrian access to the waterfront; and
- d. ~~Does not adversely~~ Impact harbor water quality.

~~2315 Waterfront Special Permit Uses~~ The following uses are allowed in the Harborfront Area on Special Permit from the ~~Zoning Board of Appeals~~ unless prohibited in ~~an~~ an underlying district:

Use Item	Name
C9	Transportation terminal
C10	Warehouse
D3	Municipal Use
D4	Non-profit club without entertainment
D5	Museum
E2	Indoor Recreation
E3f	All other commercial outdoor recreation
F7	Scientific research or development
G11	Other customary accessory uses

Such Special Permit shall be granted only if the Board of Appeals determines that operating costs of the proposed use would be substantially greater for any but a waterfront location, and after considering the degree to which the proposal would:

- a. Interrelate productively with other waterfront activities;
- b. Make efficient use of harbor frontage in relation to jobs supported or taxes contributed;
- c. Improve opportunities for visual and pedestrian access to the waterfront;
- d. Affect the ability of the town's utilities, roads and public services to service others;
- e. Improve or maintain harbor water quality.

2316 Prohibited Uses Any use not listed in subsections 2313 or 2315 is prohibited in the Harborfront Area.

And to delete Section 2540 in its entirety.

2540 Harbor Setback No structure other than a pier, wharf or other facility requiring waterfront contact shall be constructed within 35 horizontal feet of mean high water of any salt water body.

And delete reference to the Harborfront setback in the Dimensional Schedule under Section 2560.

or to take any other action relative thereto.

[Requested by the Planning Board]

Article __. Zoning Bylaw Amendment: Site Plan Review. *(Deletions shown in strike-through and new text shown as underlined.)* To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 4 Special Regulations, Section 4000 Site Plan Review as follows:

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, addition of parking, or and change in use of any building or land residential,

commercial, industrial, cultural or institutional uses shall require Administrative Site Plan Review.

4012. Projects exempted from Administrative Site Plan Review

a. The construction or enlargement of any residential ~~single family, two family dwelling,~~ building(s) on a parcel so long as said parcel contains no more than one or two principal dwelling units on one lot, or building accessory to such dwelling unit(s) including Accessory Dwelling Units,

- 1) except where such dwellings are located in the High Elevation District; or
- 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 or mixed use 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) ~~d~~Developments consisting of the ~~aggregate~~ an increase of residential units that will result in ~~two~~ three or more residential units on any parcel; ;
- (2) ~~d~~Developments consisting of more than 2,000 square feet of new commercial area; ;
- (3) ~~d~~Development of properties consisting of an existing or proposed drive-through facility or raised loading dock; ;
- (4) ~~d~~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 750 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. or to take any other action relative thereto.

[Requested by the Planning Board]

The public is encouraged to submit any written comments by Monday, Friday, October 5, 2018, to the Planning Board/Office of the Town Clerk, Town Hall, 260 Commercial Street, Provincetown, MA 02657, email to jribeiro@provincetown-ma.gov or in person at the hearing.

*David Abramson,
Chairman, Planning Board*

Posted: Town Hall, www.provincetown-ma.gov
Published: Banner: September 27 and October 4, 2018

DRAFT



**Provincetown Select Board
AGENDA ACTION REQUEST
Monday, August 27, 2018**

00B

Surplus Equipment

Requested by: Police Chief Jim Golden

Action Sought: Approval

Proposed Motion(s)

MOVE that the Board of Select vote to declare the following list of equipment as surplus, pursuant to M.G.L. c. 30B and Provincetown General By-law §6-4-6, and to authorize the Chief of Police to dispose of same in the manner deemed most advantageous to the Town as outlined in the attached memorandum.

2013 Ford Interceptor Sedan former police cruiser VIN # 1FAHP2M85DG119336

Additional Information

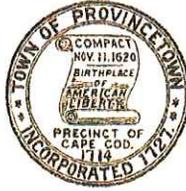
To authorize the Chief of Police to dispose of the following vehicle by trade-in with MHQ, Inc. 401 Elm Street Marlboro, MA 01752. The trade-in cash value of the vehicle will be applied to the pending purchase of a replacement fleet vehicle approved in Article 10-6 (FY-2019 CIP) of the 2018 Annual Town Meeting.

Board Action

<i>Motion</i>	<i>Second</i>	<i>In favor</i>	<i>Opposed</i>	<i>Disposition</i>

Town of Provincetown

James F. Golden
Chief of Police
jgolden@provincetown-ma.gov



Police Department

26 Shank Painter Road
Provincetown, MA 02657
Phone: (508) 487-1213
Fax: (508) 487-4077
www.provincetown-ma.gov

To: Provincetown Board of Select

From: Police Chief James F. Golden 

Subject: Surplus Declaration 2013 Ford Interceptor Sedan (former police cruiser)

Date: August 15, 2018

Honorable Board of Selectmen,

The Chief of Police requests that the honorable Select Board declare as surplus pursuant to Provincetown General By-Laws Chapter 6-4-6, and to authorize the Chief of Police to dispose of the following vehicle by trade-in with MHQ, Inc. 401 Elm Street Marlboro, MA 01752. The trade-in cash value of the vehicle will be applied to the pending purchase of a replacement fleet vehicle approved in Article 10-6 (FY-2019 CIP) of the 2018 Annual Town Meeting.

The vehicle in question is described as fleet # 6075 (2013 Ford Interceptor Sedan former police cruiser VIN # 1FAHP2M85DG119336). The fleet mechanic considers this vehicle, which first entered service in October 2012 as a 2013 model, to be in poor condition with 126,927 miles on it. All of its emergency equipment has been removed.

Because of the year and condition of this vehicle, our bid vehicle vendor (BMG) will offer us a fixed trade-in allowance which will be applied to the pending purchase of a replacement fleet vehicle, reducing its acquisition costs.

I request your favorable action on this request.

Please let me know what questions you may have.

CERTIFICATE OF TITLE

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

TITLE NUMBER BL765647		VEHICLE IDENTIFICATION NUMBER 1FAHP2M85DG119336 1FAHP2M85DG119336		DATE OF ISSUE 10/26/2012	
MFRS. MODEL YEAR 2013	MAKE FORD	MODEL NAME TAURUS	MODEL NO. P2M	BODY STYLE/TYPE SEDAN	NEU/USED NEW
CYL. PASS. DRS. 06 05 4	PURCHASE DATE 10/03/2012	ODOMETER READING 10 10 ACTUAL MILEAGE	PREV. TITLE NO.		PREV. TITLE STATE
IF PREVIOUS STATE WAS TITLE EXEMPT, REGISTRATION NUMBER IS DISPLAYED.					

MAILING ADDRESS ONLY:

PROVINCETOWN TOWN OF
DEPT OF POLICE
26 SHANKPAINTER RD
PROVINCETOWN, MA 02657-1342

OWNER(S) NAME AND ADDRESS:

PROVINCETOWN TOWN OF
DEPT OF POLICE
26 SHANKPAINTER RD
PROVINCETOWN, MA 02657-1342

TITLE TYPE AND BRANDS

TITLE TYPE

BRAND
BRAND
BRAND
BRAND

TITLE MESSAGE(S):

THIS IS A DUPLICATE CERTIFICATE
AND MAY BE SUBJECT TO THE RIGHTS OF A
PERSON UNDER THE ORIGINAL CERTIFICATE.

FIRST LIENHOLDER:

SECOND LIENHOLDER:

RELEASE OF FIRST LIEN:
THE FIRST LIENHOLDER'S INTEREST IN THE VEHICLE DESCRIBED IN THIS CERTIFICATE IS HEREBY RELEASED
NAME:
AUTHORIZED SIGNATURE: X
DATE RELEASED:

RELEASE OF SECOND LIEN:
THE SECOND LIENHOLDER'S INTEREST IN THE VEHICLE DESCRIBED IN THIS CERTIFICATE IS HEREBY RELEASED
NAME:
AUTHORIZED SIGNATURE: X
DATE RELEASED:

THE REGISTRAR OF MOTOR VEHICLES HEREBY CERTIFIES THAT AN APPLICATION FOR A CERTIFICATE OF TITLE FOR THE MOTOR VEHICLE DESCRIBED HEREIN HAS BEEN DULY FILED, PURSUANT TO THE PROVISIONS OF THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS. BASED ON THE STATEMENTS OF THE APPLICANT AND THE RECORDS ON FILE WITH THIS AGENCY, THE APPLICANT NAMED IS THE OWNER OF SAID VEHICLE.

THE REGISTRAR OF MOTOR VEHICLES FURTHER CERTIFIES THAT THE VEHICLE IS SUBJECT TO ANY SECURITY INTERESTS SHOWN HEREIN.

Erin C. Deveney
Erin C. Deveney
Registrar

CONTROL NO. **G 7632102**
NOT THE TITLE NUMBER

ALTERATION OR ERASURE VOIDS THIS TITLE

KEEP IN SAFE PLACE

VERIFY PRESENCE OF WATERMARK HOLD TO LIGHT TO VIEW

VERIFY PRESENCE OF WATERMARK HOLD TO LIGHT TO VIEW



**Provincetown Select Board
AGENDA ACTION REQUEST
Monday, August 27, 2018**

00C

TREASURER'S TRANSFER

Public Fountain Gift Fund

Requested by: Alexander N. Williams, Treasurer

Action Sought: Approval

Proposed Motion(s)

MOVE that the Select Board vote, as Commissioners of the Public Fountain Gift Fund (#8401), pursuant to MGL C44 § 53A, to approve the use of gifted funds to pay \$336.69 to Cape Associates, Inc. for Town Hall fountain replacement.

[As requested by the Assistant Town Manager]

Additional Information

This Motion will allow the Town Treasurer to transfer money from the Public Fountain Gift Fund (#8401) to pay for fountain replacement expenses. The Public Fountain Gift Fund will have a balance of \$1,461.86 after this invoice is paid.

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>

Invoice

Invoice Number
27756

Invoice Date
8/10/2018



PROPERTY MANAGEMENT || SERVICES || PAINTING

Bill To: Provincetown, Town of
260 Commercial St
Attn: David Gardner
Provincetown, MA 02116

RE: ProvincetownTownHall-PL-DCP-18
260 Commercial St
Provincetown

Job No	Progress Payment Through		Terms	Due Date
D010557	8/10/2018		Net 14 Days	8/24/2018
Description			Quantity / Hrs	Amount

7/26/18 Plumbing service to install new Town supplied water fountain outside of Town Hall. Two men total 2.75 hours at \$115/hour

Labor:

2.80 322.00

Material:

Materials 14.69

OK to pay
S Gardner

Total Amount Due: 336.69

Thank you for your business!

Please remit payment to P.O. Box 1858 North Eastham, MA 02651 Ph: 508.255.1770
A service charge of 1.5% per month will be added to all accounts not paid within 30 days

www.CapeAssociates.com



TOWN OF PROVINCETOWN

REQUEST TO EXPENSE GIFT FUNDS

Date: August 27, 2018
To: Provincetown Treasurer
From: Provincetown Select Board

As Commissioners of the Public Fountain Gift Fund – (#8401), permission is hereby granted to you, the Treasurer of the Town of Provincetown, to approve the use of gifted funds for the payment of \$336.69 for fountain replacement.

The Honorable Select Board:

Louise Venden, Chair

Tom Donegan, Vice Chair

Cheryl Andrews

Lise King

Robert Anthony



**Provincetown Select Board
AGENDA ACTION REQUEST**

Monday, August 27, 2018



PUBLIC HEARING Continued

Curb Cut Application 4 and 6 Commercial Street

Requested by: Clifford Schorer

Action Sought: Conduct Public Hearing

Proposed Motion(s)

MOVE that the Select Board vote, pursuant to Provincetown General By-Law Section 11, § 6-2, to approve the request of Clifford Schorer, for a curb cut at 4 Commercial Street and 6 Commercial Street with the following conditions:

1. Engineered to scale plot plan shall be submitted for each of the two lots prior to any work that identifies the actual location of the parking spaces for the first lot to be developed.
2. Such plan shall be submitted to Planning Staff and shall be consistent with the conceptual plan submitted in this application or will require a new public hearing before the Board of Selectmen.
3. Such design shall satisfactorily address stormwater concerns by permeable paving, or the provision of adequate stormwater management to prevent any runoff into Commercial Street.

Additional Information

Continued from the August 13 meeting to draft conditions as above:

- Assistant Town Manager – David Gardner: Approve
- Fire Chief – Mike Trovato : Approve
- Police Chief Jim Golden : Approve
- Building Commissioner – Annie Howard : Approve
- DPW Director – Richard Waldo : Approve
- Town Planner – Jeffrey Ribeiro: Approve

Application & Draft Permit Attached for Approval

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>



Select Board

Public Hearing

Curb Cuts: 4 and 6 Commercial Street

The Provincetown Select Board will hold a Public Hearing on **Monday August 13, 2018 at 6:00 p.m.** in the Judge Welsh Hearing Room, Provincetown Town Hall, 260 Commercial Street, Provincetown, MA 02657 pursuant to General Bylaws Section 11-6-2, for the following application:

Application by Clifford Schorer, requesting approval to establish a curb cut for a parking area at the property located at 4 Commercial Street (Assessor's Map 5-1, Parcel 5G), and 6 Commercial Street (Assessor's Map 5-1, Parcel 5H).

The public is encouraged to submit any written comments by Tuesday, August 7, 2018 by 12:00 noon, to selectmen@provincetown-ma.gov and/or Select Board, Town Hall, 260 Commercial Street, Provincetown, MA 02657, or in person at the hearing.

*Louise Venden, Chair
Select Board*

Posted by the Town Clerk: www.provincetown-ma.gov, 7/16/2018 2:15 pm AR
Published – Provincetown Banner: July 26 and August 2, 2018
REVISED: 7/24/18 10:30 am dv

Policy Statement

2016-01-25A (Supersedes Policy 2010-05-10)

Curb Cut Permit Guidelines and Procedures

These procedures are to be used in conjunction with the Provincetown General Bylaws Section 11-6-2 Curb Cuts:

No person shall break or dig up the ground or surface of a town or public way or sidewalk, to create a new access way to any property which would alter existing parking and traffic patterns, without the express permission of the Board of Selectmen after a duly advertised hearing.

A curb cut permit shall be required for any new parking space or driveway with access from a public road that can not clearly demonstrate having previously existed on a plan recognized by the Planning Board or on file with the Barnstable County Registry of Deeds. A curb cut permit shall also include any pedestrian walkway or gate if it is determined that the walkway or gate would impact or alter existing parking and traffic patterns in the public way or negatively impact public safety within the public way.

The intent of a curb cut permit is: 1) to protect the edge of the roadway pavement and prevent debris from entering the road; 2) to allow for proper or improved stormwater drainage; and 3) to ensure adequate public safety and access for both vehicles and pedestrians within the public right-of-way.

Pursuant to Zoning Bylaw, a *parking space shall mean a space adequate to park a standard automobile, plus means of access and shall be not less than 8' x 18'.*

Evaluation Criteria:

- The Selectmen shall review curb cut requests to ensure that the location of any curb cut or driveway is suitably located so as to preserve public safety and convenience.
- Where feasible, curb cuts should be avoided on Route 6.
- Where feasible, curb cuts should be favored on side streets over Bradford Street and Commercial Street or other high traffic streets or congested areas.
- Curb cuts should accommodate a legal parking space outside of the public right-of-way and have sufficient backup clearing to avoid disruption to existing traffic patterns and public safety.
- Curb cuts should ensure sufficient sight lines for backup into traffic and pedestrian ways.
- Curb cuts should be considered in relation to existing on-street parking patterns and should not reduce the number of available parking spaces.
- Curb cuts should not exceed 18 feet in width except to meet a roadway standard.
- Curb cuts or driveways should not be permitted that increase stormwater flow onto any public sidewalk or way without drainage systems that adequately mitigate stormwater incorporated into the design.

Curb cuts shall be reviewed on a case by case basis and shall not be considered precedent setting.

Curb cuts that serve a project requiring site plan review shall meet the minimum standard as set forth by the Planning Board and approved by the Fire Chief.

Fee:

A curb cut request shall be accompanied by a fee of \$200.00. The fee is based on the cost of Town staff to review and evaluate the requests and the cost associated with the public hearing.

Application Procedure:

Step 1: Applicant requests an abutters' list from the Assessor's Office.

Step 2: Curb Cut Application is filed with the Department of Community Development and must be accompanied by:

- Abutters list provided by the Assessor's Department
- Certified to-scale plot plan indicating both the existing or proposed conditions identifying the actual location of the proposed curb cut and abutting areas (including all structures, trees, landscaping, fences, power poles, utility equipment, Title V septic system, propane or oil tanks).
- Any supporting documentation provided by the applicant (letters of support from abutters, pictures, etc.)

Step 3: Once the application is deemed complete, the Permit Coordinator will schedule a public hearing with the Selectmen's Secretary.

Step 4: The Permit Coordinator will prepare a legal notice that will be posted in the Town Hall and printed in the newspaper not less than fourteen (14) days prior to the public hearing. This legal notice will be provided to the applicant. The applicant must.—The Secretary will mail the notice to abutters not less than fourteen (14) days prior to the public hearing. Applicant shall retain return receipts of the certified mail to abutters, and shall present them to the Board of Selectmen at the public hearing.

Step 5. Prior to the public hearing, the Permit Coordinator will distribute individual copies of the application and plans to the Assistant Town Manager, Chief of Police, DPW Director, Fire Chief, Building Commissioner and Town Planner for their review and comments.

Step 6. The applicant or his/her representative must be present at the public hearing. Public input in support of and in opposition to the application will be heard at the hearing.

Step 7. The Selectmen reserve the right to alter the proposed layout or place conditions on the approval of any curb cut request at the public hearing. The Permit Coordinator will forward the approved permit with conditions confirming the motion and vote of the Board of Selectmen to the applicant.

Step 8. Once the curb cut and driveway are installed, the applicant shall schedule a final inspection with Local Building Inspector.

Adopted January 25, 2016

In favor: Donegan, Andrews, Richter and Anthony

Opposed: none.



Town of Provincetown Curb Cut Application

Location: 4/6 Commercial Street Parcel Number: 5-1-5-G / 5-1-5-H

Applicant: Clifford Schorer Property Owner: 2 Commercial Street RT 2008

Applicants Mailing Address: 2 Commercial Street, Provincetown

Phone number: 508-726-5445 email: cschorer@gmail.com

Pursuant to General Bylaw Section 11-6-2, I hereby request permission of the Board of Selectmen to establish a curb cut as per the attached plans showing existing conditions and proposed curb cut: (Please attach certified to-scale plot plan showing existing conditions, the actual location of the proposed curb cut, and the immediate area, including nearest adjacent curb cuts, public parking spaces, all structures, trees, landscaping, fences, power poles, utility equipment, Title 5 septic systems, propane or oil tanks, etc... Also Include any photos of the existing conditions taken from various vantage points, other supporting documentation if necessary, and a written project narrative if warranted.)

Clifford Schorer
 Applicant's signature *as sole Beneficiary of Trust*

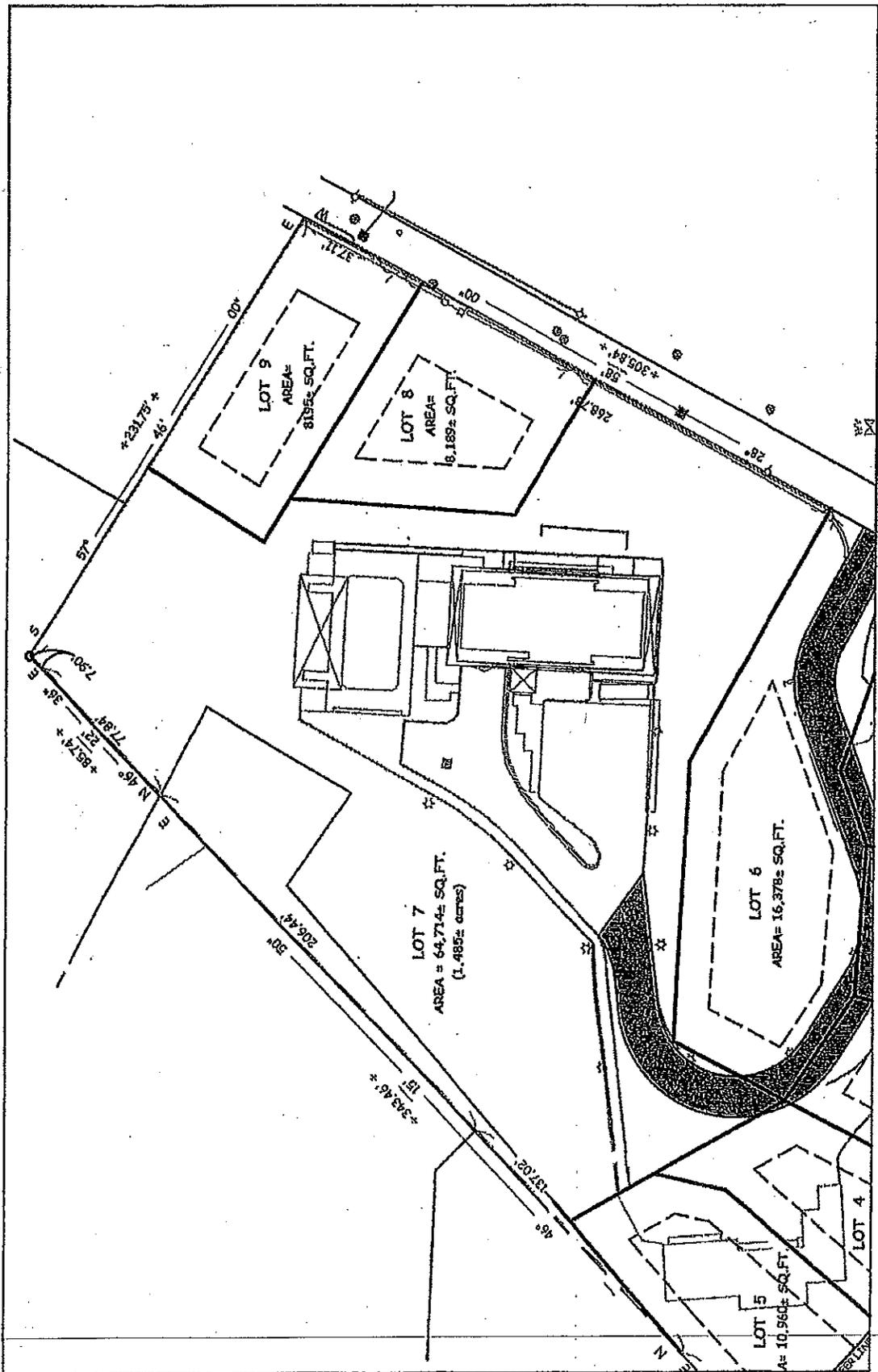
7/16/18
 Date

For Office use Only

Public Safety Official	Approve	Disapprove	Date
DPW Director			
Fire Chief			
Police Chief			
Building Commissioner			
Town Planner			
Assistant Town Manager			

Comments: Pursuant to the MOU agreed between the Town of Provincetown and recorded at the Registry of Deeds, this application formalizes the curb cut for the ANR lots 4 and 6 Commercial Street. We have combined the entryways into one curb cut to reduce the impact on Commercial Street. The streetscape and greenspace will remain as agreed in the MOU. The Fence details will be as approved by the HDC in the original courtesy meetings as part of the MOU negotiations.



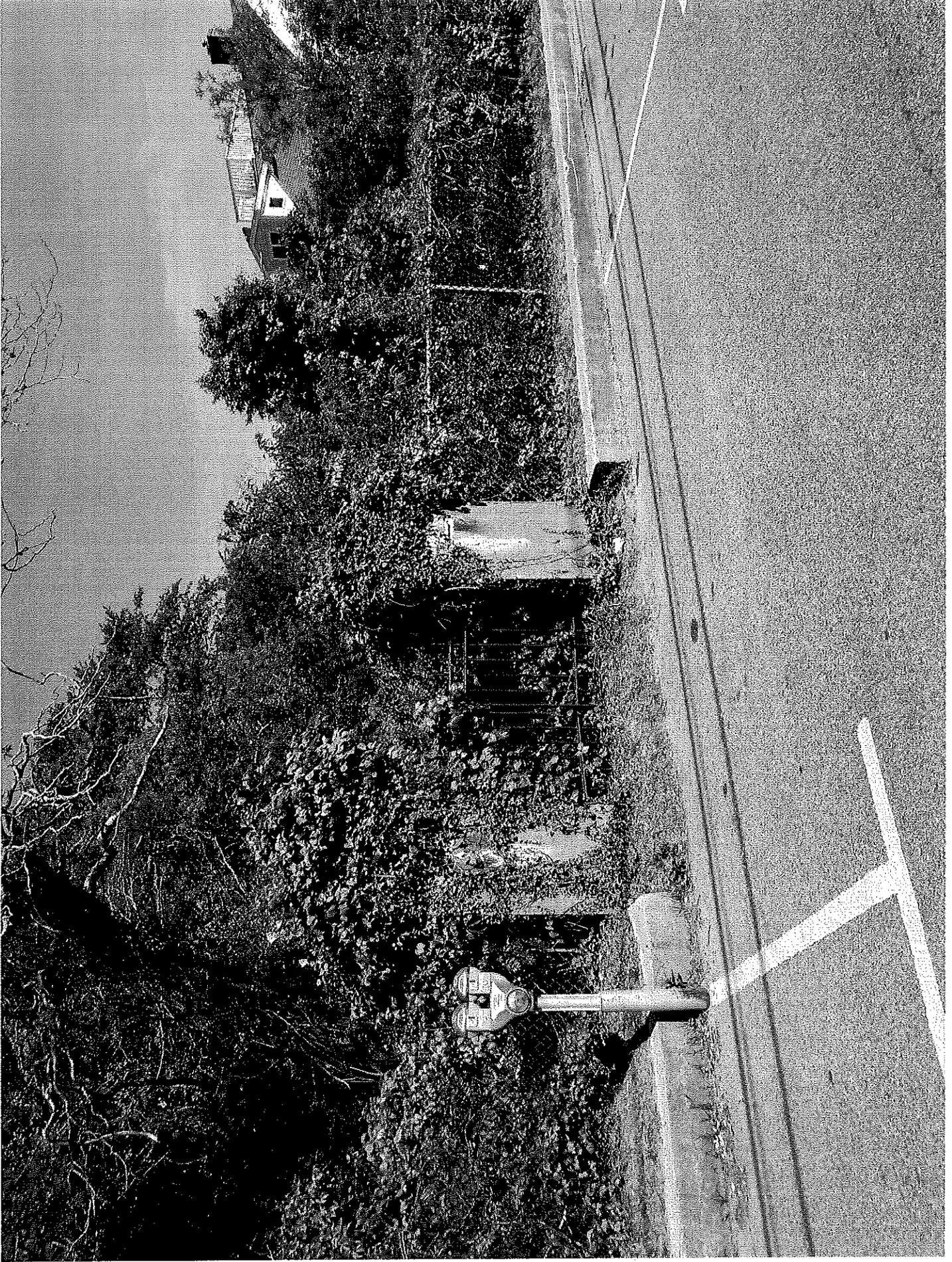


2 COMMERCIAL STREET - LOT 7 PROVINCETOWN, MA

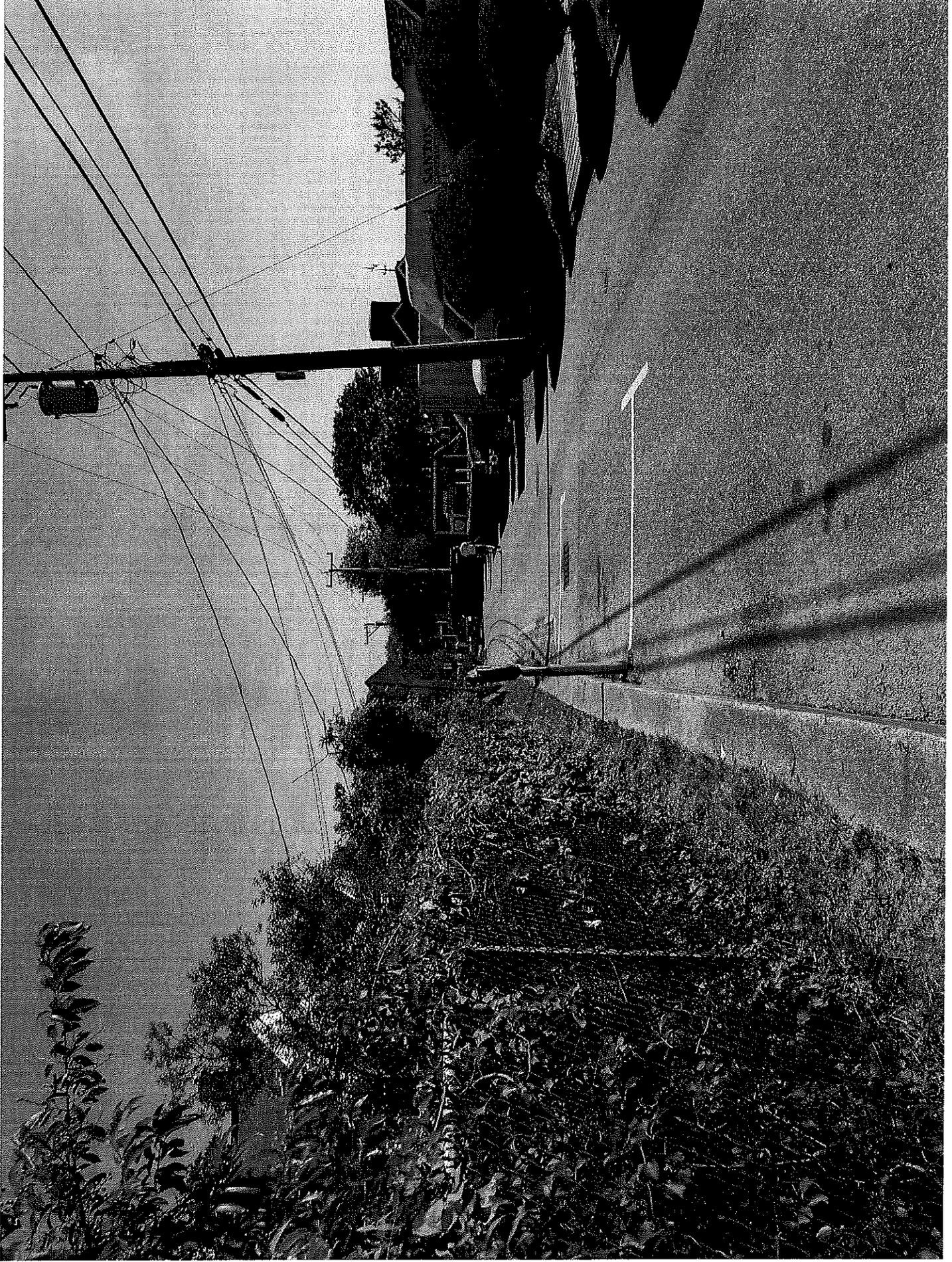
HIGHLAND
ENGINEERING & DEVELOPMENT, INC.
25 BRAINTREE HILL PARK, SUITE 200
BRAintree, MA 02184

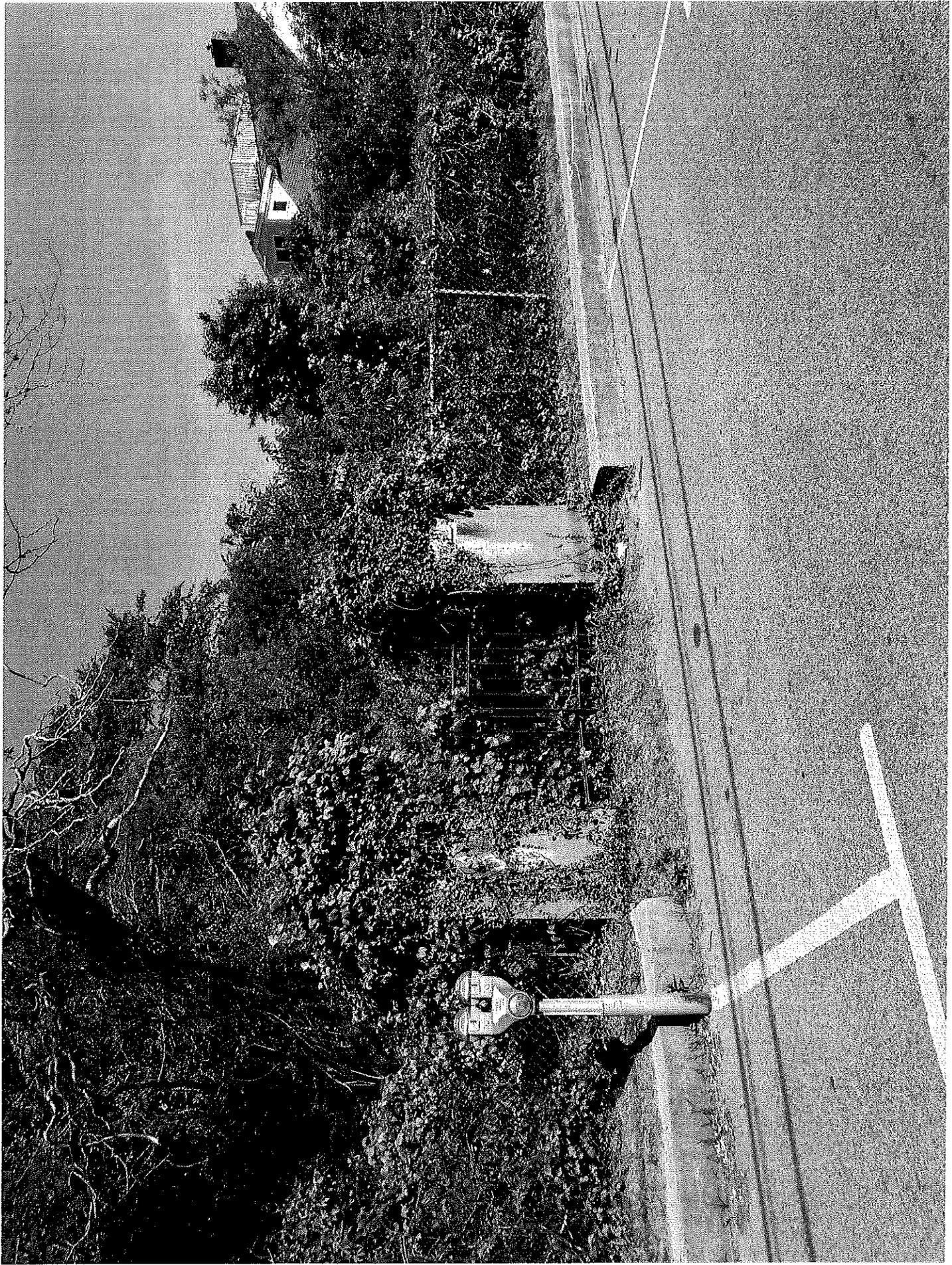


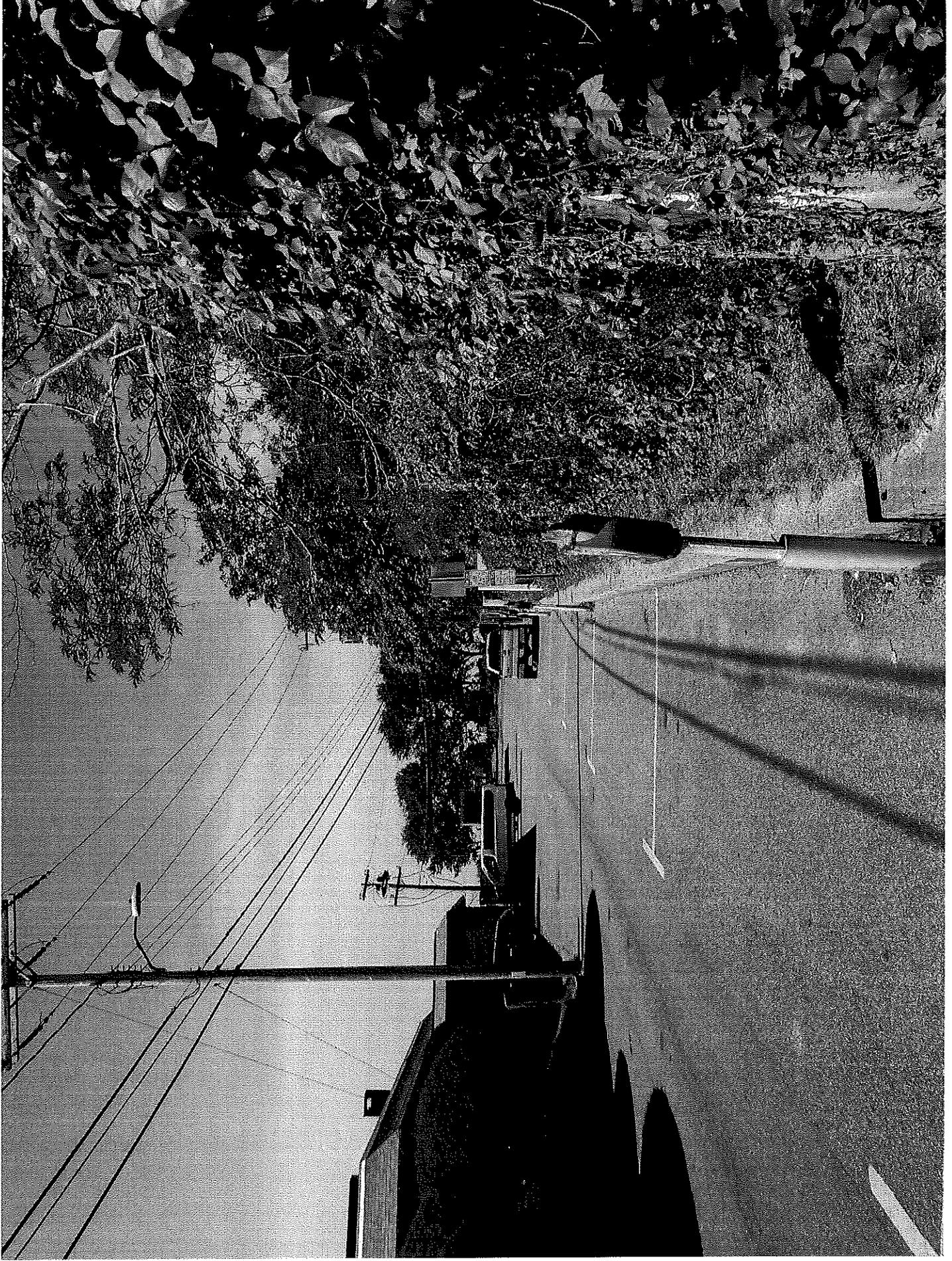
PREPARED BY: SGC
OCT 8, 2008
SCALE 1"=60'













TOWN OF PROVINCETOWN
Community Development Department
260 Commercial Street, Provincetown MA 02657
Phone: 508 487-7020 Fax: 508 487-0032

CURB CUT PERMIT

Location:	4&6 Commercial Street		
Applicant:	2 Commercial Street RT 2008		
Mailing Address:	2 Commercial Street		
Phone number:	508-726-5445	Email:	cschorer@gmail.com

This Curb Cut Permit is issued pursuant to Provincetown General Bylaws Section 11-6-2 and in accordance with Board of Selectmen Policy Statement 2016-01-25A.

The Board of Selectmen held a public hearing on _____ and approved your Curb Cut request with the following conditions:

1. The applicant shall grade and place erosion control devices as needed to prevent stormwater and debris from flowing onto the Town road and into drainage structures during construction.
2. Upon Completion of the project, the applicant shall ensure that the edge of the paved road is supported and not undermined and that disturbed areas are restored and/or re-vegetated. Any construction damage to the Town road shall be repaired by the applicant.
3. Dig-safe must be contacted as required by state law.
4. Contact the Police Department at 508-487-1212 if a police detail will be required for work within the right-of-way.
5. Once the curb cut and driveway are installed, the applicant shall schedule a final inspection with Local Building Inspector at 508-487-7020.

6. Engineered to scale plot plan shall be submitted for each of the two lots prior to any work that identifies the actual location of the parking spaces for the first lot to be developed.
7. Such plan shall be submitted to Planning Staff and shall be consistent with the conceptual plan submitted in this application or will require a new public hearing before the Board of Selectmen.
8. Such design shall satisfactorily address stormwater concerns by permeable paving, or the provision of adequate stormwater management to prevent any runoff into Commercial Street.

_____	_____
_____	_____
_____	_____

All improvements shall be carried out as shown on the plans and specifications submitted by the applicant, except as modified above. These plans and specifications are incorporated into the conditions of this permit.

This permit is granted upon the condition that the work authorized herein is commenced within one year after the date of the approval noted above. If the work authorized by this permit is not commenced within one year or if such work is suspended in significant part for a period of one year after the time the work is commenced, this permit shall expire and be of no further effect; provided that, for reasonable cause, one or more extensions of time, for periods not exceeding ninety days each, may be allowed. Such authorization shall be provided in writing by the Building Commissioner.

Final Inspection Sign-off:	
_____	Date: _____



**Provincetown Board of Selectmen
AGENDA ACTION REQUEST**

August 27, 2018

1B

PUBLIC HEARING: TAX RATE CLASSIFICATION

FY 2019 Property Tax Rate

Requested by: Board of Assessors

Action Sought: Conduct Hearing

Proposed Motion(s)

MOVE that the Select Board vote, pursuant to MGL C.40,§56, as follows relative to the FY 2019 property tax:

1. [Establish] [Not establish] a residential factor of " 1 " Establishing a residential factor of 1 would keep the tax rate the same for all classes of property.
2. [To adopt] [not to adopt] a split tax rate. Voting for a split tax rate would tax Commercial Property at a higher tax rate.
3. [To adopt] [not to adopt] a "residential exemption" of % [an exemption of up to 35% may be adopted, to shift the tax burden from residents to non-residents, within the residential class].
4. [To adopt] [not to adopt] a "small business exemption" of % [an exemption of up to 10% may be adopted, which shifts the tax burden from certain qualifying small businesses to all other commercial and industrial property]; and
5. To identify \$12,203.18 in unused property tax levy capacity.

Additional Information

A copy of the public hearing notice is attached. On August 9, 2018, the Board of Assessors voted on the following:

- To establish a Residential Factor of "1" (3-0-0)
- Not to recommend adoption of a Split Tax Rate for Fiscal Year 2019. (3-0-0)
- To recommend adoption of a Residential Exemption for Fiscal Year 2019, of not more than 23% as approved by a non-binding resolution of Town Meeting on April 2, 2018. (2-1-0)
- Not to recommend adoption of a Small-Commercial Exemption for Fiscal Year 2019. (3-0-0)

Board Action

<i>Motion</i>	<i>Second</i>	<i>In favor</i>	<i>Opposed</i>	<i>Disposition</i>



Select Board

Public Hearing

FY 2019 Property Tax Rate Classification

The Provincetown Select Board will hold a Public Hearing on **Monday, August 27, 2018 at 6 p.m.** in the Judge Welsh Room, 260 Commercial Street, Provincetown, MA, pursuant to MGL c.40, § 56 for the purpose of determining the percentages of the local tax levy to be borne in Fiscal Year 2019 by each class of real and personal property: residential, open space, commercial, and industrial

The public is encouraged to submit any written comments by Tuesday, August 21, 2018, by 12:00 noon to selectmen@provincetown-ma.gov, to the office of the Select Board at Town Hall, 260 Commercial Street, Provincetown, MA 02657, or in person at the hearing.

*Louise Venden
Chair, Select Board*

Posted Town Hall: www.provincetown-ma.gov 08/02/2018, 11:10 am AR
Provincetown Banner: August 9 and August 16, 2018

BOARD OF ASSESSORS

Memo

To: Provincetown Select Board
Through: David B. Panagore, Town Manager
From: Scott Fahle, Principal Assessor
cc: Josee Cardinal Young, Finance Director
Alex Williams, Treasurer
Date: August 21, 2018
Re: Fiscal Year 2019 Property Tax Rate Classification Hearing

OVERVIEW

During Tax Rate Classification Hearings, the Selectmen are asked to consider several statutory exemptions. Each exemption reallocates the tax burden among and within the major classes of property. Chapter 59, §2A(b), of the General Laws establishes four classes of real property: residential, open space, commercial, and industrial. To these is added the personal property class under Chapter 59, §18. Since Provincetown has no property classified as open space and only four parcels classified as industrial, the focus of the annual classification hearing is on the allocation of the tax burden between and/or within the residential and commercial classes.

When setting a tax rate there are five options to be considered:

- (A) **Residential Factor of 1** where all classes of property are taxed at the same rate.
- (B) adoption of a **Split Tax Rate** using a residential factor of less than 1, the effect of which would be to tax commercial property at a higher rate than that for residential property,
- (C) adoption of a **Residential Exemption**, which can shift up to 35% of the resident/domiciled properties' tax burden to non-resident/non-domiciled residential properties,
- (D) adoption of a **Small-Commercial Exemption**, which would grant a tax reduction up to 10% to commercial properties assessed at less than \$1 million and fewer than 10 employees, and finally,
- (E) adoption of an **Open Space Exemption**, which involves Open Space properties. This option is not currently before us as Provincetown has no Open Space properties.

The Board of Selectmen may choose to remain with the current option or to adopt some, all, or none of the available exemptions identified above and further detailed below on the next page. In this memo, I will go through each option. These options were discussed by the Board of Assessors at their August 9, 2018 meeting, and they voted to recommend adoption of a **Residential Exemption**, with a shift of no more than 23 percent.

DISCUSSION

Classifying the tax rate means applying a different tax rate to different classes of property, as opposed to maintaining a single tax rate for all properties.

Adopting a Residential Factor of 1 - (A)

With this option, all properties would be taxed at one rate. If the Town wishes to maintain a single tax rate for all classes – and thereby keep each class at 100% of its full value tax share – the vote should be to adopt a Residential Factor of 1. The single tax rate is calculated according to the following formula:

$$\text{Tax Levy} / \text{Total Assessed Valuation} = \text{Tax Rate}$$

For the sake of convenience, the tax rate is usually expressed in dollars and cents by multiplying the resulting fraction by 1,000. Applying this formula for Fiscal Year 2019 yields the following:

$$(\text{Tax Levy} / \text{Total Assessed Valuation}) * 1000 = \text{Tax Rate}$$

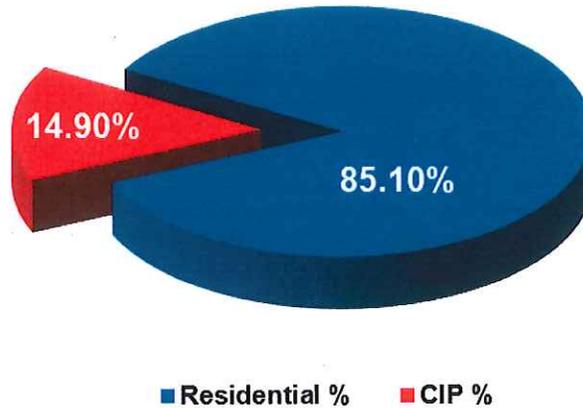
	Tax Levy	Total Assessed Valuation	Proposed Tax Rate (per thousand)
FY 2019	\$21,493,753.91	\$3,183,634,130	\$6.75
FY 2018	\$20,463,824.25	\$2,846,150,800	\$7.19
FY 2017	\$20,200,078.86	\$2,712,397,070	\$7.45

The distribution of the tax burden using a single tax rate is shown in the following chart. It shows the trend of residential values versus CIP values (Commercial/Industrial/Personal Property) since FY2000:

Fiscal Year	Residential %	CIP %
2019	85.10%	14.90%
2018	83.98%	16.02%
2017	83.76%	16.24%
2016	83.21%	16.79%
2015	82.83%	17.17%
2014	82.58%	17.42%
2013	82.24%	17.76%
2012	82.19%	17.81%
2011	81.94%	18.06%
2010	81.80%	18.20%
2009	81.71%	18.29%
2008	81.51%	18.49%
2007	81.35%	18.65%
2006	80.38%	19.62%
2005	78.69%	21.31%
2004	77.32%	22.68%
2003	76.66%	23.34%
2002	74.03%	25.97%
2001	73.12%	26.88%
2000	72.17%	27.83%

The current distribution of the tax burden using a single tax rate for FY 2019 is shown in the following chart:

FY 2019 Share of Tax Levy



Adopting a Split Tax Rate - (B)

If the Board elects to classify the tax rate, it does so by choosing a residential factor of less than 1, thereby establishing one tax rate for residential property and a separate, higher tax rate for the CIP class. This option, which is commonly referred to as a split tax rate, effectively shifts some of the tax burden from the residential property owners to the owners of commercial, industrial, and personal property. Using FY19 data, the maximum shift allowable by law is calculated by multiplying single tax rate, \$6.75 by the minimum residential factor (MRF), 91.24%, (this factor is determined annually by procedures promulgated by the Department of Revenue). If the MRF is chosen, the single tax rate must be multiplied by 150% to determine the tax rate for the commercial classes. The calculation is as follows:

$$\text{Single tax rate} \times \text{MRF} = \text{Residential tax rate}$$

$$\text{Single tax rate} \times 150\% = \text{CIP tax rate}$$

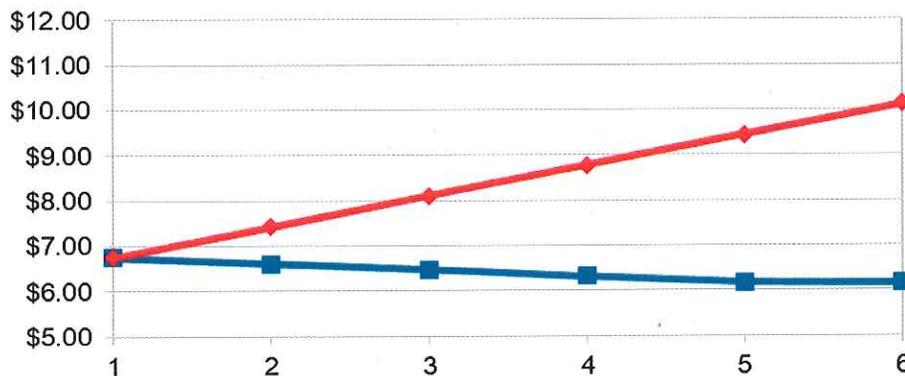
Applying these formulas, using FY19's proposed single tax rate of \$6.75, would yield a residential rate of \$6.16 and a CIP rate of \$10.13. The impact that adoption of the MRF would have on various types of properties is shown in the table on the following page:

Property Class	FY 2019 Median Value	FY 2019 Tax with current single tax rate	FY 2019 Tax with maximum split rate (Res/CIP)	Difference in Taxes Owed	
		0.00675	0.9124		
			1.5000		
Single-Family	\$869,300	\$5,867.78	\$5,353.76	-\$514.02	Residential
Condominium	\$448,400	\$3,026.70	\$2,761.56	-\$265.14	
Two-Family	\$913,250	\$6,164.44	\$5,624.43	-\$540.00	
Three-Family	\$977,850	\$6,600.49	\$6,022.28	-\$578.20	
Commercial Condo	\$273,750	\$1,847.81	\$2,771.72	\$923.91	Commercial
Small Retail	\$1,106,400	\$7,468.20	\$11,202.30	\$3,734.10	
Guest House	\$1,182,700	\$7,983.23	\$11,974.84	\$3,991.61	
Restaurant	\$1,202,350	\$8,115.86	\$12,173.79	\$4,057.93	

Of course, shifts other than the maximum are possible. In fact, the town could choose any factor between the Minimum Residential Factor and 100%. The following table and corresponding graph shows the split tax rates that would result from adoption of some other residential factor splits.

Commercial (CIP) Factor	Residential Factor	Residential Tax Rate	% Residential Change	CIP Tax Rate	% Commercial (CIP) Change
100.00%	100.00%	\$6.75	-	\$6.750	-
110.00%	97.89%	\$6.61	-2.11%	\$7.425	10.00%
120.00%	95.78%	\$6.47	-4.22%	\$8.100	20.00%
130.00%	93.67%	\$6.32	-6.33%	\$8.775	30.00%
140.00%	91.56%	\$6.18	-8.44%	\$9.450	40.00%
150.00%	91.24% (MRF)	\$6.16	-8.76%	\$10.125	50.00%

— Residential Tax Rate — CIP Tax Rate



When choosing an annual classification option, many factors are considered. The ability to choose an annual classification option was originally designed to offset any recent redistribution of the tax burden, including any drastic changes in class valuation.

Provincetown's CIP class currently comprises 14.90% of total assessed valuation. According to DOR for FY18, 110 out of 351 (or 31%) of Massachusetts' cities and towns have a split tax rate. Of these, most have either a large percentage of businesses (CIP) in their town or a single large business (such as a major mall) that makes the split advantageous.

When considering the use of a Split Rate, Department of Revenue (DOR) officials have indicated that municipalities don't typically consider splitting the rate until the commercial percentage reaches 20%-25% of total valuation. Provincetown's current rate is slightly less than 15%. Historically, one concern in a decision to split the tax rate in a town with a relatively low commercial percentage has been that the move might be seen as sending an anti-business message. The Town of Provincetown has an insufficient commercial base to support a split tax rate.

Adopting a Residential Exemption - (C)

Adoption of a standard residential exemption (up to a maximum 35%) will shift the tax burden solely within the residential class between legal domicile properties and non-domicile properties.

The new expanded residential exemption will allow non-domiciled property owners to receive an exemption if they rent on a year-round basis to a Provincetown resident. Information concerning this new version will be available on the Assessor's web page on September 1, 2018.

All residential properties would be taxed at the same rate, but when a residential exemption is in effect qualifying taxpayers would be taxed at less than 100% of their fair market value. Since the tax levy collected must remain the same, all residential properties would be taxed at a higher rate to make up the difference.

The effect of the residential exemption is similar to the homestead exemption that exists in Florida and other states. A person may have a residential property in more than one community, but they can only have one legal domicile. If a taxpayer domiciled in Provincetown owns more than one property in Provincetown, only the domicile would be eligible for the residential exemption. Legal domicile is proven by Federal/State income tax returns. If Federal/State tax returns are not required to be filed, then alternative identification will be used, including valid driver's license, passport, census records, utility bills, bank statements.

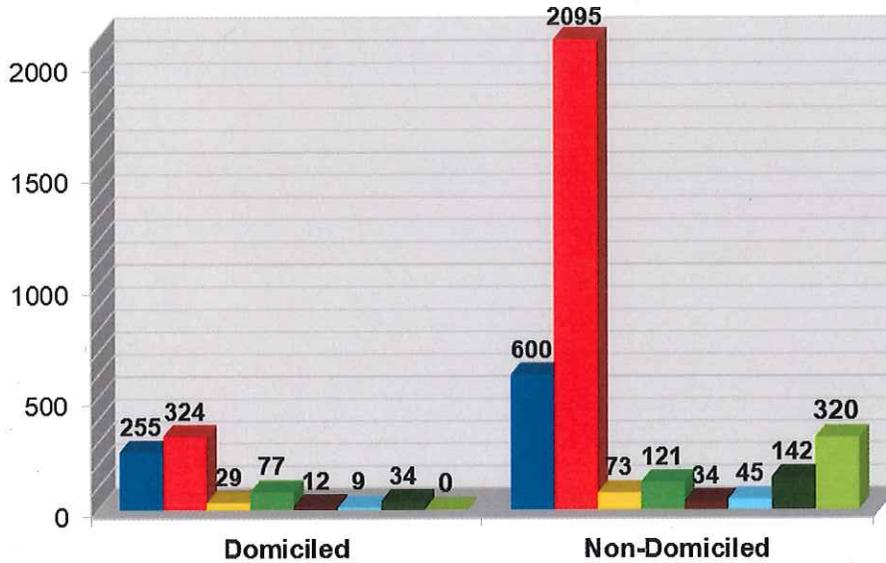
Also, all applicants for a residential exemption on a domicile placed in a trust must have status both as
(1) a trustee and
(2) a beneficiary of that trust.

Trust & Beneficiary documents along with the documents stated above must be submitted to prove eligibility.

For the standard residential exemption there are approximately 740 residential properties that we expect to qualify and approximately 3,430 residential properties we expect will not. The chart on the following page shows the number of properties (approximated) by Domiciled / Non-Domiciled parcels by class.

Domiciled / Non-Domiciled by Class (approximated)

■ Single Family
 ■ Condo-Res
 ■ Multi-Bldg
 ■ 2 Family
 ■ 3 Family
 ■ 4+ Units
 ■ Mixed-Use
 ■ Others



The following charts display the change in tax dollars both with and without a residential exemption by property type, using FY 19 data and based on a tax rate of \$6.75. The exemption is for owners of domiciled properties only. If a resident owns more than one property in town, only the domiciled property receives the exemption.

DOMICILED					
PROPERTY TYPE	MEDIAN VALUE	ORIGINAL TAX	RES ADJ	NEW TAX AFTER RESIDENTIAL ADJUSTMENT	PERCENTAGE CHANGE IN TAX AFTER RESIDENTIAL ADJUSTMENT
	Ave Assessed Value:	\$649,676	20% \$7.00		
Condo	\$448,400	\$3,026.70	(\$797.45)	\$2,229.25	-26.35%
Single-Family	\$869,300	\$5,867.78	(\$692.22)	\$5,175.55	-11.80%
2-Family	\$913,250	\$6,164.44	(\$681.23)	\$5,483.20	-11.05%
3-Family	\$977,850	\$6,600.49	(\$665.08)	\$5,935.40	-10.08%
Multi-Bldg	\$1,033,150	\$6,973.76	(\$651.26)	\$6,322.50	-9.34%
4 - 8 Unit	\$1,098,350	\$7,413.86	(\$634.96)	\$6,778.90	-8.56%
8+ Units	\$1,613,450	\$10,890.79	(\$506.18)	\$10,384.60	-4.65%

NON-DOMICILED					
PROPERTY TYPE	MEDIAN VALUE	ORIGINAL TAX	NON-RES ADJ	NEW TAX AFTER RESIDENTIAL ADJUSTMENT	PERCENTAGE CHANGE IN TAX AFTER RESIDENTIAL ADJUSTMENT
	Ave Assessed Value:	\$649,676	20% \$7.00		
Condo	\$448,400	\$3,026.70	\$112.10	\$3,138.80	3.70%
Single-Family	\$869,300	\$5,867.78	\$217.33	\$6,085.10	3.70%
2-Family	\$913,250	\$6,164.44	\$228.31	\$6,392.75	3.70%
3-Family	\$977,850	\$6,600.49	\$244.46	\$6,844.95	3.70%
Multi-Bldg	\$1,033,150	\$6,973.76	\$258.29	\$7,232.05	3.70%
4 - 8 Unit	\$1,098,350	\$7,413.86	\$274.59	\$7,688.45	3.70%
8+ Units	\$1,613,450	\$10,890.79	\$403.36	\$11,294.15	3.70%

For example, with a 20% Residential Exemption, a resident in a Condo with a median value of \$448,400 and annual taxes of \$3,026.70 would see a decrease in their taxes of \$909.55, or a 30.05% decrease while a non-resident would see an increase of \$112.10 or 3.70% increase.

Under the Municipal Modernization Act, cities and towns can vote to increase the exemption cap from 20% up to a maximum of 35%. The chart below illustrates the differences.

PROPERTY TYPE	MEDIAN VALUE	TAX DOLLARS	23%		25%		30%		35%	
			Res Adj	Non-Res Adj	Res Adj	Non-Res Adj	Res Adj	Non-Res Adj	Res Adj	Non-Res Adj
(at 740 qualifiers)			23%		25%		30%		35%	
	Ave Assessed Value:	\$649,676	\$7.04		\$7.06		\$7.13		\$7.20	
Condo	\$448,400	\$3,026.70	\$921.92	\$130.04	\$1,007.67	\$139.00	\$1,219.26	\$170.39	\$1,435.40	\$201.78
Single-Family	\$869,300	\$5,867.78	\$799.86	\$252.10	\$877.20	\$269.48	\$1,059.32	\$330.33	\$1,246.00	\$391.19
2-Family	\$913,250	\$6,164.44	\$787.11	\$264.84	\$863.57	\$283.11	\$1,042.62	\$347.04	\$1,226.22	\$410.96
3-Family	\$977,850	\$6,600.49	\$768.38	\$283.58	\$843.54	\$303.13	\$1,018.07	\$371.58	\$1,197.15	\$440.03
Multi-Bldg	\$1,033,150	\$6,973.76	\$752.34	\$299.61	\$826.40	\$320.28	\$997.06	\$392.60	\$1,172.27	\$464.92
4 - 8 Unit	\$1,098,350	\$7,413.86	\$733.43	\$318.52	\$806.19	\$340.49	\$972.28	\$417.37	\$1,142.93	\$494.26
8+ Units	\$1,613,450	\$10,890.79	\$584.05	\$467.90	\$646.51	\$500.17	\$776.55	\$613.11	\$911.13	\$726.05

There are fifteen (15) Massachusetts communities that have adopted a residential exemption in FY18. The towns of Barnstable, Provincetown and Truro are the only towns in Barnstable County that have a residential exemption. Of the island counties, only the towns of Nantucket and Tisbury have a residential exemption.

City/Town	% Residential Exemption
Boston	35.00%
Barnstable	20.00%
Brookline	20.00%
Cambridge	30.00%
Chelsea	28.00%
Everett	25.00%
Malden	30.00%
Nantucket	25.00%
Provincetown	20.00%
Somerset	10.00%
Somerville	35.00%
Tisbury	18.00%
Truro	20.00%
Waltham	30.00%
Watertown	23.00%

Adopting a Small Commercial Exemption - (D)

Chapter 110 of the Acts of 1993 permits, under certain circumstances, local officials to give preferential treatment to commercial properties occupied by small businesses, having 10 or fewer employees. To qualify for Fiscal Year 2019, these small businesses must have reported an annual average employment of ten or fewer employees for calendar year 2017 (certified in a list prepared by the Department of Employment and Training), and the parcels they occupy must be valued at less than \$1 million. If there is more than one business on a parcel, all the businesses on the parcel must qualify in order for the parcel to receive the exemption. The statute allows the Board of Selectmen to exempt up to ten percent (10%) of the value of such parcels.

The small commercial exemption lowers taxes on parcels occupied by small businesses and shifts those taxes to other commercial and industrial parcels. If a business is a sole proprietorship or partnership, the assessors may now determine eligibility. Previously, a sole proprietorship or partnership could not receive the exemption unless the Department of Labor and Workforce Development (formerly called the Department of Employment and Training) had certified that the business met the employment criterion in the annual list provided to local assessors. G.L.Ch. 51A §64A. In many cases, however, otherwise eligible sole proprietorships and partnerships do not appear on that list because they are not legally required to file the reports used by the Department to determine annual average employment.

The tax burden shift created by the small-commercial exemption occurs solely within the CIP class. If adopted, it would have the effect of reducing property taxes on parcels occupied by qualified small businesses by exempting a certain portion of the property's value from taxation. The taxes so exempted would then be shifted to all other properties in the C&I class in the form of a higher tax rate for the C&I class. Because properties not receiving the exemption would be taxed on their full value, they would end up paying higher taxes than would be the case with a single tax rate.

For FY 19, there were 373 Commercial and Industrial Parcels in Provincetown. For FY 19, the Assessor's office was provided with a list by the Department of Employment and Training listing 271 businesses as having had an average annual employment of ten or fewer people at all locations during the prior calendar year. An initial review of these businesses showed that 49 appear to qualify.

The following illustrates the application of a small commercial exemption:

Tax Levy	\$21,492,844.36
Full and Fair Cash Valuation	
Residential	\$2,709,147,334
Open Space	\$0
Commercial	\$439,399,556
Industrial	\$1,896,000
Personal Property	\$33,191,240
Eligible Commercial Parcels	
Full and Fair Cash Values	\$40,346,600
Exemption Percentage	10%
Exempt Valuation	\$4,034,660
Taxable Assessed	\$36,311,940

Tax Rate Computation **Without** a Small Commercial Exemption

<u>Class</u>	<u>Levy %</u>	<u>Levy</u>	<u>Valuation</u>	<u>Tax Rate</u>
R & O	85.10%	\$18,286,744.50	\$2,709,147,334	\$6.75
CIP	14.90%	\$3,202,785.87	\$474,486,796	\$6.75

Tax Rate Computation **With** a Small Commercial Exemption

<u>Class</u>	<u>Levy %</u>	<u>Approx. Levy</u>	<u>Valuation</u>	<u>Tax Rate</u>
R & O	85.10%	\$18,286,744.50	\$2,709,147,334	\$6.75
C* & I	13.86%	\$2,977,746.70	\$437,260,896	\$6.81
P	1.04%	\$224,040.87	\$33,191,240	\$6.75

$$*439,399,566 + 1,896,000 - 4,034,660 = \$437,260,896$$

**Tax Impact on Eligible and Non-eligible Parcel
Full and Fair Cash Value \$500,000 (Example)**

		<u>Without Exemption</u>				<u>With Exemption</u>		
Eligible	\$500,000	x	\$6.75 / 1,000	=	\$3,375.00	\$450,000	x	\$6.81 / 1,000 = \$3,064.50
Non-Eligible	\$500,000	x	\$6.75 / 1,000	=	\$3,375.00	\$500,000	x	\$6.81 / 1,000 = \$3,405.00

CITY / TOWN	
Auburn	New Ashford
Avon	Seekonk
Bellingham	Somerset
Braintree	Westford
Dartmouth	Wrentham

Many businesses rent rather than own, there is no guarantee that the savings conferred by a small-business exemption would be passed on to the tenants in the form of lower rents.

COMBINATION

A combination of classification and the residential exemption and/or the small commercial exemption is also possible. If the town chooses to exercise any of these options, tax rates would first be calculated according to classification, and then the residential rate and/or the CIP rate would be adjusted for the exemption(s) enacted.

ADDITIONAL CONSIDERATIONS

As mentioned previously, the Municipal Modernization Act now allows communities who adopt a Residential Exemption and wish to adjust the cap from 20% up to a maximum of 35% to do so.

It is important to note that under MGL Chapter 59 section 5C, the application of exemptions under section 5 may not result in the taxable valuation of a property being reduced below 10% of its full and fair cash valuation. Thus, when applying the Residential Exemption to properties with a sufficiently low assessed valuation, some are unable to receive the full Residential Exemption. Last year, 12 properties fell into this category and received an adjusted (lesser) Residential Exemption.

The higher the valuation threshold, the more properties will be affected.

- For FY' 18, the valuation threshold is \$142,921. There are 41 parcels valued at or below this assessment that would be unable to fully utilize the Residential Exemption. Of that 41, 19 properties are currently receiving the exemption.
- If the exemption percentage was increased to 23%, the valuation threshold increases to \$160,600 and could affect 132 properties. Of that 132, 25 properties are currently receiving the exemption.
- If the exemption percentage was increased to 30%, the threshold becomes \$192,690 and could affect 196 properties. Of that 196, 36 properties are currently receiving the exemption.

- If the exemption percentage was increased to 35%, it would generate a threshold of \$224,800. This would affect 42 properties which will receive the residential exemption and would potentially affect an additional 218 for a total of 260.

An additional consideration is that, for some residents, the Residential Exemption may be combined with other exemptions such as Elderly, Veteran's, and Senior Work off. The abovementioned 10% minimum assessed value rule applies to the combination of exemptions, not just the Residential Exemption itself.

SUMMARY

The Board of Assessors voted their recommendations during their August 9, 2018 meeting. During the Tax Rate Classification Hearing, the Board of Selectmen will decide between four main options as to how to allocate the tax burden. The choices are via the adoption of:

- A) a residential factor of "1" which would keep the tax rate the same for all classes of property;
- B) a split tax rate using a residential factor of less than 1, the effect of which would be to tax commercial property at a higher rate than that for residential property;
- C) a residential exemption, which would redistribute up to 35% of the average assessed residential value from domiciled properties to non-domiciled properties; adoption also enables the Expanded Residential Exemption, which will allow non-domiciled property owners to receive an exemption if they rent on a year-round basis to a Provincetown resident.
- D) a small-commercial exemption which would lower taxes on parcels occupied by small businesses (assessed at less than \$1 million) and shifts those taxes to other commercial and industrial parcels.

A) Adoption of a residential factor of "1" – The Board of Assessors voted 3-0 to recommend adoption of a residential factor of "1".

B) Adoption of a split tax rate – The Board of Assessors voted 3-0 not to recommend splitting the tax rate. The Board believes that, in order to support a split rate, there needs to be a sufficiently large commercial base +/- 25% and/or a large Industrial Park that can absorb the large increase in commercial taxes (up to 50%). If approved, some businesses would probably move to an adjacent town, others would subsidize the tax increase by raising the cost of goods or services.

C) Adoption of a residential exemption – The Board voted 2-1 to recommend adopting a residential exemption, at a percentage not more than 23% in keeping with the non-binding Town Meeting vote.

D) Adoption of a small-commercial exemption – This option was also reviewed by the Board which voted 3-0 not to recommend. This exemption was written over 20 years ago and its mandated threshold of \$1 million means little in today's real estate market. In Provincetown, the average assessed value for commercial parcels is 768,600. Of the 373 commercial and industrial properties in Provincetown, only 8 are assessed for \$4 million or more. There is no mall, large shopping center, or power plant to absorb the higher tax rate that would affect non-qualifying parcels and/ or those over \$1 million in assessed value.

Elizabeth Paine

From: Peter and Barbara <pmacara@capecod.net>
Sent: Saturday, August 18, 2018 11:05 AM
To: Cheryl Andrews; Elizabeth Paine; Lise King; Louise Venden; Robert Anthony; Elizabeth Paine; Tom Donegan
Subject: Taxing Rentals

Dear Selectmen,

I understand you are having a hearing to determine what percent of tax levy is to be borne by real and personal, residential, open space and industrial properties.

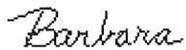
My suggestion, which I hope you will favor, is to tax residential units which are not lived in year-round, or indeed ever, by the owner at 3 times the residential rate.

If the ownership is indeed an investment business, the Town has seen most of the year-round rental properties bought up, made into condominiums and rented summers. We could reverse this trend and help provide year-round rentals so those who work here and want to live here can.

If a town voter or resident owns only one unit and uses it for him/herself, the rate should be the same as residential voters. The 3X rate would apply to 2nd (and more) condos owned by one owner.

And also consider raising the residential, or homestead exemption from 20% to 35%.

Thank you,



Barbara Rushmore

c/o Peter Macara
pmacara@capecod.net
www.petermacara.net

CLASSIFICATION TAX ALLOCATION
Fiscal Year 2019

6. Notice was given to taxpayers on 08/09/2018 (date), 11:00 AM (time), at Provincetown Town Hall (place), by Legal Notice (newspaper) (describe type of notice) that a public hearing on the issue of adopting the tax levy percentages for fiscal year 2019 would be held on 08/27/2018 (meeting date).

7. We hereby attest that on 08/27/2018 (date), 6:00pm (time), at Provincetown Town Hall (place) in a public hearing on the issue of adopting the percentages for fiscal year 2019, that the Board of Assessors presented information and data relevant to making such determination and the fiscal effect of the available alternatives, and that the percentages set forth above were duly adopted in public session on 8/27/2018 (date).

8. The LA-5 excess capacity for the current fiscal year is calculated as 12,203.18

The LA-5 excess capacity for the prior fiscal year is calculated as 190,937.81

For cities : City Councilors, Aldermen, Mayor
For towns : Board of Selectmen
For districts : Prudential Committee or Commissioners

Signatures

Clerk

I hereby attest that notice was given to taxpayers that a public hearing on the issue of adopting the tax levy percentages would be held on the date and time stated above.

Board of Assessors

Scott Fahle, Principal Assessor , Provincetown , sfahle@provincetown-ma.gov 508-487-7017 | 8/16/2018 12:47 PM

Robert Sanborn, Board of Assessor , Provincetown , bsdallas@aol.com 508-487-7017 | 8/16/2018 1:44 PM

Authorized Signature

Signatures for LA5 Certification

For cities: City Councilors, Aldermen, Mayor

For towns: Board of Selectmen

For districts: Prudential Committee or Commissioners

We hereby attest that on the hearing date above the Board of Assessors presented information and data relevant to making such determination and the fiscal effect of the available alternatives at the hearing and that the percentages set forth above were duly adopted in public session on date stated above.

Louise Venden, Chair

Date

Tom Donegan, Vice Chair

Date

Cheryl Andrews

Date

Robert Anthony

Date

Lise King

Date



**Provincetown Select Board
AGENDA ACTION REQUEST
Monday, August 27, 2018**

2

PUBLIC STATEMENTS

Requested by: Select Board

Action Sought: Open

Proposed Motion(s)

Three (3) minutes maximum. Select Board Members do not respond during Public Statements.

Additional Information

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>



**Provincetown Select Board
AGENDA ACTION REQUEST**

Monday, August 27, 2018

3

SELECT MEMBERS' STATEMENTS

Requested by: Select Board

Action Sought: Open

Proposed Motion(s)

Motions may be made and votes may be taken.

- Cheryl Andrews
- Robert Anthony
- Tom Donegan
- Lise King
- Louise Venden

Additional Information

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>



**Provincetown Select Board
AGENDA ACTION REQUEST**

Monday, August 27, 2018

5A

SELECT BOARD APPOINTMENT

Open Space Committee

Requested by: Town Clerk Darlene Van Alstyne

Action Sought: Approval

Proposed Motion(s)

Move that the Select Board vote to approve the appointment of Ansley Pierce, to the Open Space Committee expiring on June 30, 2021.

Additional Information

- See attached.

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>



TOWN OF PROVINCETOWN

Application for Town Board Membership

Name: ANSLEY PIERCE
Please type or print

Resident Address: 644 Commercial St Provincetown, MA 02657

Mailing Address (if different): _____

Telephone #: 508-246-2608 Work # (____) _____

Email address: PIERCE, ANSLBY@gmail.com

Please consider this as my application for membership reappointment on the following Town Board(s).
(Please list order of preference.)

1. OPEN SPACE COMMITTEE
2. ANIMAL WELFARE
3. DISABILITY COMMISSION

Listed below are the applicant's skills, experience, background, or other factors which would contribute to these committees:

- HORSE OWNER @ BAMBERRY HOLLOW (CONSERVATION TRUST)
- FORMER VETERINARY TECHNICIAN
- PRESENTLY INVOLVED W/CHILDREN W/SPECIAL NEEDS

I hereby certify that I am a resident of the Town of Provincetown.

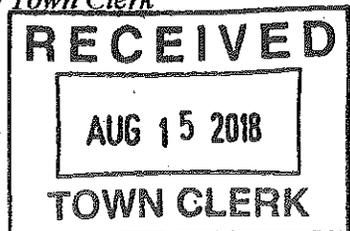
Ansley Pierce 8.14.18
 Signature of Applicant Date

TO THE APPLICANT: FILE COMPLETED FORM WITH THE TOWN CLERK

Town Clerk Certification: Applicant is a registered voter: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <u><i>D. Van Dyke</i></u> Name of Town Clerk	This application will remain on file in the Town Clerk's Office for 364 days from the date received. Application Termination Date: <u>8.14.2019</u>
--	--

Date Received by Board of Selectmen

Date Received by Town Clerk



Open Space Committee				
	First	Last	Position	Term End
1	Celine	Gandolfo		06/30/20
2	RM 6/12/18			06/30/21
3	Susan	Avellar		06/30/19
4	Dennis	Minsky	Chair	06/30/19
5	Susan	Cook		06/30/19
Alt	Robin	Evans		06/30/20



**Provincetown Select Board
AGENDA ACTION REQUEST**

Monday, August 27, 2018

5B

SELECT BOARD APPOINTMENT

Animal Welfare Committee

Requested by: Town Clerk Darlene Van Alstyne

Action Sought: Approval

Proposed Motion(s)

Move that the Select Board vote to approve the appointment of Ansley Pierce, as an Alternate, to the Animal Welfare Committee expiring on June 30, 2021.

Additional Information

- See attached.

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>



TOWN OF PROVINCETOWN

Application for Town Board Membership

Name: ANSLEY PIERCE
Please type or print

Resident Address: 644 Commercial St Provincetown, MA 02657

Mailing Address (if different): _____

Telephone #: 508-246-2608 Work # (____) _____

Email address: PIERCE.ANSLEY@gmail.com

Please consider this as my application for membership reappointment on the following Town Board(s).
(Please list order of preference.)

1. OPEN SPACE COMMITTEE
2. ANIMAL WELFARE
3. DISABILITY COMMISSION

Listed below are the applicant's skills, experience, background, or other factors which would contribute to these committees:

- HORSE OWNER @ BAMBERRY HOLLOW (CONSERVATION TRUST)
- FORMER VETERINARY TECHNICIAN
- PRESENTLY INVOLVED W/CHILDREN W/SPECIAL NEEDS

I hereby certify that I am a resident of the Town of Provincetown.

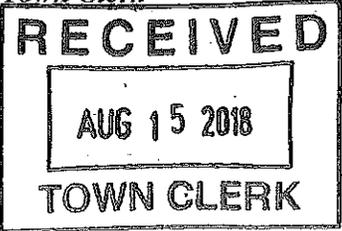
Ansley Pierce 8.14.18
Signature of Applicant Date

TO THE APPLICANT: FILE COMPLETED FORM WITH THE TOWN CLERK

<p>Town Clerk Certification: Applicant is a registered voter: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><u>Debra Steyer</u> Name of Town Clerk</p>	<p>This application will remain on file in the Town Clerk's Office for 364 days from the date received. Application Termination Date: <u>8.14.2019</u></p>
--	---

Date Received by Board of Selectmen

Date Received by Town Clerk



Animal Welfare Committee			
First	Last	Position	Term End
Carol	MacDonald		06/30/20
Sherry	Brec		06/30/20
Jeffrey	Jutsum		06/30/19
Elizabeth G.	Brooke		06/30/19
Barbara	Murphy		06/30/21
LF 6/30/18		Alternate	06/30/18



**Provincetown Select Board
AGENDA ACTION REQUEST
Monday, August 27, 2018**

5C

SELECT BOARD APPOINTMENT

Recreation Commission

Requested by: Town Clerk Darlene Van Alstyne

Action Sought: Approval

Proposed Motion(s)

Move that the Select Board vote to approve the appointment of Catherine A. Nagorski to the Recreation Commission expiring on December 31, 2019.

Additional Information

- See attached.

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>



TOWN OF PROVINCETOWN

Application for Town Board Membership

Name: Catherine A. Nagorski

Please type or print

Resident Address: 21 Race Point Rd. Provincetown, MA 02657

Mailing Address (if different): _____

Telephone #: 508 776 8299 Work # () _____

Email address: c-nagorski@yahoo.com

Please consider this as my application for membership reappointment on the following Town Board(s).
(Please list order of preference.)

1. Recreation

2. _____

3. _____

Listed below are the applicant's skills, experience, background, or other factors which would contribute to these committees:

Sports enthusiast

Soccer coach - Nauset HS + Liverpool Soccer Club

I hereby certify that I am a resident of the Town of Provincetown.

Cat A. Nagorski

7/9/18

Signature of Applicant

Date

TO THE APPLICANT: FILE COMPLETED FORM WITH THE TOWN CLERK

Town Clerk Certification: Applicant is a registered voter:

Yes No

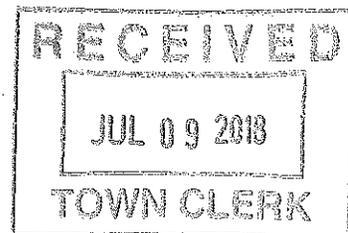
[Signature]
Name of Town Clerk

This application will remain on file in the Town Clerk's Office for 364 days from the date received.

Application Termination Date: 7.8.19

Date Received by Board of Selectmen

Date Received by Town Clerk



Recreation Commission				
	First	Last	Position	Term End
1	Timothy	Downey		12/31/19
2	David	Oliver	Chair	12/31/19
3	Robert	Enos II		12/31/18
4	LD 8/21/18			12/31/19
5	Heather	Rogers		12/31/20
Alt	Kristin	Hatch		12/31/18
Alt				12/31/21



**Provincetown Select Board
AGENDA ACTION REQUEST
August 27, 2018**

6A

SELECT BOARD AGENDA ITEMS

Agenda Item Procedures

Requested by: Chair Venden

Action Sought: Discussion

Proposed Motions

Discussion Dependent. Votes may be taken.

Additional Information

See attached: Memo; Rules of Procedure Draft

Board Action

<i>Motion</i>	<i>Second</i>	<i>In favor</i>	<i>Opposed</i>	<i>Disposition</i>

This agenda item relates to the **Selectman Rules of Procedure** which we discussed earlier this year and will be taking up soon to consider amendments or revisions. The current rules for how agendas are set per Section 2 g.(1) c. and f. and also Section 3 c., d. and e. of the Board of Selectman Rules of Procedure at our meeting August 27th as follows:

Section 2. MEETINGS

g. Meeting Packet: Meeting Notice, Agenda and Documents

(1) All Documents to be reviewed by the Selectmen in the meeting.

c. The notice contains all of the topics that the chair reasonably anticipates will be discussed at the meeting. The topics are to be sufficiently specific to reasonably advise the public of the issues to be discussed at the meeting,

f. All Documents to be reviewed by the Selectmen in the meeting.

Section 3. Agenda For Regular Meeting

c. Agenda Items submitted from Selectmen - Items for placement on the Agenda from a Board Member and/or Town Manager should be in writing to the Chair, stating the subject matter, and a concise statement as to the essence of the subject matter.

d. Agenda items must be received by the Chair or Secretary to the Board of Selectmen at the start of the Agenda Setting Meeting as listed on the Selectmen's Calendar.

-OR-

e. Requested by a Selectman at a Public Meeting to be placed on the subsequent agenda.

The rules are designed to help us clarify how agenda item requests are handled and we need to clarify them so that we can avoid unnecessarily long meetings which test the endurance and capacity of each of us, staff and our audience. We may not be able to conduct the most coherent, thoughtful discussions when meetings go too long, like the last meeting which set a record at over 6.5 hours. There are some agenda items we must consider at specific times, sometimes coordinating our schedule with other boards or committees. Last year Select Board Chair, Cheryl Andrews, would not allow us to put forward agenda items unless we came up with specifics on the scope of the item and what we expected staff to prepare for the SB discussion as set forth in our own Selectmen Rules of Procedure.

Currently, The Board Chair and Vice Chair meet with the Town Manager and staff on Monday or Tuesday of the week before our Monday meeting to decide what to put into the agenda for the upcoming Monday meeting. We also review a **Pending Items List**, those requested by Board members, those required as part of Town Budget, Traffic Hearing, Assessor tax rate setting timeframes. Issues deriving from State or Federal legislation like the Occupancy Tax bill under consideration on Beacon Hill are also on that list.

Agenda items are due Monday at noon the week prior to the meeting. Staff will send out a reminder.

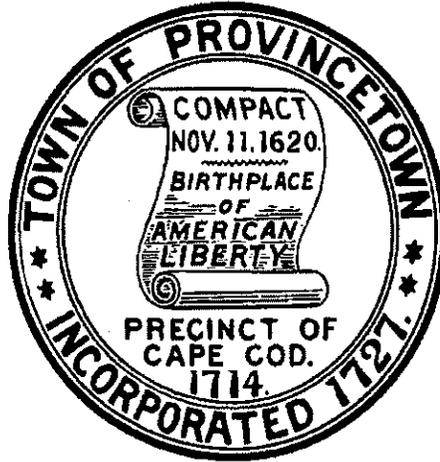
All agenda item requests should be honored in a timely fashion, and while we also need to allow staff time to prepare materials that would contribute to our discussions and help ensure that our discussion moves toward a motion or motions on policies or further actions. For example, many members are interested in the Public way encroachment challenges, SB member participation guidelines for Town Talk, refining of Land Use Policies, and a possible Voucher Program for Young people here. There are options for developing or enforcing policies in each of these and other areas of member interest. Because of the constraints of Town authority and resources, I believe staff, and, in some instances, outside sources of information will be needed to ensure we understand the opportunities and limitations of any policy initiative.

The **Pending Items List** is a document listing not only proposed items from Select Board Members, the Town Manager, and those required by law, but a list of proposed Work Sessions. We have postponed setting work sessions until Fall.

I propose that we review the Pending Agenda Items at the second regular meeting of every month and vote on the priority and timing of agenda items for subsequent meetings based timeframes as set forth in Town policies, readiness of Town staff reports, and member opinions on them. I recommend votes be taken on the priority and timing list, so that a majority of members are involved in the agenda setting process.

I look forward to a fruitful discussion of my recommendation to place the **Pending Items List** on the agenda.

TOWN OF PROVINCETOWN



BOARD OF SELECTMEN RULES OF PROCEDURE

AMENDED MAY 22, 2006, JUNE 28, 2010, JUNE 11, 2012, JUNE 10, 2013, AND AUGUST 11, 2014,
JUNE 22, 2015, AND JUNE 27, 2016, JULY 10, 2017

ANNUAL APPROVED CHANGES DATE:

SECTION 1. OFFICERS

- a. The Board shall elect from its own membership, a Chairman and a Vice Chairman. Such election shall take place annually at the first regular meeting following the Town Election.
- b. The Chairman, or in his/her absence, the Vice Chairman, shall preside at meetings of the Board, and shall, subject to these rules, decide all points of procedure, unless over-ruled by the majority of the Board in session at the time. The Chairman shall act as liaison between the Board, the Board's Secretary, and the Town Manager.
- c. In the absence of the Chairman, the duties of the Chair shall be performed by the Vice Chairman. The typical duties and responsibilities of the Vice Chairman will then fall to the Selectman with the most seniority.

SECTION 2. MEETINGS

- a. **General.** All meetings of the Board of Selectmen shall be conducted in accordance with Chapter 39, Section 23A, Massachusetts General Laws (Open Meeting Law); and all other applicable laws.
<http://www.mass.gov/ago/government-resources/open-meeting-law/attorney-generals-open-meeting-law-guide.html>
- b. **Regular Meetings.** The Board of Selectmen and the Town Manager shall meet in Town Hall on the second and fourth Monday evenings of each month and at such other times as the Board may decide. If the second or fourth Monday of a month falls on a holiday, the Board and the Town Manager shall meet on the following evening. Unless it is executive session, every meeting of the Board of Selectmen shall be open to the public and to the press (By-Laws of the Town of Provincetown, Section 4-2-1).
- c. **Special Meetings.** Special meetings of the Board may be called by the Chairman with the concurrence of a majority of the remaining members of the Board; however, the required statutory forty-eight hours public notice of such a meeting may not be waived.
- d. **Emergency Meetings.**
 - (1) The Chairman may call an emergency meeting of the Board when, in the judgment of the Chair, immediate and/or delayed action by the Board would be contrary to the best interests of the Town.
 - (2) Matters acted upon by the Board at emergency meetings shall be made an agenda item at the next regular meeting of the Board for the purpose of ratifying decisions rendered at emergency meetings.
 - (3) Authority to act upon routine Board matters but necessary for timely dispatch may be delegated to the Chairman. Actions taken under the provisions of this subsection shall be

ratified at the next regular meeting of the Board.

e. **Executive Sessions.**

Executive session of the Board shall be conducted in accordance with Chapter 39, Section 23A, Massachusetts General Laws.

f. **Time of Meetings.**

(1) All Board Meetings shall normally be scheduled to commence promptly at 6:00 P.M., and terminate not later than 11:00 P.M. In the event, however, official business remains to be transacted at the scheduled adjournment time, the Board may vote to suspend this requirement under the provisions of Section 7 of these procedures.

(2) Unfinished business remaining at the scheduled or alternate adjournment time shall appear on the agenda of the next regular meeting.

(3) Any Board Member who expects to be absent from a scheduled Board Meeting, or delayed for more than one hour shall notify the Chairman in advance of the scheduled meeting.

g. Meeting Packet: Meeting Notice, Agenda and Documents

(1) The Meeting Packet will include

- a. Notice contains the date, time, and location of the meeting.
- b. If the meeting is a joint meeting of several public bodies, the names of all bodies meeting are to be listed.
- c. The notice contains all of the topics that the chair reasonably anticipates will be discussed at the meeting. The topics are to be sufficiently specific to reasonably advise the public of the issues to be discussed at the meeting.
- d. The notice is printed in a legible, easily understandable format.
- e. The date and time that the notice is posted is conspicuously recorded on the notice.
- f. All Documents to be reviewed by the Selectmen in the meeting.

(2) Meeting Packet of all scheduled meetings of the Board, except as precluded by Section 2f, above, shall be filed with the Town Clerk at least forty-eight hours (excluding Saturdays, Sundays and Holidays) in advance of the meeting for posting on the official Town Website.

(3) Copies of the Meeting Packet shall be made available to members of the media and the general public on the Town Website. The Meeting Packet may be removed from the Town Website only after a majority vote of the Selectmen.

(4) All information provided by staff, counsel or consultants to any individual selectmen related to an agenda item will also be included in the packet. In the event the information

PROVINCETOWN BOARD OF SELECTMEN RULES OF PROCEDURE

comes too late to be included in the published meeting packet it must be otherwise distributed to all Selectmen before deliberation begins on the agenda item.

(5) All staff reports, legal opinions, responses to requests for information, and/or memos from staff to an individual selectman not related to a specific agenda item, but on any public business within Board of Selectmen's jurisdiction, must also be distributed to all Selectmen.

SECTION 3. AGENDA FOR REGULAR MEETING

a. The format for agendas for regular meetings shall be:

1. Consent Agenda
2. Public Hearing
3. Public Statements
4. Selectmen Statements
5. Joint Meetings/presentations
6. Appointments
7. Requested agenda items
8. Town Manager's Report
9. Minutes
10. Closing Statements

Note: The Board grants discretion to the Chair in setting the order of the "requested Agenda Items", such that public requests always precede staff requests, but exceptions may be made when the staff requests require very short amounts of time. The Board also requests we avoid using the category "preliminary matters".

b. The agenda of a public meeting of the Board of Selectmen shall provide for statements by members of the public no later than the second item on the agenda (By-Laws of the Town of Provincetown, Sect. 4-2-2).

c. Agenda Items submitted from Selectmen - Items for placement on the Agenda from a Board Member and/or Town Manager should be in writing to the Chair, stating the subject matter, and a concise statement as to the essence of the subject matter.

d. Agenda items must be received by the Chair or Secretary to the Board of Selectmen at the start of the Agenda Setting Meeting as listed on the Selectmen's Calendar.

-OR-

e. Requested by a Selectman at a Public Meeting to be placed on the subsequent agenda.

SECTION 4. PROCEDURES DURING MEETING

a. Proceedings during meetings shall normally be governed by Roberts Rules of Order except as modified by these procedures.

b. When deemed necessary and appropriate, the Chairman may offer a motion, or second a motion.

- c. No person shall address a public meeting of the Board without permission of the Chairman or other designated presiding officer.
- d. Items, which appear on the meeting agenda, shall be considered as properly before the Board of Selectmen without benefit of a specific motion to that effect. However, any Member of the Board may reserve the right to move that an agenda item be stricken from the agenda. Such a motion, if made, shall be subject to the actions of the other Members of the Board as would be appropriate to action on routine motions
- e. The board may take action on issues brought before the board in Public or Selectmen Statements, if it is of a nature not deemed to require being placed on a subsequent agenda.
- f. Limit Public Statements to a total of sixty (60) minutes. Each public speaker is limited to three (3) minutes speaking time.
- g. The Chairman should rotate from meeting to meeting the order in which the Selectmen make their statements.

SECTION 5. PUBLIC HEARING PROCEDURES

Preliminary Procedures

- (1) Proponents and opponents must set up any displays or graphic presentations prior to the actual start of the hearing.
- (2) Principal speakers must identify themselves to the Chair prior to the start of the hearing.
- (3) Copies of the hearing materials from Proponents/Opponents/Staff will be posted (or distributed) prior to the start of the hearing. Ideally all materials should appear in the Selectmen's meeting packet as posted by the Town Clerk.
- (4) The Chair will announce time limits, if any, for each section of the public hearing.

Hearing Format

PRESENTATION: Proponent

- (1) Questions ON THE PRESENTATION: Board of Selectmen
- (2) Report and/or Recommendation from Staff
- (3) Public Comments:
 - a) Proponents
 - b) Opponents
 - c) Proponents and Opponents can be taken together at the discretion of the Chair.
 - d) Written comments will be read into the record, eliminating comments from any proponent/opponent who gave spoken public comments. Written comments may be summarized at the discretion of the Chair.
- (4) Rebuttal or Answers to questions raised: Proponents and Opponents.

- (5) Closed to Public Comment.
- (6) Board of Selectmen Discussion and Staff Recommendations.
- (7) Vote.

SECTION 6. MINUTES OF MEETINGS

- a. The proceedings of all Board meetings shall be recorded by cassette recording devices. Tape recordings or videotape may not be used as a permanent record of meetings. Written minutes must be prepared as outlined in Section 6b. Once minutes have been prepared and approved, the tape and/or video may be erased and re-used for another meeting. Until it is erased, however, it is a public record (unless it is a tape or video of an executive session), which must be made available for inspection and copying upon request.
- b1. Written minutes of Board meetings shall be prepared in an abbreviated form; however, as a minimum, the written minutes shall record time and date of meetings, names of Board Members present and voting, names of Town personnel attending, and names of Members of other Town Boards, Committees and Commissions attending the meeting, *a summary of the discussions on each topic; a list of documents and other exhibits used at the meeting.*¹ The record of exact motions made and votes taken shall be included in the written minutes. Written minutes shall not include verbatim or otherwise lengthy record of discussion on agenda items.
- b2. Written minutes should be printed on both sides of the paper they are printed on. (To conserve paper and archive space.)
- c. Written minutes shall be prepared as expeditiously as possible to allow the Board to act upon them at a subsequent regular meeting. Following the Board's approval, the written minutes shall be filed with the Town Clerk and become a permanent and official record of meetings.
- d. Minutes of Executive Sessions shall remain in the permanent possession of the Secretary to the Board, in a secure place, and shall not be released unless authorized by a majority vote of the Board, or upon an order issued by a court of law.

SECTION 7. SUSPENSION OF PROCEDURES

These standing procedures may be suspended by an affirmative majority vote of the Board Members present and voting.

SECTION 8. RECONSIDERATION OF VOTES

Any vote taken may be reconsidered without limitations to time, given upon a proper motion before the Board and a favorable majority vote of the members present and voting, providing that the Selectman making the reconsideration motion voted in the majority on the original motion.

SECTION 9. REVIEW OF STANDING PROCEDURE

These standing procedures shall be reviewed annually, following the normal reorganization of each new Board of Selectmen, or, more often if necessary and dictated by changes in the Board's composition if occurring prior to the normal electoral process.

SECTION 10. AMENDMENTS TO STANDING PROCEDURES

- a. These standing procedures may be amended by a majority vote of the members present and voting at a regular meeting provided, however, that the proposed amendment has been submitted to the Board of Selectmen's secretary and the Board of Selectmen in writing at least one week prior to the date the amendment is to be voted upon.
- b. An amendment shall be construed to mean any addition of a new procedure or deletion or modification of an existing procedure.

SECTION 11. EFFECTIVE DATE

These standing procedures are effective May 22, 1995.

SECTION 12. DISTRIBUTION

A copy of these procedures will be provided to each newly elected Selectman.

THE HONORABLE BOARD OF SELECTMEN

Louise Venden, Chair

Thomas Donegan, Vice Chair
Robert Anthony

Cheryl Andrews
Lise King

Elizabeth D. Paine



Provincetown Select Board
AGENDA ACTION REQUEST
Monday, August 27, 2018

6B

DRAFT WARRANT REVIEW

Annual STM October 29, 2018

Requested by: Town Manager David B. Panagore

Action Sought: Discussion

Proposed Motions

Discussion dependent – votes may be taken

Additional Information

- Draft Warrant, Updated Charter Articles
- Comparison Chart
- Town Counsel John Giorgio Memo of July 25, 2018
- Calendar/Timeline

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>

Town Warrant

Special Town Meeting – Monday, October 29, 2018

Commonwealth of Massachusetts Barnstable, ss.

To either of the Constables of the Town of Provincetown, Greetings:

In the Name of the Commonwealth of Massachusetts and in the manner prescribed in the Charter and Bylaws of said Town, you are hereby directed to notify the inhabitants of the Town qualified by law to vote in Town affairs to meet and assemble at **Provincetown Town Hall, 260 Commercial Street, on Monday, the twenty-ninth day of October, A.D. 2018 at 6 o'clock in the evening**, then and there to act on the following articles, to wit:

Article 1. FY 2018 Budget Adjustments. To see what amendments the Town will vote to make to the Fiscal Year 2019 operating budgets established under Article 2 of the April 2018 Annual Town Meeting and what sums the Town will vote to raise and appropriate or transfer from available funds therefor; or to take any other action relative thereto.

[Requested by the Select Board and Town Manager]

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 to take any other action relative thereto.

[Requested by the Select Board and Town Manager]

Article 3. Wastewater Expansion Authorization. To see if the Town will vote to appropriate and borrow the sum of \$_____ million to be expended under the direction of the Town Manager and the Board of Selectmen, for the development of plans and specifications and for construction, optimization and expansion of the Town's sewer system including the expansion of the treatment capacity of the wastewater treatment plant and further extensions of the Town's sewer system, including without limitation all costs defined under Chapter 29C, Section 1 of the General Laws and all other costs incidental and related thereto; and to raise said appropriation the Town Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum of money under and pursuant to Chapter 44, Section 7(1) and/or Chapter 29C of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor; and that to the extent that any State, Federal or other funds are or become available for the purposes set forth above, the Board of Selectmen is authorized to apply for and accept such funds; and, further, the Town votes to authorize the Water and Sewer Board to assess one hundred percent of the project cost to the Town upon those who benefit from the project, such assessments to be made by the Uniform Unit method as provided by General Laws Chapter 83, Section 15; or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 3: The Town has been in a State of Limited Capacity at the Wastewater Treatment Plant since 2015 which has limited all further connections to the sewer to the Town's priority categories. The Town conducted a feasibility study

identifying three potential options for expansion. The Select Board, Water and Sewer Board and Board of Health have all voted to recommend Option 1, which is a \$6 million dollar construction of a Peak Flow Storage Tank at the treatment plant that will free up 155,000 additional gallons of capacity for properties and uses within the existing sewer service use areas, allowing the Town to not only continue to serve its existing priority uses, but also open up the sewer for private hookups. As with previous Town Meeting authorization requests, the cost will be covered by grants and by betterment revenue from new users or additional flows from existing users.

Article 4. Zoning Bylaw Amendment: Article 6 Growth Management. (*Deletions shown in strike through and new text shown as underlined*) To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 6, Growth Management Bylaw, Section 6600, Growth Limitation Goal Allocations, in order to allow a one-time increase in the number of gallons allocated to General Use Category 4 (Economic Development) that will allow for expansion of economic development in the downtown corridor due to wastewater expansion as follows:

(c) Annually, during the Growth Management Review, the Select Board may allocate up to 3,750 gpd to General Use Category 4, except that in 2019, the Select Board may allocate an additional amount of up to 10,000 gpd to General Use Category 4, provided that the Select Board shall have made a finding that the Town is in compliance with the water withdrawal permit issued by the Department of Environmental Protection ("DEP") pursuant to 310 CMR 36.00 and all applicable rules and regulations promulgated by DEP with respect thereto; or to take any other action relative thereto.

[Requested by the Planning Board]

Explanation of Article 4: *The Wastewater Expansion will open downtown capacity for business and economic development growth. Of the increased capacity, the Select Board allocated up to 63,000 gallons over the course of the next 10 years for economic development. This article will boost the available growth management gallons to support that level of growth for downtown businesses.*

Article 5. Land Bank – Pre-acquisition Expenses.

To see if the Town will vote to transfer from the Land Bank Fund established under Chapter 293 of the Acts of 1998 the sum of \$35,000 to be expended under the direction of the Open Space Committee and the Town Manager for the funding of pre-acquisition expenses for potential Land Bank purchases, including but not limited to title searches and appraisals, updating of the Open Space Plan to qualify said purchases for state grants, and other costs associated therewith; or to take any other action relative thereto.

[Requested by the Open Space Committee]

Explanation of Article 5: *Land Bank Pre-acquisition funds allow the Open Space Committee to do the required due diligence prior to any open space purchase. In addition, the Town is required to update the Open Space and Recreation Plan by October 2019 to remain eligible grant funds.*

Article 6. Land Bank – Acquisition of the Hall Property 387-395A Commercial Street. To see if the Town will vote to authorize the Select Board, acting as Park Commissioners, to purchase for recreation purposes, by eminent domain or negotiated

purchase or otherwise, a certain property with improvements in Provincetown, Barnstable County, Massachusetts, to be managed and controlled as a public park, in accordance with Massachusetts General Law Chapter 45, Section 3, for recreation and beach use purposes by the Recreation Commission, being described as follows:

Shown on Assessors Map 12-2, Parcel 2-15 as a 13,127 s.f. parcel of land described in a deed recorded in the Barnstable County Registry of Deeds in Book 7440, Page 128 and known by its street address as 387-395A Commercial Street.

And, to appropriate a sum of \$_____ for the acquisition of the fee interest in said foregoing land, including costs incidental and related thereto, and to authorize the Select Board or its designee to accept any gifts of property, real, personal or otherwise, in relation to the foregoing acquisition and to enter into any agreements and to execute all documents it deems advantageous on behalf of the Town, for partial or full reimbursements of the cost of acquisition, and to determine how the same shall be raised, including appropriation from the so-called Land Bank Fund, under the Cape Cod Land Bank Act, and/or Community Preservation Act, or by borrowing said sum or any part thereof pursuant to Chapter 44, Section 7(3) of the Massachusetts General Laws, or any other enabling authority and to issue bonds or notes of the Town therefore.

And, further, that the Select Board and the Town Manager, at the Select Board's discretion, be authorized to submit, on behalf of the Town, any and all applications deemed necessary under the PARC (formerly Urban Self-Help) Act, as amended, Chapter 933, Acts of 1977, (301 CMR 5.00), and/or any other sources, including those in aid of recreation land acquisition, 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 to receive and accept such grants or reimbursements for this purpose from these sources for the acquisition within the scope of this Article, or to take any actions relative thereto. And, further, to convey a perpetual restriction in accordance with M.G.L. c. 184, §§31-33 to the Provincetown Conservation Trust, or similar qualified organization, in accordance with said Land Bank and Community preservation Acts, limiting the use of the property to the aforesaid active recreation purposes and uses; or to take any other action relative thereto.

[Requested by the Open Space Committee]

Article 7. Land Bank – Acquisition of the Hall Property 264-268 Bradford Street.

To see if the Town will vote to raise and appropriate, transfer or borrow available funds, or otherwise, a sum of money, including closing costs, for the acquisition of the fee interest in a parcel of land, located at 264-268 Bradford Street (Rear), Provincetown, Barnstable County, Massachusetts, held in ownership by Dwyer Family, LLC, containing five acres, more or less, shown as Provincetown Assessors Map 15-2, Parcel 51 (part), copies of which are on file in the Office of the Town Clerk, together with and subject to all rights, restrictions and easements of record, for conservation and passive recreation purposes on such terms and conditions as the Selectmen may determine; and to appropriate under the Land Bank program the sum of \$_____,000 to be used for such acquisition and all expenses incidental and related thereto; that to meet this appropriation the Treasurer with the approval of the Board of Selectmen is hereby authorized to borrow, pursuant to General Laws Chapter 44, Sections 7 and 8 or any other enabling authority, and to issue bonds and notes therefor; provided further that said land is to be conveyed to the Town of Provincetown under the provisions of Massachusetts General Laws, Chapter 40, Section 8C, and as it may be hereafter amended, and other Massachusetts statutes relating to conservation and passive recreation, to be managed and controlled by the Provincetown Conservation

Commission, and, to the extent that any federal, state or other funds are or become available for the purposes outlined in this Article, to authorize the Board of Selectmen, the Conservation Commission and/or other applicable boards or commissions to apply for and accept such funds; including but not limited to grants and/or reimbursement from the Commonwealth of Massachusetts under G.L. Chapter 132A, Section 11 (now, so-called LAND Grants) or any other enabling authority or any other applications for funds, and to accept and expend funds which may be provided by any other public or private sources to defray a portion or all of the costs of acquiring these properties and in any way connected with the scope of this acquisition; to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Provincetown to effect said acquisition or purchase or grants, or to take any other action relative thereto; and further, to authorize the Board of Selectmen and the Conservation Commission to convey to the Trustees of the Provincetown Conservation Trust, for no consideration, a perpetual conservation restriction on said land as authorized by Massachusetts General Laws, Chapter 184, Sections 31-33, allowing conservation and passive recreation uses described in Massachusetts General Laws, Chapter 40, Section 8C. Or to take any other action relative thereto.

[Requested by the Open Space Committee]

Article 8. Zoning Bylaw Amendment: Public Utilities. *(Deletions shown in strike-through and new text shown as underlined.)* To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 1, Definitions and Article 2, Districts and District Regulations, Section 2440 Table of Permitted Uses as follows:

Add the following definition to Article 1:

Public Utility shall mean an organization, subject to public control and regulation, that maintains the infrastructure for a public service, including: electricity, natural gas, water, sewage, telephone, and broadband internet.

And amend the use table for C8 Public Utility as follows:

2440 Permitted Principal Uses

C. Industrial		Res1	Res2	Res3 ResB	TCC	GC	S	M
C8	Public Utility	NO <u>BA</u>	NO <u>BA</u>	BA	BA	BA	NO <u>BA</u>	NO <u>YES</u>

or to take any other action relative thereto.

[Requested by the Planning Board]

Explanation of Article 8: This amendment provides a definition of public utilities and amends the use table to recognize that the town's existing infrastructure for water, sewer, electric and telephone are all located on existing town parcels in residential zones and therefore will remove the non-conforming status for those properties allowing us to maintain and expand those facilities within zoning.

Article 9. Zoning Bylaw Amendment: Design Standards. *(Deletions shown in strike-through and new text shown as underlined.)* To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 2, Districts and District Regulation Section 2650 Dimensional Schedule as follows:

Amend Footnote 5 (Building Heights) as follows:

5. Height limitations shall not apply to chimneys, TV antennae with poles of ten (10) feet or less, or spires, cupolas and widow walks that do not enclose more than thirty-five (35) square feet of floor space or exceed ten (10) feet in height or occupy more than five (5) percent of the roof area. If the roof is composed of multiple forms, the maximum height for each type of roof shall apply to each respectively. For Building Height allowed in High Elevation District, see Section 2320 High Elevation District. Municipal and Public Safety facilities may exceed height limitations when authorized by a Special Permit issued by the Zoning Board of Appeals as provided in Section 5300 with additional findings that the proposed height: 1) is influenced by unique design characteristics or constraints necessitated by the particular use, purpose or program of the structure, and 2) where it would be beneficial to the general public by decreasing costs, providing greater functionality or enhanced public safety.

or to take any other action relative thereto.

[Requested by the Planning Board]

Explanation of Article 9: *This amendment recognizes that municipal buildings have unique purposes or constraints that necessitate that they might not comply with the height requirements for structures. This amendment will allow the Town to receive a Special Permit from Zoning to exceed height whenever it can demonstrate findings that are specific to municipal and public safety facilities.*

Article 10. Zoning Bylaw Amendment: Harborfront Overlay. *(Deletions shown in strike-through and new text shown as underlined.)* To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 2, Districts and District Regulations, Section 2300 Overlay Districts as follows:

Section 2300 Overlay Districts

2310 Harborfront Regulation

2311 Purpose The purpose of this section is to regulate the uses permitted in the harborfront area in order to promote appropriate waterfront activities and efficient use of the harbor frontage while minimizing adverse impacts to pedestrian and visual access and protecting harbor water quality.

2312 Applicability The following requirements apply to the "Harborfront Area", defined as all that area which is ~~either more than 495~~ 160 feet seaward (i.e., southward) from the northern edge of the traveled ways of Commercial Street in the Class TCC, Town Center Commercial zone ~~or seaward of mean high water, or both.~~

2313 Allowed Uses Any of the following uses is allowed in the Harborfront Area without necessity of a Special Permit unless it is prohibited or requires a Special Permit in the underlying district:

Use Item	Name
B4d	Marine service, boat sales
C1	Seafood processing
C2	Boatbuilding, repair, overhaul

C3	On-shore boat storage
D1a	Religious or educational use exempt from zoning prohibition
E3b	Picnic area, commercial beach, bathhouse
F1 (part)	Aquaculture
F2	Other farms, nurseries, greenhouses
G3	Home occupation (see Section 4400)
G4	Sale of seafood caught by a resident of the premises
G6	Temporary construction office or shelter

2314 Special Permit Uses The following All other uses are allowed in the Harborfront Area on Special Permit from the Zoning Board of Appeals Planning Board unless prohibited in an the underlying district, except that Residential Uses as listed in Section 2440 shall not occupy more than 20% of the gross floor area of any structure or portion thereof within the Harborfront Area.

Use Item	Name
B4a	Neighborhood
B4b	Art Gallery
B4e	Package Store
B4f	All other retail
B5	Restaurant, Bar
B7	Parking Lots

Such use shall be authorized with a Special Permit from the Zoning Board of Appeals Planning Board as provided for in Section 5300 and after considering the degree to which the proposal would:

- a. Interrelate productively with, and help promote, other waterfront activities;
- b. Make efficient use of harbor frontage in relation to jobs supported or taxes contributed or other public benefits conferred;
- c. Improve opportunities for visual and pedestrian access to the waterfront; and
- d. Does not adversely Impact harbor water quality.

2315 Waterfront Special Permit Uses The following uses are allowed in the Harborfront Area on Special Permit from the Zoning Board of Appeals unless prohibited in an underlying district:

Use Item	Name
C9	Transportation terminal
C10	Warehouse
D3	Municipal Use
D4	Non-profit club without entertainment
D5	Museum
E2	Indoor Recreation
E3f	All other commercial outdoor recreation
F7	Scientific research or development
G11	Other customary accessory uses

Such Special Permit shall be granted only if the Board of Appeals determines that operating costs of the proposed use would be substantially greater for any but a waterfront location, and after considering the degree to which the proposal would:

- a. Interrelate productively with other waterfront activities;
- b. Make efficient use of harbor frontage in relation to jobs supported or taxes contributed;

- c. ~~Improve opportunities for visual and pedestrian access to the waterfront;~~
- d. ~~Affect the ability of the town's utilities, roads and public services to service others;~~
- e. ~~Improve or maintain harbor water quality.~~

2316 Prohibited Uses Any use not listed in subsections 2313 or 2315 is prohibited in the Harborfront Area.

And further to delete Section 2540 in its entirety.

2540 Harbor Setback No structure other than a pier, wharf or other facility requiring waterfront contact shall be constructed within 35 horizontal feet of mean high water of any salt water body.

And delete reference to the Harborfront setback in the Dimensional Schedule under Section 2560.

Or to take any other action relative thereto.

[Requested by the Planning Board]

Explanation of Article 10: *The amendment combines two conflicting provisions of the By-laws – the Harbor Setback and the Harborfront Overlay – to create a clear jurisdictional boundary and clear standards of review, and allow for the responsible re-development of the harborfront. The current provisions also conflict with Chapter 91 uses and the Town's Harbor Plan update. The Harbor Setback dates at least to the first iteration of the By-laws as adopted under the Zoning Act in 1978. The provision bans the construction of any structure with the area 35' landward of the "Mean High Water" (MHW). Staff estimates that roughly 80% of parcels along the harborfront have pre-existing, non-conforming structures within this setback, meaning they are allowed to expand with the Special Permit. The remaining 20% are not able to expand. The Harborfront Overlay allows certain uses seaward of the Harbor Setback, a conflict as the latter does not allow structures. Additionally, the Harborfront Setback does not allow for economically viable uses, effectively stopping re-development and limiting public access via public-facing private uses such as hotels, restaurants, and piers. The proposal would allow all commercial uses within the Harborfront Overlay so long as they improve public access and are not environmentally detrimental. It would also allow for limited residential development to further encourage re-development that would meet the aforementioned goals.*

Article 11. Zoning Bylaw Amendment: Site Plan Review. *(Deletions shown in strike-through and new text shown as underlined.)* To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 4 Special Regulations, Section 4000 Site Plan Review as follows:

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, addition of parking, or and change in use of any building or land residential, commercial, industrial, cultural or institutional uses shall require Administrative Site Plan Review.

4012. Projects exempted from Administrative Site Plan Review

a. The construction or enlargement of any residential ~~single family, two-family dwelling,~~ building(s) on a parcel so long as said parcel contains no more than one or two principal dwelling units on one lot, or building accessory to such dwelling unit(s) including Accessory Dwelling Units,

- 1) except where such dwellings are located in the High Elevation District; or
- 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 or mixed use 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) ~~d~~Developments consisting of ~~the aggregate~~ an increase of residential units that will result in ~~two~~ three or more residential units on any parcel; ;
- (2) ~~d~~Developments consisting of more than 2,000 square feet of new commercial area; ;
- (3) ~~d~~Development of properties consisting of an existing or proposed drive-through facility or raised loading dock; ;
- (4) ~~d~~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 750 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. or to take any other action relative thereto.

[Requested by the Planning Board]

Explanation of Article 11: *The amendment modifies the Site Plan Review thresholds to create clear and enforceable review thresholds, clarify conflicting language (including the provision of by-right ADUs), and standardizes the terminology. Under Section 4010, the changes create reasonable and enforceable thresholds consistent with the land use modifications reviewed under zoning. As currently written the section likely extends beyond that legally allowed to be reviewed under zoning. Under Section 4012, the changes standardize the use of the term "residential building(s)" among the exemption*

criteria and clarify that ADUs are a by-right use. They also address mixed-use development which is not currently addressed. Under Section 4015, the changes create a clear threshold for the increase in residential units. The existing language does not reference an action, but is in potential conflict with various other sections of the By-laws.

Article 12. Charter Amendment – Reinstates Term Limits for All Elected and Appointed Boards. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to provide as set forth below; and further, that within the Charter amendment, if approved, may be combined with any other Charter amendments approved at this meeting into a single bill to be submitted to the General Court and, in connection therewith, to authorize the Town Clerk, in consultation with the Town Manager, to finalize the form of the special legislation for these purposes, including making any non-substantive changes made or required by the proposed amendments with respect to lettering or numbering of the sections of the Town Charter so amended; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

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

SECTION 1. Section 6 of Chapter 5 of the Charter of the Town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by striking out subsection (c).

SECTION 2. Section 7 of said Chapter 5 of said Charter is hereby amended by striking out subsection (f).

SECTION 3. Section 4 of said Chapter 5 of said Charter is hereby amended by inserting after subsection (f), the following subsection: (g) An elected member of a town board shall not serve on that board for more than three consecutive terms. An appointed member of a town board shall not serve on that town board for more than four consecutive terms. For the purposes of this section, service to complete the term of another member shall constitute service for one term if the balance of said term being completed is more than fifty percent of the original term. A person who has been prohibited from serving on a town board by this section may be reelected or reappointed to the board after two years have elapsed from the ending date of his or her previous service.

SECTION 4. This act shall take effect upon its passage;
Or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 12: *The 2017 Revised Charter, which took effect on July 1, 2018, deleted term limits for all Town Boards except for Regulatory Boards. The intent of this amendment is to restore term limits for all elected and appointed boards that existed in the prior 1990 Charter. Term limits for elected officials will be three terms. Appointed officials will have a term limit of four terms. The General Court has specific requirements for the form of Charter amendments in special acts. These requirements do not allow for the reader to see the actual effect of*

the Charter change. As an aid to the voters, the Select Board is providing a guide after each article by showing the deletions and new text to each Charter provision being changed. If this amendment is approved, the 2017 Revised Charter will be changed to read as follows (with deletions shown in strike through and new text shown as underlined):

Chapter 5 THE TOWN BOARDS

Section 6. Rules Specific to the Regulatory Town Boards

~~c. Members of Regulatory Town Boards may serve for only three three-year overlapping full terms. When a member is appointed to complete the term of another, it shall count as a full term if it exceeds 18 months. Members may be re-appointed after an absence of one year.~~

Section 7. Rules Specific to Appointed Town Boards

~~f. There is no time limit for service on an appointed, non-regulatory Board.~~

Section 4. Membership on Town Boards

g. An elected member of a town board shall not serve on that board for more than three consecutive terms. An appointed member of a town board shall not serve on that town board for more than four consecutive terms. For the purposes of this section, service to complete the term of another member shall constitute service for one term if the balance of said term being completed is more than fifty percent of the original term. A person who has been prohibited from serving on a town board by this section may be reelected or reappointed to the board after two years have elapsed from the ending date of his or her previous service.

Article 13. Charter Amendment – Restores and Clarifies Contracting Authority of the Board of Selectmen. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to provide as set forth below; and further, that within the Charter amendment, if approved, may be combined with any other Charter amendments approved at this meeting into a single bill to be submitted to the General Court and, in connection therewith, to authorize the Town Clerk, in consultation with the Town Manager, to finalize the form of the special legislation for these purposes, including making any non-substantive changes made or required by the proposed amendments with respect to lettering or numbering of the sections of the Town Charter so amended; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

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

SECTION 1. Section 3 of Chapter 4 of the Charter of the Town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by striking out subsection (k) and inserting in place thereof the following subsection:-

k. The Town Manager is the Chief Procurement Officer of the Town.

SECTION 2: Section 2 of Chapter 3 of said Charter is hereby amended by inserting after subsection (f) the following subsection: (g) The Board of Selectmen has the

exclusive authority to award and execute contracts for all Town Departments and offices and, if requested, for the School Committee and for the Board of Library Trustees.

SECTION 3. This act shall take effect upon its passage.
Or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 13: *The 2017 Revised Charter designates the Town Manager as the official authorized to execute contracts on behalf of the Town. This amendment would eliminate that provision and restore the contracting authority from the 1990 Charter to the Select Board. Pursuant to Section 3-2-a of the 2017 Revised Charter, the Select Board will have the authority to delegate contracting authority to the Town Manager for designated classes of contracts.*

If this amendment is approved, the 2017 Revised Charter will be changed to read as follows (with deletions shown in strike through and new text shown as underlined), except that all references in the 2017 Revised Charter to Board of Selectmen will be changed to Select Board should Article 12 be approved by the General Court:

Chapter 4. THE TOWN MANAGER

Section 3. Powers and Duties

k. ~~The Town Manager is the Chief Procurement Officer of the Town, with authority to award and execute contracts for the purchase of all supplies and services for all Town Departments and offices, and, if requested, for the School Committee and for the Board of Library Trustees.~~ The Town Manager is the Chief Procurement Officer of the Town.

Chapter 3. THE BOARD OF SELECTMEN

Section 2. General Powers and Responsibilities

g. The Board of Selectmen has the exclusive authority to award and execute contracts for all Town Departments and offices and, if requested, for the School Committee and for the Board of Library Trustees.

Article 14. Charter Amendment – Changes the Date of the Annual Town Election.

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to provide as set forth below; and further, that within the Charter amendment, if approved, may be combined with any other Charter amendments approved at this meeting into a single bill to be submitted to the General Court and, in connection therewith, to authorize the Town Clerk, in consultation with the Town Manager, to finalize the form of the special legislation for these purposes, including making any non-substantive changes made or required by the proposed amendments with respect to lettering or numbering of the sections of the Town Charter so amended; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

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

SECTION 1. Subsection (b) of Section 5 of Chapter 2 of the Charter of the town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by striking out the words "third Tuesday in June", and inserting in place thereof the following words: - second Tuesday in May.

SECTION 2. This act shall take effect upon its passage. Or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 14: *The 2017 Revised Charter changed the date of the Annual Town Election from the first Tuesday in May (1990 Charter) to the third Tuesday in June. The purpose of this amendment is to establish the date of the Annual Election as the second Tuesday in May. The change is being recommend because waiting until the third Tuesday in June to vote on ballot questions such as Proposition 2 ½ questions does not provide sufficient time to potentially adjust the operating budget before the start of the new fiscal year on July 1st. Rather than returning to the first Tuesday in May to hold the election, this amendment is proposing to set the election for the second Tuesday in May in order to provide sufficient time so that the only Proposition 2½ questions that will appear on the ballot would be limited to corresponding appropriations that were approved at the Annual Town Meeting, thereby avoiding a vote on ballot questions that have become moot based on the final action of Town Meeting. The Annual Town Meeting will continue to be held on the first Monday in April.*

If this amendment is approved, the 2017 Revised Charter will be changed to read as follows (with deletions shown in strike through and new text shown as underlined):

Chapter 2. TOWN MEETING, THE MODERATOR, AND TOWN ELECTIONS

Section 5. Elections

b. The regular elections to any office shall be by official ballot held on the ~~third Tuesday in June~~ second Tuesday in May of each year.

Article 15. Charter Amendment - Powers and Duties of the Select Board - Removes Review of Personnel Decisions by the Select Board – Removes Requirement to have Person with Human Resource Expertise in the Room. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to provide as set forth below; and further, that within the Charter amendment, if approved, may be combined with any other Charter amendments approved at this meeting into a single bill to be submitted to the General Court and, in connection therewith, to authorize the Town Clerk, in consultation with the Town Manager, to finalize the form of the special legislation for these purposes, including making any non-substantive changes made or required by the proposed amendments with respect to lettering or numbering of the sections of the Town Charter so amended; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

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

SECTION 1. Subsection (d) of Section 3 of Chapter 4 of the Charter of the town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by striking out the word "action", the first time it appears, and inserting in place thereof the following words: - hiring decision by the Town Manager; and further by striking out the word "action", the second time it appears, and inserting in place thereof the following words: hiring decision.

SECTION 2. Said Section 3 of said Chapter 4 of said Charter is hereby amended by deleting the last sentence in subsection (h).

SECTION 3. This act shall take effect upon its passage.
Or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 15: *The 2017 Revised Charter subjects all decisions by the Town Manager regarding hiring, promoting, and removal of certain Town Staff to confirmation by the Select Board. This amendment would limit confirmation by the Select Board to hiring decisions only. The purpose of this change is to remove the potential for any political influence in any decision by the Town Manager to promote or discharge employees. In addition, this amendment would eliminate the requirement that the discharge of a Town employee by the Town Manager only be done if a person with HR expertise is present. This requirement could lead to legal challenges in connection with the discharge of an employee.*

If this amendment is approved, the 2017 Revised Charter will be changed to read as follows (with deletions shown in strike through and new text shown as underlined):

Chapter 4. THE TOWN MANAGER

Section 3. Powers and Duties

d. The Town Manager may hire, promote and remove all Town Staff, except the secretary to the Board of Selectmen. Any action hiring decision by the Town Manager with regard to the following positions shall be subject to confirmation by the Board of Selectmen except that if the Board of Selectmen fails to confirm or object within fifteen (15) days of the notice of such proposed action hiring decision, such failure shall constitute implied confirmation:

- 1) Assistant Town Manager*
- 2) Finance Director*
- 3) Police Chief*
- 4) Town Clerk*

h. In addition, the Town Manager may discharge any Town employee not subject to a collective bargaining agreement for good cause if the action is taken in accordance with all applicable personnel policies and laws. ~~The discharge shall be done in person, in private, and with a person with HR expertise in attendance.~~

h. In addition, the Town Manager may discharge any Town employee not subject to a collective bargaining agreement for good cause if the action is taken in accordance with all applicable personnel policies and laws. The discharge shall be done in person, in private, and with a person with HR expertise in attendance.

Article 16. Financial Procedures – Provides Improved Procedures for Development of the Operating Budget.

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to provide as set forth below; and further, that within the Charter amendment, if approved, may be combined with any other Charter amendments approved at this meeting into a single bill to be submitted to the General Court and, in connection therewith, to authorize the Town Clerk, in consultation with the Town Manager, to finalize the form of the special legislation for these purposes, including making any non-substantive changes made or required by the proposed amendments with respect to lettering or numbering of the sections of the Town Charter so amended; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

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

SECTION 1. Subsection (b) of Section 4 of Chapter 6 of the Charter of the town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by striking out the word "third", and inserting in place thereof the following word:- second.

SECTION 2. Subsection (e) of said Section 4 of said Chapter 6 of said Charter is hereby amended by striking out the words "January 31st", and inserting in place thereof: - the first Tuesday in February.

SECTION 3. This act shall take effect upon its passage.
Or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 16: *This proposed change allows staff to submit the budget after the second quarter has closed and will provide the Select Board with two weeks to review the Town Manager's proposed budget before submitting it to the Finance Committee, rather than one week in the 2017 Revised Charter.*

If this amendment is approved, the 2017 Revised Charter will be changed to read as follows (with deletions shown in strike through and new text shown as underlined):

CHAPTER 6. FINANCE

Section 4. Financial Procedures - The Annual Budget.

b. On or before the ~~third~~ second Tuesday in January each year, the Town Manager shall submit to the Board of Selectmen a careful, detailed estimate in writing of the probable expenditures of the Town government for the ensuing fiscal year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount necessary to be provided for each Fund and Department. The Town Manager must also submit a statement of the expenditures of the Town for the same purposes in the two preceding years and an estimate of the expenditures for the current year.

e. The Board of Selectmen shall consider the proposed Budget submitted by the Town Manager and make such recommendations as it deems expedient and proper in the interests of the Town. On or before January 31st the first Tuesday in February, the Board of Selectmen shall transmit a copy of the Budget, together with its recommendations, to the Finance Committee. Selectmen shall act on it. Then they shall submit it to the Finance Committee, which shall issue its recommendations as part of its printed report on the Annual Budget.

Article 17. Charter Amendment – Financial Procedures – Provides Improved Procedures for Developing the Capital Improvement Plan. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to provide as set forth below; and further, that within the Charter amendment, if approved, may be combined with any other Charter amendments approved at this meeting into a single bill to be submitted to the General Court and, in connection therewith, to authorize the Town Clerk, in consultation with the Town Manager, to finalize the form of the special legislation for these purposes, including making any non-substantive changes made or required by the proposed amendments with respect to lettering or numbering of the sections of the Town Charter so amended; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

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

SECTION 1. Subsection (b) of Section 6 of Chapter 6 of the Charter of the town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by striking out by striking out the word "third" and inserting in place thereof the following word: - second.

SECTION 2. Subsection (b) of said Section 6 of said Chapter 6 of said Charter is hereby further amended by striking out the words "January 31st" and inserting in place thereof the following words: - the first Tuesday in February.

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

Or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 17: This proposed change will provide the Select Board with two weeks to review the Town Manager's proposed Capital Improvement Plan before submitting it to the Finance Committee, rather than one week in the 2017 Revised Charter.

If this amendment is approved, the 2017 Revised Charter will be changed to read as follows (with deletions shown in strike through and new text shown as underlined):

CHAPTER 6. FINANCE

Section 6. Financial Procedures - The Capital Improvements Program.

b. The Town Manager shall submit the Capital Improvements Program to the Board of Selectmen and the Finance Committee by the ~~third~~ second Tuesday of January prior to the Annual Town Meeting. On or before ~~January 31st~~ the first Tuesday in February, the Board of Selectmen shall act on it. Then they shall submit it to the Finance Committee, which shall issue its recommendations as part of its printed report on the Annual Budget.

Article 18. Charter Amendment – Investigatory Powers – Restore Language from Former Charter – Removes Detailed Requirements for Conducting Investigations.

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to provide as set forth below; and further, that within the Charter amendment, if approved, may be combined with any other Charter amendments approved at this meeting into a single bill to be submitted to the General Court and, in connection therewith, to authorize the Town Clerk, in consultation with the Town Manager, to finalize the form of the special legislation for these purposes, including making any non-substantive changes made or required by the proposed amendments with respect to lettering or numbering of the sections of the Town Charter so amended; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

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

SECTION 1. Section 5 of Chapter 3 of the Charter of the town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by striking out subsections (b), (c), (d), and (e), in their entirety, and inserting in place thereof the following subsection:-

b. For purposes of this section, the board of selectmen may subpoena witnesses, administer oaths, take testimony, and require the production of evidence.

SECTION 2. This act shall take effect upon its passage.

Or to take any other action relative thereto

[Requested by the Select Board and the Town Manager]

Explanation of Article 18: *The 2017 Revised Charter provides a very detailed procedure for the investigation of complaints by the Town Manager and the Select Board. The procedures are cumbersome and could have the effect of substantially impeding the ability of the Town Manager and the Select Board to conduct required investigations. The change to this provision will restore the investigation language to the 1990 Charter, and remove from the Charter the detailed procedures that are not appropriate for a Charter.*

If this amendment is approved, the 2017 Revised Charter will be changed to read as follows (with deletions shown in strike through and new text shown as underlined):

Article 7. Charter Amendment – Investigatory Powers – Restore Language from Former Charter – Removes Prohibition on Acting on Anonymous Complaints.

Chapter 3. THE BOARD OF SELECTMEN

Section 5. Investigatory Powers

b. For purposes of this section, the board of selectmen may subpoena witnesses, administer oaths, take testimony, and require the production of evidence.

~~*b. Any criminal matter shall be referred to the Police or the Attorney General's Office for action after an initial investigation to determine if criminal behavior may have occurred.*~~

~~*c. Investigations shall be based only upon factual allegations that can be confirmed or denied. If allegations are received from an individual, that person must be identified and the allegations must be in writing and must be specific. Any anonymous allegation or one of general behavior shall not be responded to.*~~

~~*d. The individual who is the subject of an investigation shall be informed in writing of the investigation and shall have the right to a Public Hearing.*~~

~~*e. The Board of Selectmen shall identify sanctions if the conduct is determined to be inappropriate. Sanctions may include an oral reprimand and guidance for future action at a Board of Selectmen open meeting, removal in accordance with procedures set forth in this Charter, or referral to an appropriate body for action.*~~

Article 19. Charter Amendment – Allows Residents Who Are Not Registered Voters to Serve on Non Regulatory Boards. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to provide as set forth below; and further, that within the Charter amendment, if approved, may be combined with any other Charter amendments approved at this meeting into a single bill to be submitted to the General Court and, in connection therewith, to authorize the Town Clerk, in consultation with the Town Manager, to finalize the form of the special legislation for these purposes, including making any non-substantive changes made or required by the proposed amendments with respect to lettering or numbering of the sections of the Town Charter so amended; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

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

SECTION 1. Section 7 of Chapter 5 of the Charter of the town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by striking out subsection (c), in its entirety, and inserting in place thereof the following subsection:- If the Appointing Authority determines that there are an inadequate number of registered voters who are willing to serve as members or alternates on appointed non-regulatory Boards, then the Appointing Authority may appoint full-time residents who are not registered voters, as long as the majority of members are registered voters.

SECTION 2. This act shall take effect upon its passage.

Or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 19: The 2017 Revised Charter included a provision that allows part-time residents to be appointed as alternates to non-regulatory boards under certain

circumstances. The change proposed in this warrant article removes the reference to part-time resident, but would allow full-time residents who are not registered voters to serve as alternates on non-Regulatory Boards.

If this amendment is approved, the 2017 Revised Charter will be changed to read as follows (with deletions shown in strike through and new text shown as underlined):

Chapter 5 THE TOWN BOARDS

Section 7. Rules Specific to Appointed Town Boards

~~c. If the Appointing Authority determines that there are an inadequate number of registered voters who are willing to serve as members or alternates on appointed non-regulatory Boards, then the Appointing Authority may appoint part-time residents to serve as alternates, as long as the majority of members are registered voters. If the Appointing Authority determines that there are an inadequate number of registered voters who are willing to serve as members or alternates on appointed non-regulatory Boards, then the Appointing Authority may appoint full-time residents who are not registered voters, as long as the majority of members are registered voters.~~

Article 20. Charter Amendment – Streamlines Qualifications of the Town Manager.

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to provide as set forth below; and further, that within the Charter amendment, if approved, may be combined with any other Charter amendments approved at this meeting into a single bill to be submitted to the General Court and, in connection therewith, to authorize the Town Clerk, in consultation with the Town Manager, to finalize the form of the special legislation for these purposes, including making any non-substantive changes made or required by the proposed amendments with respect to lettering or numbering of the sections of the Town Charter so amended; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

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

SECTION 1. Section 2 of Chapter 4 of the Charter of the town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by striking out subsection (a), in its entirety, and inserting in place thereof the following: - a. The Town Manager shall be a person especially fit by education, training, or previous experience in public administration, to perform the powers and duties of the office.

SECTION 2. This act shall take effect upon its passage.

Or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 20: The 2017 Revised Charter included very detailed requirements for determining the qualifications of the Town Manager. Such detail could lead to unnecessary disputes as to whether an otherwise qualified candidate appointed

by the Select Board would be able to serve. This amendment returns to the language of the 1990 Charter by streamlining the qualification requirements for the Town Manager in order to provide more discretion to the Select Board when filling the position of Town Manager.

If this amendment is approved, the 2017 Revised Charter will be changed to read as follows (with deletions shown in strike through and new text shown as underlined):

Chapter 4. THE TOWN MANAGER

Section 2. Qualifications

~~a. The Town Manager shall be hired on the basis of education and experience. The minimum education requirement for a candidate for the position of the Town Manager is a bachelor's degree, preferably in Public Administration, from an accredited degree-granting college or university. In addition, the candidate must have at least three years compensated service in public administration at a managerial level. If the educational qualification is waived by the Board of Selectmen, the professional qualification must include at least nine years compensated service in public administration with at least six at a managerial level. The Town Manager shall be a person especially fit by education, training, or previous experience in public administration, to perform the powers and duties of the office.~~

Article 21. Charter Amendment – Membership on Town Boards – Provides for 5 Alternates for Regulatory Boards. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to provide as set forth below; and further, that within the Charter amendment, if approved, may be combined with any other Charter amendments approved at this meeting into a single bill to be submitted to the General Court and, in connection therewith, to authorize the Town Clerk, in consultation with the Town Manager, to finalize the form of the special legislation for these purposes, including making any non-substantive changes made or required by the proposed amendments with respect to lettering or numbering of the sections of the Town Charter so amended; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

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

SECTION 1. Section 4 of Chapter 5 of the Charter of the town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by striking out subsection (a), in its entirety, and inserting in place thereof the following:- a. Unless otherwise specified in Massachusetts General Laws or this Charter, each Town Board consists of five regular members and two alternate members, except for the Zoning Board of Appeals and the Planning Board which may have up to five alternate members, and the Finance Committee which shall have seven regular members and two alternate members. New members shall not participate in a Board meeting until they have been sworn in by the Town Clerk. Alternate members shall have the right in order of seniority on the Board to vote at a Board meeting in place of a regular member who is absent.

SECTION 2. This act shall take effect upon its passage.
Or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 21: *The 2017 Revised Charter set membership on all Town boards to five regular members and two alternate members. This amendment restores the provisions of the 1990 Charter by allowing the Zoning Board of Appeals to have five alternates and the Finance Committee to have seven regular members and two alternate members. In addition, this amendment would permit the Planning Board to have five alternate members as well. Given the responsibilities and caseloads of the Zoning Board of Appeals and the Planning board, having five alternates will provide more flexibility in their decision making and potentially avoid the consequence of a constructive grant. Restoring the Finance Committee to seven members will facilitate the ability of the Finance Committee to more effectively fulfill its financial oversight responsibilities.*

If this amendment is approved, the 2017 Revised Charter will be changed to read as follows (with deletions shown in strike through and new text shown as underlined):

Chapter 5 THE TOWN BOARDS

Section 4. Membership on Town Boards

~~a. Unless otherwise specified in Massachusetts General Laws or this Charter, each Town Board consists of five regular members and two alternate members. New members shall not participate in a Board meeting until they have been sworn in by the Town Clerk. Alternate members shall have the right in order of seniority on the Board to vote at a Board meeting in place of a regular member who is absent.~~ Unless otherwise specified in Massachusetts General Laws or this Charter, each Town Board consists of five regular members and two alternate members, except for the Zoning Board of Appeals and the Planning Board, which shall have five alternate members, and the Finance Committee which shall have seven regular members and two alternate members. New members shall not participate in a Board meeting until they have been sworn in by the Town Clerk. Alternate members shall have the right in order of seniority on the Board to vote at a Board meeting in place of a regular member who is absent.

Article 22. Charter Amendment –Preparation of the Warrant and Preliminary Hearings and Reports. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to provide as set forth below; and further, that within the Charter amendment, if approved, may be combined with any other Charter amendments approved at this meeting into a single bill to be submitted to the General Court and, in connection therewith, to authorize the Town Clerk, in consultation with the Town Manager, to finalize the form of the special legislation for these purposes, including making any non-substantive changes made or required by the proposed amendments with respect to lettering or numbering of the sections of the Town Charter so amended; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and further that the Board of Selectmen is hereby authorized to approve

amendments which shall be within the scope of the general public objectives of this petition.

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

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

SECTION 1. Subsection (e) of Section 3 of Chapter 2 of the Charter of the town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by striking out the words "two (2)" and inserting in place thereof the following words:-seven (7).

SECTION 2. This act shall take effect upon its passage.
Or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 22: *The 2017 Revised Charter requires the Select Board to post the warrant within two business days of closing the warrant. This is too short a timeframe to permit Town staff including Town Counsel to make final changes to the warrant based on direction provided by the Select Board at the meeting in which the warrant is closed. By allowing the Select Board to post the warrant within seven business days of the close of the warrant, there will be sufficient time to insure that the warrant articles are in proper form.*

If this amendment is approved, the 2017 Revised Charter will be changed to read as follows (with deletions shown in strike through and new text shown as underlined):

Chapter 2. TOWN MEETING, THE MODERATOR, AND TOWN ELECTIONS

Section 3. Preparation of the Warrant and Preliminary Hearings and Reports

e. *The Warrant for the Annual Town Meeting shall be opened at least sixty days (60) prior and closed thirty (30) days prior to the date of the Town Meeting. The Warrant shall be posted on the Town's website within ~~two (2)~~ seven (7) business days of closing, and shall be provided to the registered voters of the Town by publication in a newspaper of general circulation within the Town at least fourteen (14) days prior to Town Meeting, and in printed form in the office of the Town Clerk. As an alternative to publication in a local newspaper, the Warrant may be mailed at least fourteen (14) days prior to a Town Meeting to the last known address on file of the registered voters of the Town.*

Article 23. Charter Amendment – Rules Specific to Elected Boards - Restores Recall Language. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to provide as set forth below; and further, that within the Charter amendment, if approved, may be combined with any other Charter amendments approved at this meeting into a single bill to be submitted to the General Court and, in connection therewith, to authorize the Town Clerk, in consultation with the Town Manager, to finalize the form of the special legislation for these purposes, including making any non-substantive changes made or required by the proposed amendments with respect to lettering or numbering of the sections of the Town Charter so amended; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court;

and further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition, or to take any other action relative thereto.

AN ACT RELATIVE TO THE CHARTER OF THE TOWN OF PROVINCETOWN.

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

SECTION 1. Subsection (e) of Section 8 of Chapter 5 of the Charter of the town of Provincetown, which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by striking out clause (11), in its entirety, and inserting in place thereof the following:- (11) A majority of registered voters is required to recall an elected Official, but shall not be effective unless a total of at least twenty-five percent (25%) of the registered voters entitled to vote on the question shall have voted for Recall. If such total is not achieved, then the ballots for candidates need not be counted.

SECTION 2. This act shall take effect upon its passage.

Or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 23: *The 2017 Revised Charter substantially reduces the threshold requirement for recalling an elected official. Under the 1990 Charter, an elected official could not be recalled unless at least 25% of the registered voters voted to recall the official. The 2017 Revised Charter established the threshold by stating that a majority of at least 25% of registered voters was all that is required. The purpose of this amendment is to restore the language from the 1990 Charter. All other thresholds are the same in both the 1990 Charter and the 2017 Revised Charter.*

If this amendment is approved, the 2017 Revised Charter will be changed to read as follows (with deletions shown in strike through and new text shown as underlined):

Chapter 5 THE TOWN BOARDS

Section 8. Rules Specific to Elected Town Boards

e. Members of elected Town Boards and elected individuals, such as the Moderator, can be removed from service on such Boards only by the recall process delineated below:

11) ~~A majority vote of at least twenty-five percent (25%) of registered voters is required to recall an elected Official. If fewer than twenty-five percent (25%) of registered voters east a ballot, the ballots regarding the Recall shall not be counted.~~ A majority of registered voters is required to recall an elected Official, but shall not be effective unless a total of at least twenty-five percent (25%) of the registered voters entitled to vote on the question shall have voted for Recall. If such total is not achieved, then the ballots for candidates need not be counted.

Article 24. Charter Amendment – Name Change from Board of Selectmen to Select Board. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to amend the Town Charter by striking out the words "Board of Selectmen", each time they appear, and inserting in place thereof, in each instance, the words "Select Board"; and to insert a new subsection in the Charter to provide that the Select Board shall have the full role of and all powers

and authorities of a Board of Selectmen under any general or special laws, and its members and officers shall have the full role of and all of the powers and authority of the members and officers of a Board of Selectmen under any general or special laws; and further, that the within Charter amendment, if approved, may be combined with any other Charter amendments approved at this meeting into a single bill to be submitted to the General Court and, in connection therewith, to authorize the Town Clerk, in consultation with the Town Manager, to finalize the form of the special legislation for these purposes, including making any non-substantive changes made or required by the proposed amendments with respect to lettering or numbering of the sections of the Town Charter so amended; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition, or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 24: *At the 2018 Annual Town Meeting a citizens' petitioned article was voted favorably to change the name of the Board of Selectmen to the Select Board. In order to effectuate this change legally, the Charter must be amended. This article, if approved by the General Court, will change all references in the 2017 Revised Charter, including any changes approved at this Special Town Meeting. Depending on which articles are approved at the Special Town Meeting, the Select Board intends to submit a single home rule petition which will include all of the changes, including changing the name of the Board of Selectmen to Select Board throughout the Charter.*

Article 25. Personnel Bylaw Amendment. To see if the Town will vote to amend the Personnel Bylaw, as follows:

By amending Section 3-1 (revisions shown in strikethrough and bold, below) to read – “The personnel system shall be based on merit principles, and shall include Personnel Rules adopted under ~~Section 6-11-2~~ of the Charter pursuant to Section 4-1 of this Bylaw, an Appraisal System for evaluating the performance of all Town employees positions covered under this Personnel Bylaw; and a classification plan and compensation plan which shall (1) classify all non-union paid Town positions into groups and classes doing substantially similar work or having substantially equal responsibilities; and (2) establish minimum and maximum salaries to be paid to employees in positions so classified; which plan shall be a part of this by-law.”

And by deleting the existing Section 4 and replacing it with a new Section 4, to read as follows:

4. Administration of the Personnel System

~~4-1~~ The classification and compensation plan and appraisal system shall be administered in accordance with Personnel Rules adopted pursuant to ~~Section 6-11-2~~ of the Charter.

~~4-2~~ The Personnel Board shall review any proposed amendment to the classification and compensation plan proposed, and issue its report and recommendation thereon to the town meeting on whose warrant such amendment shall appear.

4-1 The Town Manager is authorized to adopt personnel rules and policies, to be known as "Personnel Rules", applicable to all positions covered under the Personnel Bylaw, after consultation with the Personnel Board.

4-2 The classification and compensation plan and appraisal system shall be administered in accordance with the Personnel Rules adopted by the Town Manager, pursuant to Section 4-1, above.

4-3 The Personnel Board shall review any proposed amendment to the classification and compensation plan proposed, and issue its report and recommendations thereon to the town meeting on whose warrant such amendment shall appear.

Or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Article 25. School Bus Lease. To see if the Town will vote to authorize the Superintendent of Schools, on behalf of the School Committee, to enter into a three year lease purchase agreement for the acquisition of two new 2019 IC CE school buses; or to take any other action relative thereto.

[Requested by the School Committee]

Explanation of Article 25: This is a three-year tax exempt lease purchase with three annual payments of \$25,778 for a total of \$77,334.00 and a final payment of \$99,600. At the end of the three year lease the buses will be owned by the town outright. The annual lease payment is included in the yearly appropriated budget.

**SELECT BOARD
TOWN OF PROVINCETOWN**

Louise Venden, Chairman
Thomas Donegan, Vice-Chairman
Robert Anthony
Cheryl Andrews
Lise King

A TRUE COPY, ATTEST:

Darlene Van Alstyne
Town Clerk

Date of publishing:

**TOWN OF PROVINCETOWN
ANALYSIS OF PROPOSED AMENDMENTS TO THE TOWN CHARTER
TO BE PRESENTED
AT OCTOBER 29, 2018 SPECIAL TOWN MEETING**

Function	1990 Charter	2017 Revised Charter Amendment	Proposed	Explanation
Term Limits	<p>3-4-4 An elected member of a town board shall not serve on that board for more than three consecutive terms. An appointed member of a town board shall not serve on that town board for more than four consecutive terms. For the purposes of this section, service to complete the term of another member shall constitute service for one term if the balance of said term being completed is more than fifty percent of the original term. A person who has been prohibited from serving on a town board by this section may be reelected or reappointed to the board after two years have elapsed from the ending date of his or her previous service.</p>	<p>5-6-c. Members of Regulatory Town Boards may serve for only three three-year overlapping full terms. When a member is appointed to complete the term of another, it shall count as a full term if it exceeds 18 months. Members may be re-appointed after an absence of one year.</p>	<p>Chapter 5 THE TOWN BOARDS Section 6. Rules Specific to the Regulatory Town Boards e. Members of Regulatory Town Boards may serve for only three three-year overlapping full terms. When a member is appointed to complete the term of another, it shall count as a full term if it exceeds 18 months. Members may be re-appointed after an absence of one year. Section 7. Rules Specific to Appointed Town Boards f. There is no time limit for service on an appointed, non-regulatory Board. Section 4. Membership on Town Boards g. An elected member of a town board shall not serve on that board for more than three</p>	<p>The 2017 Revised Charter, which took effect on July 1, 2018, deleted term limits for all Town Boards except for Regulatory Boards. The intent of this amendment is to restore term limits for all elected and appointed boards that existed in the prior 1990 Charter. Term limits for elected officials will be three terms. Appointed officials will have a term limit of four terms.</p>

Function	1990 Charter	2017 Revised Charter Amendment	Proposed	Explanation
Contracting Authority	<p>7-2-10 The Town Manager shall be responsible for purchasing for all town departments and offices, and if so requested, for the school committee or the board of library trustees.</p> <p>4-2-6 The board of selectmen shall exercise the powers and duties which are not vested in a town officer or another</p>	<p>4-3-k. The Town Manager is the Chief Procurement Officer of the Town, with authority to award and execute contracts for the purchase of all supplies and services for all Town Departments and offices, and, if requested, for the School Committee and for the Board of Library Trustees.</p>	<p><u>consecutive terms. An appointed member of a town board shall not serve on that town board for more than four consecutive terms. For the purposes of this section, service to complete the term of another member shall constitute service for one term if the balance of said term being completed is more than fifty percent of the original term. A person who has been prohibited from serving on a town board by this section may be reelected or reappointed to the board after two years have elapsed from the ending date of his or her previous service.</u></p> <p>Chapter 4. THE TOWN MANAGER</p> <p>Section 3. Powers and Duties</p> <p>k. <u>The Town Manager is the Chief Procurement Officer of the Town, with authority to award and execute contracts for the purchase of all supplies and services for all Town Departments and offices, and, if requested, for the School Committee and for the Board of Library Trustees. The Town Manager is the Chief</u></p>	<p><i>The 2017 Revised Charter designates the Town Manager as the official authorized to execute contracts on behalf of the Town. This amendment would eliminate that provision and restore the contracting authority from the 1990 Charter to the Select Board. Pursuant to Section 3-2-a of the 2017 Revised Charter, the Select Board will have the authority to delegate contracting authority to the Town Manager for designated classes of contracts.</i></p>

	<p>town board by Massachusetts General laws, the Provincetown General Bylaws, or this charter, except as provided herein.</p>		<p><u>Procurement Officer of the Town.</u></p> <p>Chapter 3. THE BOARD OF SELECTMEN</p> <p>Section 2. General Powers and Responsibilities</p> <p>g. <u>The Board of Selectmen has the exclusive authority to award and execute contracts for all Town Departments and offices and, if requested, for the School Committee and for the Board of Library Trustees.</u></p>	
<p>Date of Annual Election</p>	<p>2-4-2 The regular elections to any office shall be by official ballot held on the first Tuesday in May of each year.</p>	<p>Chapter 2. TOWN MEETING, THE MODERATOR, AND TOWN ELECTIONS</p> <p>Section 5. Elections</p> <p>b. The regular elections to any office shall be by official ballot held on the third Tuesday in June of each year.</p>	<p>Chapter 2. TOWN MEETING, THE MODERATOR, AND TOWN ELECTIONS</p> <p>Section 5. Elections</p> <p>b. The regular elections to any office shall be by official ballot held on the third Tuesday in June second Tuesday in May of each year.</p>	<p><i>The 2017 Revised Charter changed the date of the Annual Town Election from the first Tuesday in May (1990 Charter) to the third Tuesday in June. The purpose of this amendment is to establish the date of the Annual Election as the second Tuesday in May. The change is being recommended because waiting until the third Tuesday in June to vote on ballot questions such as Proposition 2 1/2 questions does not provide sufficient time to potentially adjust the operating budget before the start of the new fiscal year on July 1st. Rather than returning to the first Tuesday in</i></p>

Function	1990 Charter	2017 Revised Charter Amendment	Proposed	Explanation
				<p>May to hold the election, this amendment is proposing to set the election for the second Tuesday in May in order to provide sufficient time so that the only Proposition 2½ questions that will appear on the ballot would be limited to corresponding appropriations that were approved at the Annual Town Meeting, thereby avoiding a vote on ballot questions that have become moot based on the final action of Town Meeting. The Annual Town Meeting will continue to be held on the first Monday in April.</p>
Review of Personnel Decisions by the Select Board	<p>7-2-5 The town manager shall hire the following town employees with the approval of the board of selectmen:</p> <ul style="list-style-type: none"> (a) accountant; (b) assessor; (c) assistant town manager; (d) clerk; (e) licensing agent; (f) police chief; (g) tax collector; (h) town counsel; and (i) treasurer. 	<p>Chapter 4. THE TOWN MANAGER</p> <p>Section 3. Powers and Duties</p> <p>d. The Town Manager may hire, promote and remove all Town Staff, except the secretary to the Board of Selectmen. Any action with regard to the following positions shall be subject to confirmation by the Board of Selectmen, except that (15) days of the notice of such</p>	<p>Chapter 4. THE TOWN MANAGER</p> <p>Section 3. Powers and Duties</p> <p>d. The Town Manager may hire, promote and remove all Town Staff, except the secretary to the Board of Selectmen. Any action with regard to the following positions shall be subject to confirmation by the Board of Selectmen, except that if the Board of Selectmen fails to confirm or object within fifteen</p>	<p>The 2017 Revised Charter subjects all decisions by the Town Manager regarding hiring, promoting, and removal of certain Town Staff to confirmation by the Select Board. This amendment would limit confirmation by the Select Board to hiring decisions only. The purpose of this change is to remove the potential for any political influence in any decision by the Town Manager to promote or discharge employees. In addition, this</p>

interest and maturing bonds and notes or other outstanding indebtedness of the town and showing specifically the amount necessary to be provided for each fund and department, together with a statement of the expenditures of the town for the same purposes in the two preceding years and an estimate of the expenditures for the current year.

9-1-5 The board of selectmen shall consider the tentative budget submitted by the town manager and make such recommendations relative thereto as they deem expedient and proper in the interests of the town. On or before the thirty-first day of January of each year the board of selectmen shall transmit a copy of the budget together with their recommendations relative thereto to each member of the finance committee.

fiscal year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount necessary to be provided for each Fund and Department. The Town Manager must also submit a statement of the expenditures of the Town for the same purposes in the two preceding years and an estimate of the expenditures for the current year.

e. The Board of Selectmen shall consider the proposed Budget submitted by the Town Manager and make such recommendations as it deems expedient and proper in the interests of the Town. On or before January 31st, the Board of Selectmen shall transmit a copy of the Budget, together with its recommendations, to the Finance Committee. Selectmen shall act on it. Then they shall submit it to the Finance Committee, which shall issue its recommendations as part of its printed report on the Annual Budget.

year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount necessary to be provided for each Fund and Department. The Town Manager must also submit a statement of the expenditures of the Town for the same purposes in the two preceding years and an estimate of the expenditures for the current year.

e. The Board of Selectmen shall consider the proposed Budget submitted by the Town Manager and make such recommendations as it deems expedient and proper in the interests of the Town. On or before ~~January 31st~~ the first Tuesday in February, the Board of Selectmen shall transmit a copy of the Budget, together with its recommendations, to the Finance Committee. Selectmen shall act on it. Then they shall submit it to the Finance Committee, which shall issue its recommendations as part of its printed report on the Annual Budget.

Function	1990 Charter	2017 Revised Charter Amendment	Proposed	Explanation
Financial Procedures – Capital Improvement Plan	<p>9-2-3 –The town manager shall submit the capital improvements program to the board of selectmen by the third Monday of December prior to the annual town meeting. The board of selectmen shall act therefore or before the thirty-first of January and shall then submit it to the finance committee, which shall issue its recommendations as part of its printed report on the annual budget.</p>	<p>CHAPTER 6. FINANCE Section 6. Financial Procedures - The Capital Improvements Program.</p> <p>b. The Town Manager shall submit the Capital Improvements Program to the Board of Selectmen and the Finance Committee by the third Tuesday of January prior to the Annual Town Meeting. On or before January 31st, the Board of Selectmen shall act on it. Then they shall submit it to the Finance Committee, which shall issue its recommendations as part of its printed report on the Annual Budget.</p>	<p>CHAPTER 6. FINANCE Section 6. Financial Procedures - The Capital Improvements Program.</p> <p>b. The Town Manager shall submit the Capital Improvements Program to the Board of Selectmen and the Finance Committee by the third Tuesday of January prior to the Annual Town Meeting. On or before January 31st the first Tuesday in February, the Board of Selectmen shall act on it. Then they shall submit it to the Finance Committee, which shall issue its recommendations as part of its printed report on the Annual Budget.</p>	<p>This proposed change will provide the Select Board with two weeks to review the Town Manager's proposed Capital Improvement Plan before submitting it to the Finance Committee, rather than one week in the 2017 Revised Charter.</p>
Investigatory Powers	<p>4-5-1 The board of selectmen may investigate and may authorize the town manager to investigate the affairs of the town and the conduct of any town department or town board, including any claim against the town.</p> <p>4-5-2 For the purposes of</p>	<p>Chapter 3. THE BOARD OF SELECTMEN Section 5. Investigatory Powers</p> <p>a. The Select Board may investigate the alleged misconduct of the Town Manager, any Town Board, or any member of a Town Board. The Select Board may direct the Town Manager to investigate the affairs of the Town, the conduct of any Town Department or Town Employee, and any claim against the Town.</p>	<p>Chapter 3. THE BOARD OF SELECTMEN Section 5. Investigatory Powers</p> <p>a. The Select Board may investigate the alleged misconduct of the Town Manager, any Town Board, or any member of a Town Board. The Select Board may direct the Town Manager to investigate the affairs of the Town, the conduct of any Town Department or Town Employee, and any claim against the Town.</p>	<p>The 2017 Revised Charter provides a very detailed procedure for the investigation of complaints by the Town Manager and the Select Board. The procedures are unnecessarily cumbersome and could have the effect of substantially impeding the ability of the Town Manager and the Select Board to conduct required investigations. The</p>

Function	1990 Charter	2017 Revised Charter Amendment	Proposed	Explanation
	<p>this section, the board of selectmen may subpoena witnesses, administer oaths, take testimony, and require the production of evidence.</p> <p>4-5-3 The report of the investigation shall be placed on file in the office of the town clerk, and a report summarizing the investigation shall be printed in the next town report.</p>	<p>the conduct of any Town Department or Town Employee, and any claim against the Town.</p> <p>b. Any criminal matter shall be referred to the Police or the Attorney General's Office for action after an initial investigation to determine if criminal behavior may have occurred.</p> <p>c. Investigations shall be based only upon factual allegations that can be confirmed or denied. If allegations are received from an individual, that person must be identified and the allegations must be in writing and must be specific. Any anonymous allegation or one of general behavior shall not be responded to.</p> <p>d. The individual who is the subject of an investigation shall be informed in writing of the investigation and shall have the right to a Public Hearing.</p> <p>e. The Board of Selectmen shall identify sanctions if the conduct is determined to be inappropriate. Sanctions may</p>	<p>b. <u>For purposes of this section, the board of selectmen may subpoena witnesses, administer oaths, take testimony, and require the production of evidence.</u></p> <p>b. Any criminal matter shall be referred to the Police or the Attorney General's Office for action after an initial investigation to determine if criminal behavior may have occurred.</p> <p>e. Investigations shall be based only upon factual allegations that can be confirmed or denied. If allegations are received from an individual, that person must be identified and the allegations must be in writing and must be specific. Any anonymous allegation or one of general behavior shall not be responded to.</p> <p>d. The individual who is the subject of an investigation shall be informed in writing of the investigation and shall have the right to a Public Hearing.</p>	<p><i>change to this provision will restore the investigation language to the 1990 Charter, and remove from the Charter the detailed procedures that are not appropriate for a Charter.</i></p>

<p>Residents who are Not Registered Voters</p>	<p>Not addressed.</p>	<p>include an oral reprimand and guidance for future action at a Board of Selectmen open meeting, removal in accordance with procedures set forth in this Charter, or referral to an appropriate body for action.</p>	<p>e. The Board of Selectmen shall identify sanctions if the conduct is determined to be inappropriate. Sanctions may include an oral reprimand and guidance for future action at a Board of Selectmen open meeting, removal in accordance with procedures set forth in this Charter, or referral to an appropriate body for action.</p>	
<p>Residents who are Not Registered Voters</p>	<p>Not addressed.</p>	<p>c. If the Appointing Authority determines that there are an inadequate number of registered voters who are willing to serve as members or alternates on appointed non-regulatory Boards, then the Appointing Authority may appoint part-time residents to serve as alternates, as long as the majority of members are registered voters. Individuals who are not registered voters shall be appointed to a non-regulatory Town Board only if they can commit to being present for a majority of the meetings of the Board.</p>	<p>Chapter 5 THE TOWN BOARDS Section 7. Rules Specific to Appointed Town Boards c. If the Appointing Authority determines that there are an inadequate number of registered voters who are willing to serve as members or alternates on appointed non-regulatory Boards, then the Appointing Authority may appoint part-time residents to serve as alternates, as long as the majority of members are registered voters. If the Appointing Authority determines that there are an inadequate number of registered voters who are willing to serve as members or alternates on appointed non-regulatory Boards, then the Appointing Authority may appoint part-time residents to serve as alternates, as long as the majority of members are registered voters. If the Appointing Authority determines that there are an inadequate number of registered voters who are willing to serve as members or alternates on appointed non-regulatory Boards, then the</p>	<p><i>The 2017 Revised Charter included a provision that allows part-time residents to be appointed as alternates to non-regulatory boards under certain circumstances. The change proposed in this warrant article removes the reference to part-time resident, but would allow full-time residents who are not registered voters to serve as alternates on non-Regulatory Boards.</i></p>

<p>Town Manager Qualifications</p>	<p>7-1-1 The Town Manager shall be a person especially fit by education, training, or previous experience in public administration, to perform the powers and duties of the office.</p>	<p>Chapter 4. THE TOWN MANAGER Section 2. Qualifications</p> <p>a. The Town Manager shall be hired on the basis of education and experience. The minimum education requirement for a candidate for the position of the Town Manager is a bachelor's degree, preferably in Public Administration, from an accredited degree-granting college or university. In addition, the candidate must have at least three years compensated service in public administration at a managerial level. If the educational qualification is waived by the Board of Selectmen, the professional qualification must include at least nine years compensated service in public</p>	<p>Appointing Authority may appoint full-time residents who are not registered voters, as long as the majority of members are registered voters. Individuals who are not registered voters shall be appointed to a non-regulatory Town Board only if they can commit to being present for a majority of the meetings of the Board.</p> <p>Chapter 4. THE TOWN MANAGER Section 2. Qualifications</p> <p>a. The Town Manager shall be hired on the basis of education and experience. The minimum education requirement for a candidate for the position of the Town Manager is a bachelor's degree, preferably in Public Administration, from an accredited degree-granting college or university. In addition, the candidate must have at least three years compensated service in public administration at a managerial level. If the educational qualification is waived by the Board of Selectmen, the professional qualification must include at least nine years compensated service in public administration</p>	<p>The 2017 Revised Charter included very detailed requirements for determining the qualifications of the Town Manager. Such detail could lead to unnecessary disputes as to whether an otherwise qualified candidate appointed by the Select Board would be able to serve. This amendment returns to the language of the 1990 Charter by streamlining the qualification requirements for the Town Manager in order to provide more discretion to the Select Board when filling the position of Town Manager.</p>
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Function	1990 Charter	2017 Revised Charter Amendment	Proposed	Explanation
<p>Membership on Town Boards</p>	<p>No uniform provisions as to number of members and alternates.</p>	<p>administration with at least six at a managerial level.</p>	<p>with at least six at a managerial level. The Town Manager shall be a person especially fit by education, training, or previous experience in public administration, to perform the powers and duties of the office.</p>	
<p>Membership on Town Boards</p>	<p>Chapter 5 THE TOWN BOARDS Section 4. Membership on Town Boards a. Unless otherwise specified in Massachusetts General Laws or this Charter, each Town Board consists of five regular members and two alternate members. New members shall not participate in a Board meeting until they have been sworn in by the Town Clerk. Alternate members shall have the right in order of seniority on the Board to vote at a Board meeting in place of a regular member who is absent</p>	<p>Chapter 5 THE TOWN BOARDS Section 4. Membership on Town Boards a. Unless otherwise specified in Massachusetts General Laws or this Charter, each Town Board consists of five regular members and two alternate members. New members shall not participate in a Board meeting until they have been sworn in by the Town Clerk. Alternate members shall have the right in order of seniority on the Board to vote at a Board meeting in place of a regular member who is absent. Unless otherwise specified in Massachusetts General Laws or this Charter, each Town Board consists of five regular members and two alternate members, except for the Zoning Board of Appeals and the Planning Board, which shall five</p>	<p>Chapter 5 THE TOWN BOARDS Section 4. Membership on Town Boards a. Unless otherwise specified in Massachusetts General Laws or this Charter, each Town Board consists of five regular members and two alternate members. New members shall not participate in a Board meeting until they have been sworn in by the Town Clerk. Alternate members shall have the right in order of seniority on the Board to vote at a Board meeting in place of a regular member who is absent. Unless otherwise specified in Massachusetts General Laws or this Charter, each Town Board consists of five regular members and two alternate members, except for the Zoning Board of Appeals and the Planning Board, which shall five</p>	<p>The 2017 Revised Charter set membership on all Town boards to five regular members and two alternate members. This amendment restores the provisions of the 1990 Charter by allowing the Zoning Board of Appeals to have five alternates and the Finance Committee to have seven regular members and two alternate members. In addition, this amendment would permit the Planning Board to have five alternate members as well. Given the responsibilities and caseloads of the Zoning Board of Appeals and the Planning board, having five alternates will provide more flexibility in their decision making and potentially avoid the consequence of a constructive grant. Restoring the Finance Committee to seven members will facilitate the ability of the</p>

Function	1990 Charter	2017 Revised Charter Amendment	Proposed	Explanation
Posting of the Warrant	Not addressed	<p>Chapter 2. TOWN MEETING, THE MODERATOR, AND TOWN ELECTIONS</p> <p>Section 3. Preparation of the Warrant and Preliminary Hearings and Reports</p> <p>e. The Warrant for the Annual Town Meeting shall be opened at least sixty days (60) prior and closed thirty (30) days prior to the date of the Town Meeting. The Warrant shall be posted on the Town's website within two (2) business days of closing, and shall be provided to registered voters of the Town by publication in a newspaper of general circulation within the Town at least fourteen (14) days</p>	<p><u>alternate members. and the Finance Committee which shall have seven regular members and two alternate members. New members shall not participate in a Board meeting until they have been sworn in by the Town Clerk. Alternate members shall have the right in order of seniority on the Board to vote at a Board meeting in place of a regular member who is absent.</u></p>	<p>Finance Committee to more effectively fulfill its financial oversight responsibilities.</p>
		<p>Chapter 2. TOWN MEETING, THE MODERATOR, AND TOWN ELECTIONS</p> <p>Section 3. Preparation of the Warrant and Preliminary Hearings and Reports</p> <p>e. The Warrant for the Annual Town Meeting shall be opened at least sixty days (60) prior and closed thirty (30) days prior to the date of the Town Meeting. The Warrant shall be posted on the Town's website within two (2) <u>seven (7)</u> business days of closing, and shall be provided to the registered voters of the Town by publication in a newspaper of general circulation within the Town at least fourteen (14) days</p>		<p>The 2017 Revised Charter requires the Select Board to post the warrant within two business days of closing the warrant. This is too short a timeframe to permit Town staff including Town Counsel to make final changes to the warrant based on direction provided by the Select Board at the meeting in which the warrant is closed. By allowing the Select Board to post the warrant within seven business days of the close of the warrant, there will be sufficient time to insure that the warrant articles are in proper form.</p>

Function	1990 Charter	2017 Revised Charter Amendment	Proposed	Explanation
Recall of Elected Officials	10-1-11 A majority of registered voters is required to recall an elected Official, but shall not be effective unless a total of at least twenty-five percent (25%) of the registered voters entitled to vote on the question shall have voted for Recall. If such total is not achieved, then the ballots for candidates need not be counted.	prior to Town Meeting, and in printed form in the office of the Town Clerk. As an alternative to publication in a local newspaper, the Warrant may be mailed at least fourteen (14) days prior to a Town Meeting to the last known address on file of the registered voters of the Town.	prior to Town Meeting, and in printed form in the office of the Town Clerk. As an alternative to publication in a local newspaper, the Warrant may be mailed at least fourteen (14) days prior to a Town Meeting to the last known address on file of the registered voters of the Town	The 2017 Revised Charter substantially reduces the threshold requirement for recalling an elected official. Under the 1990 Charter, an elected official could not be recalled unless at least 25% of the registered voters voted to recall the official. The 2017 Revised Charter established the threshold by stating that a majority of at least 25% of registered voters was all that is required. The purpose of this amendment is to restore the language from the 1990 Charter. All other thresholds are the same in both the 1990 Charter and the 2017 Revised Charter.
	10-1-11 A majority of registered voters is required to recall an elected Official, but shall not be effective unless a total of at least twenty-five percent (25%) of the registered voters entitled to vote on the question shall have voted for Recall. If such total is not achieved, then the ballots for candidates need not be counted.	prior to Town Meeting, and in printed form in the office of the Town Clerk. As an alternative to publication in a local newspaper, the Warrant may be mailed at least fourteen (14) days prior to a Town Meeting to the last known address on file of the registered voters of the Town.	<p>Chapter 5 THE TOWN BOARDS</p> <p>Section 8. Rules Specific to Elected Town Boards</p> <p>e. Members of elected Town Boards and elected individuals, such as the Moderator, can be removed from service on such Boards only by the recall process delineated below:</p> <p>12) A majority vote of at least twenty-five percent (25%) of registered voters is required to recall an elected Official. If fewer than twenty-five percent (25%) of registered voters cast a ballot, the ballots regarding the Recall shall not be counted. A majority of registered voters is required to recall an elected Official, but shall not be</p>	
	10-1-11 A majority of registered voters is required to recall an elected Official, but shall not be effective unless a total of at least twenty-five percent (25%) of the registered voters entitled to vote on the question shall have voted for Recall. If such total is not achieved, then the ballots for candidates need not be counted.	prior to Town Meeting, and in printed form in the office of the Town Clerk. As an alternative to publication in a local newspaper, the Warrant may be mailed at least fourteen (14) days prior to a Town Meeting to the last known address on file of the registered voters of the Town.	<p>Chapter 5 THE TOWN BOARDS</p> <p>Section 8. Rules Specific to Elected Town Boards</p> <p>e. Members of elected Town Boards and elected individuals, such as the Moderator, can be removed from service on such Boards only by the recall process delineated below:</p> <p>12) A majority vote of at least twenty-five percent (25%) of registered voters is required to recall an elected Official. If fewer than twenty-five percent (25%) of registered voters cast a ballot, the ballots regarding the Recall shall not be counted. A majority of registered voters is required to recall an elected Official, but shall not be</p>	
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Function

1990 Charter

2017 Revised Charter
Amendment

Proposed

Explanation

			<p><u>effective unless a total of at least twenty-five percent (25%) of the registered voters entitled to vote on the question shall have voted for Recall. If such total is not achieved, then the ballots for candidates need not be counted.</u></p>	
<p>Changing Name of the Board of Selectmen to Select Board</p>	<p>Not addressed.</p>	<p>Not addressed.</p>	<p>Generic Article to change the name.</p>	<p><i>At the 2018 Annual Town Meeting a citizens' petitioned change the name of the Board of Selectmen to the Select Board. In order to effectuate this change legally, the Charter must be amended. This article, if approved by the General Court, will change all references in the 2017 Revised Charter, including any changes approved at this Special Town Meeting. Depending on which articles are approved at the Special Town Meeting, the Select Board intends to submit a single home rule petition which will include all of the changes, including changing the name of the Board of Selectmen to Select Board throughout the Charter.</i></p>

Function

1990 Charter

2017 Revised Charter

Proposed

Explanation

Function	1990 Charter	2017 Revised Charter Amendment	Proposed Amendment	Explanation
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July 25, 2018

John W. Giorgio
jgiorgio@k-plaw.com

Hon. Louise A. Venden and
Members of the Select Board
Provincetown Town Hall
260 Commercial Street
Provincetown, MA 02657

Re: Articles for Charter Amendments

Dear Members of the Select Board:

You have requested that we prepare certain Charter amendment articles for inclusion in the October 29, 2018 Special Town Meeting Warrant. Based upon our prior discussions, the articles have been prepared to authorize the filing of a Home Rule petition with the General Court for special legislation. After Town Meeting, we will prepare a single bill that combines all of the Charter amendments that are approved by Town Meeting for submission to the General Court.

Please note that the attached list of proposed Charter amendments includes amendments that individual members of the Select Board requested through the Town Manager be included. In addition, I have included the amendments that we addressed in our May 23, 2018, correspondence to the Select Board which identified provisions of the new Charter which presented legal risks to the Town. In addition, as we have advised in the past, the term "Board of Selectmen" should continue to be used on all legal documents until such time as an amendment to the Charter is effective. You will see, therefore, that the warrant articles refer to the Board of Selectmen rather than the Select Board. The final amendment on the attached document would accomplish the name change.

The special act Charter amendment articles have been drafted in the form that is required by the General Court. You will note, however, that the format does not easily allow one to discern the specific language being stricken and the context of what is being added. Therefore, we have prepared a red lined version of the relevant provisions of the Charter to clearly demonstrate the text proposed to be deleted and inserted by the amendments. We recommend that the attached document be included as an appendix to the warrant and/or be provided as a hand out at the Special Town Meeting, so that voters will be able to clearly discern the changes to the Charter proposed by the amendments.

With respect to the article for the Charter amendment changing the name of the Board of Selectmen to Select Board, it has been drafted to generally authorize the Board of Selectmen to petition the Legislature to amend the Charter in this regard, as opposed to including in the article the specific amendments to each section and subsection of the Charter. This is because the language to be included in the legislation will be impacted by certain other Charter amendments included in the warrant, if approved. Thus, if the name change Charter amendment article is approved by Town



Hon. Louise A. Venden and
Members of the Select Board
July 25, 2018
Page 2

Meeting, we will prepare the appropriate legislative language consistent with the other Charter amendments also approved by Town Meeting.

Please note that the Special Act Charter amendments have been drafted to take effect upon passage of the legislation and do not require voter approval at an election. It is important to note, however, that while voter approval is not required by law or the Constitution, depending on the significance of the proposed amendments, the General Court may be inclined to require voter acceptance. If this issue is raised by the Town's legislative delegation, we would be happy to facilitate a discussion and provide further information, as appropriate, regarding the context of the proposed Charter amendments.

Please contact me with any questions.

Very truly yours,

A handwritten signature in black ink that reads "John W. Giorgio" followed by the initials "KRG" in a larger, stylized font.

John W. Giorgio

JWG/KRG/bp

Enc.

cc: Town Manager

641780/PROV/0404

August 2018

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
	BOS Meeting Public Hearing on Goals	Finance Director submits 5 year budget to Town Manager	DRAFT STM Articles Finalized			
19	20	21	22	23	24	25
	Special BOS Meeting 5 pm Round Table?		Submit DRAFT warrant for 8/27 BOS Packet			
26	27	28	29	30	31	
	BOS Meeting Tax Rate Classification Hearing/Refer bylaws		Warrant Opens (60 days or earlier)			

September 2018

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
						1
2	3 LABOR DAY – TOWN HALL CLOSED	4 STATE PRIMARIES	5 Final Articles & 5 year budget submitted for BOS packet	6 Start submitting public hearing notices	7	8
9	10 BOS Meeting Insert articles/Review 5 year budget Liz returns to work	11	12 Department Heads submit CIP to Finance Director	13 Public Hearing Notices in Banner/ Submit public hearing notices	14	15
16	17 Special BOS Mtg 5 pm Round Table?	18	19	20 Public Hearing Notices in Banner	21	22
23	24 BOS Meeting	25	26	27	28 Special BOS Mtg Warrant Closes (30 days)/Approve warrant for publication	29
30						

October 2018

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
	1 Staff review of CIP Town Manager submits 5 year plan to BOS	2 Post warrant online & format for Banner	3	4 Submit warrant to the Banner	5	6
7	8 HOLIDAY – TOWN HALL CLOSED	9 BOS Meeting Joint Meeting with FinCom to review 5 year budget	10	11 Warrant is published (at least 14 days prior to STM)	12	13
14	15 Special BOS Mtg 5 pm Round Table?	16 Books printed	17 Books printed	18 Books printed	19 Books ready for pick-up	20
21	22 BOS Meeting CIP submitted to BOS STM Finance Report Due	23	24 Moderators Meeting	25	26	27
28	29 Special Town Meeting	30	31 HALLOWEEN			



**Provincetown Select Board
AGENDA ACTION REQUEST
Monday, August 27, 2018**

6C

Commercial Street Improvement Update

Requested by: DPW Director, Richard J. Waldo, P.E. (absent)
Water Superintendent, Cody Salisbury
Project Engineer, Russ Kleekamp, GHD

Action Sought: Discussion & Approval

Proposed Motions

Move that the Select Board vote to accept a Coastal Zone Management grant award through their Coastal Pollutant Remediation (CPR) grant program in the amount of \$95,250.00 for final design of Phase 5.

Additional Information

- Update on Current Status of Phase IV
- Seek Authorization on Phase V

Board Action

<i>Motion</i>	<i>Second</i>	<i>In favor</i>	<i>Opposed</i>	<i>Disposition</i>



PROVINCETOWN DEPARTMENT OF PUBLIC WORKS

Memo

To: David B. Panagore, Town Manager
From: Richard J. Waldo, P.E., DPW Director
Cc: Linda Fiorella, Secretary to Board of Selectmen (Interim)
Date: August 27, 2018
Re: Commercial Street Improvement Project – Phase IV & V

Attached is a brief PowerPoint presentation updating the Board on the Commercial Street projects Phases IV & V. The Massachusetts Office of Coastal Zone Management has awarded the Town of Provincetown a grant of \$95,250 through the FY19 Coastal Pollutant Remediation (CPR) grant program for the final design of Commercial Street Improvements - Phase V. It is my recommendation that the Select Board votes to accept this grant award and I would to add this motion to our agenda item at their regularly scheduled meeting on August 27th 2018.

The scope of the grant project will include surveying and engineering services associated with the final design of stormwater improvements, water service improvements, and roadway improvements using porous pavement for approximately 1,700 linear feet along Commercial Street from the West End Boat Ramp to the Provincetown Inn.

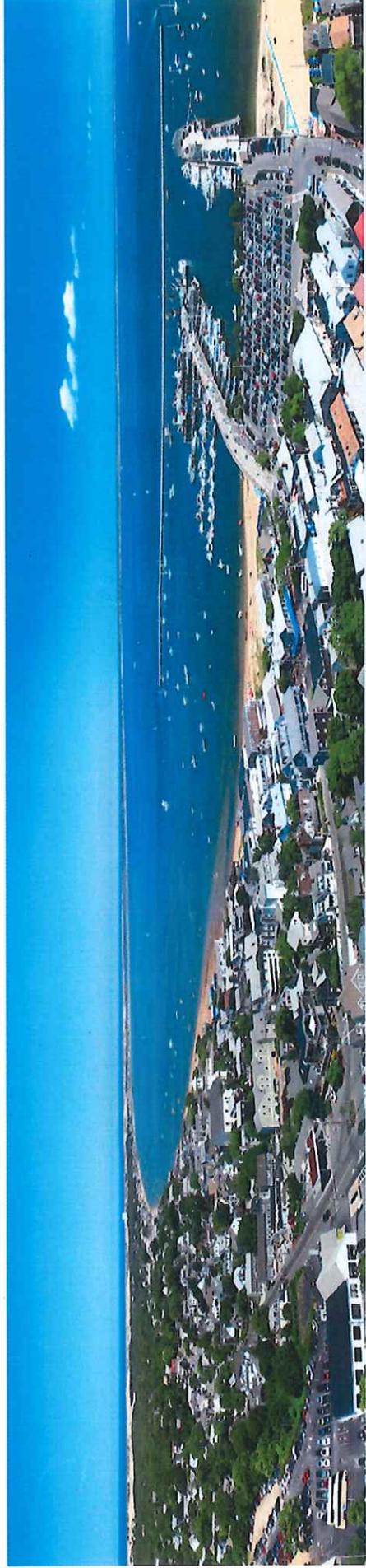
The total project cost is \$127,000. Under the terms of the grant program, the Town must contribute a match of 25% of the total project cost, which is \$31,750. This match may be met through a combination of cash and in-kind contributions. Of the Town's 25% match, \$12,000 will be through in-kind contribution with participation from highway foreman Ray Duarte and me and the remaining \$19,750 will be a cash match from the 2018 Annual Town Meeting Stormwater Management article with a remaining balance of \$100,000.

It is anticipated that this design project will be completed well in advance of the grant deadline of June 30, 2019. It is the Town's intent to use the design plans to execute a construction project should the Town be successful in a recent grant application to MassWorks for construction funding. The packet includes a scope of service as it pertains to the grant award and a standard contract form for the grant award.



Commercial Street Improvements Project – Phase IV Select Board Meeting – 8/27/18

Russell Kleekamp | Project Engineer, GHD Inc.



Agenda

- Phase IV Review
- Public Input Process
- Project Phasing
- Next Steps / Phase 5 Update



Phase IV Review

- Phase IV is from Howland Street to Allerton Street, approximately 2,700 feet. Similar to other phases, with the exception of water main replacement, service replacement only.
- Survey and Conceptual Design funded 100% through 604(b) program - \$40,000
- NRCS grant for construction - \$2,025,000
- Town Contribution - \$1,075,000



Town of Provincetown, Massachusetts

Provincetown Harbor - Commercial Street Reconstruction -
Phase 4 East

Project #2017-02/604
Final Report
June 2018



Public Input Process

- Similar to Phase III with mailers, resident meetings, follow up as necessary.
- Phase IV mostly residential, reducing impacts to businesses.

July 14, 2013
 (Insert name & address)
 Provincetown, MA
 GHD Page No. 11179145

Re: Commercial Street Improvements Project - Phase 4

Dear (insert name):

You are receiving this letter because you own property abutting Commercial Street within the next phase of the reconstruction work to rehabilitate Commercial Street. This is the fourth phase of the project and the approximate limits of work are within the intersections of Housatonic Street to Allerton Street on Commercial Street. The Town bought and received a grant from the Natural Resource Conservation Service (NRCS) in 2009 to fund the reconstruction of Commercial Street. The Town is currently in the process of preparing design, staging, and the installation of precast pavement. Please see the enclosed flyer for additional project information.

We are requesting the assistance of property owners in helping identify existing property **irregularities** (property setbacks, corner markers, bounds, etc.) to the Town in order to protect them during construction. Property owners who identify irregularities will be notified and given the opportunity to correct them. This can include anything from basement footings to curbs on the sidewalk, in front of your property, after a rain event. We will try to address pre-existing problems that we are aware of, but we need your assistance to do so.

The project is currently being designed and it would be beneficial for the project if property owners would share this information with the Town's engineer. Feedback is a short term we are requesting you to fill out and return either via mail or electronically to rs@ghd.com.

Mark
 Russ Kocourno, Project Manager
 GHD Inc.
 1555 Middleborough Road
 Framingham, MA 01901
 Phone: 508-875-2000
 Fax: 508-875-2001
 Email: rs@ghd.com

In response to your information into the design, we ask that you respond no later than September 1, 2013. One **IRREGULARITY** Acknowledgement Form has been provided for each property if you have more than one abutting property. A self-addressed stamped envelope has been provided for your convenience.

110-0501

TOWN OF PROVINCETOWN
 Department of Public Works
 Highway Division
 100 Main Street
 Buildings & Grounds Division
 100 Main Street
 Traffic Safety/Community Center
 100 Main Street
 Cemetery Division
 100 Main Street
 100 Main Street
 100 Main Street
 100 Main Street
 100 Main Street

VERINCEN MEMORIAL COMMUNITY CENTER
 77 Main Street, Room A
 Provincetown, MA 02577
 Phone: 508-875-2000
 Fax: 508-875-2001
www.provincetownma.gov

PROVINCETOWN, MA
 100 Main Street
 100 Main Street
 100 Main Street
 100 Main Street
 100 Main Street

Commercial Street Improvements Project - Phase 4, Provincetown, Massachusetts

Property Address: 551 COMMERCIAL ST
 Provincetown, MA

Property Owner(s) or Owner's Property Manager: _____

Best phone number to contact you: _____

Best email address to contact you: _____

1. Do you have an irregularity located on your property that you are aware of?
 YES NO Not Sure

2. If you answered YES to Question 1, do you have a plan showing where they are located on your property?
 YES NO Not Sure

3. Do you have any pre-existing flooding on your property either inside or outside?
 YES NO Not Sure

4. Can we contact you for further information?
 YES NO

5. Would you like us to contact you to have an informational meeting at your property?
 YES NO

6. Do you have any other comments you wish to provide? Please write in below:



Commercial Street Improvements Project - Phase 4 East

Project Summary
 The Commercial Street Road Reconstruction Project - Phase 4 East is a multi-phased project that will reconstruct and improve the east side of Commercial Street from the intersection of Housatonic Street to the intersection of Allerton Street. The project will include the reconstruction of the road surface, the installation of precast pavement, and the installation of stormwater management infrastructure. The project is currently in the design phase and is expected to begin construction in the fall of 2013.

Background
 In an effort to remediate Provincetown's water quality issues, the Town of Provincetown has been awarded a grant from the Natural Resource Conservation Service (NRCS) to fund the reconstruction of Commercial Street. The project is currently in the design phase and is expected to begin construction in the fall of 2013.

Why Phase 4?
 The design for the project will include the reconstruction of the road surface, the installation of precast pavement, and the installation of stormwater management infrastructure. The project is currently in the design phase and is expected to begin construction in the fall of 2013.

Why Phase 4 East?
 The design for the project will include the reconstruction of the road surface, the installation of precast pavement, and the installation of stormwater management infrastructure. The project is currently in the design phase and is expected to begin construction in the fall of 2013.

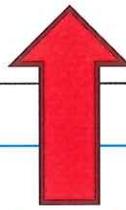


© 2013 GHD Inc. All rights reserved. Project: Commercial Street Improvements Project - Phase 4, Provincetown, Massachusetts. Project No. 11179145

Public Input Process

- Meet with residents, document concerns, incorporate into design
- Detailed log of all resident / public interaction kept up to date

571: See Portland, 978 see 571's, Paul
 • 2-foot concrete apron in front of garage bays
 • Muddy trim / replace w/ PVC w/ reveal matches garage slab - Condo to replace
 • Add catch basin near down spout
 • Reg asphalt between concrete and pour
 • Condo assessor to cut stump and remove varnished asphalt
 • Look at relocating mail station
 • Pav shell area by mail box
 • Mailbox corner might be illumination
 • 1/2" rely on to face in front of 577 space



Name	Address	Meeting	Comments
Lynn Harness	1 Conway	Y. 8/10/18	<p>LEGEND: PURPLE = NOTIFICATIONS REQUESTED BLACK = COMMENT RECEIVED EITHER THROUGH MEETING OR FORM GREEN = ADDRESSED IN DESIGN RED = NOT ADDRESSED (SEE COMMENT) BLUE = INFORMATIONAL</p> <ul style="list-style-type: none"> • Cut back retaining wall at Conway/Commercial intersection • Place rounded concrete to better accommodate traffic (see sketch on hard copy) • Block top onto of new curved piece
Philip Cozzi	508 Commercial	Y. 8/10/18	<ul style="list-style-type: none"> • Wants to save the "old growth" tree • Meter pit about 4' back on private property or so. • Recommended relocating water service closer to edge of walk along with meter pit.
Barry Buck	520 Commercial	Y. 8/10/18	<ul style="list-style-type: none"> • Need to notify prior to work in <u>subside</u> to get propane filled. • Not connected to the sewer, need to check with DPW to see if lateral is to be installed in this phase of work. • Need to make sure water service is as close to alley as possible to allow space for the future sewer lateral. Alley is about 5-foot wide. Water service comes out of the back left of the house (if facing the house).
Tony Bartoldi Kevin O'Neil	524 Commercial	N - Comment from form	<ul style="list-style-type: none"> • Had basement flooding over winter • We have cobblestones along the sidewalk
Gail Bliss	551 Commercial	N - Comment from form	<ul style="list-style-type: none"> • Space between utility pole and sidewalk too narrow - trucks often hit pole • Space is between 551 and 555 Commercial, suggests marking 'No Parking' in this area • Parking lot off of Commercial Street should be <u>reassigned</u>
C. Frederick Lower Sebastian Grasso	553 Unit B 577 Commercial	N - Comment from form Y. 8/3/18	<ul style="list-style-type: none"> • Discussed placing a 2-3 foot apron in front of garage bays • S. Grasso to see if Condo association can replace/modify trim to raise it above proposed new concrete treatment • S. Grasso to see if Condo association can remove/out down stump on east end of garage • Add catch basin near down spout • Regular HMA between concrete and porous asphalt • Look at relocating mail station • Front east corner of mail station may be a benchmark - check with Coastal Engineering if needed • Okay to pave in front of 577 space where gate is • While meeting with S. Grasso, neighbor was also on site, give a site plan of 579 Commercial, scanned and saved to server



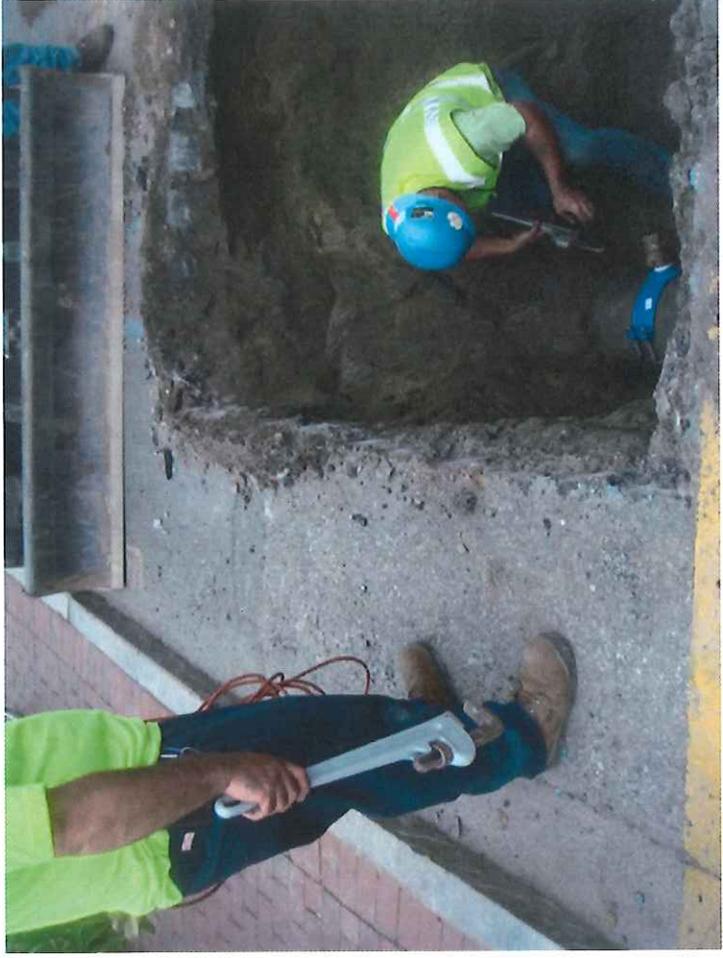
Project Phasing

- Fall / Winter of 2018 – Water Service Replacement
 - +/- 4 hour shut down to individual water service, 2 week and 24 hour notifications.
- Spring 2019 – Road Reconstruction
 - Additional logistics, email blasts, deliveries, message boards, etc.



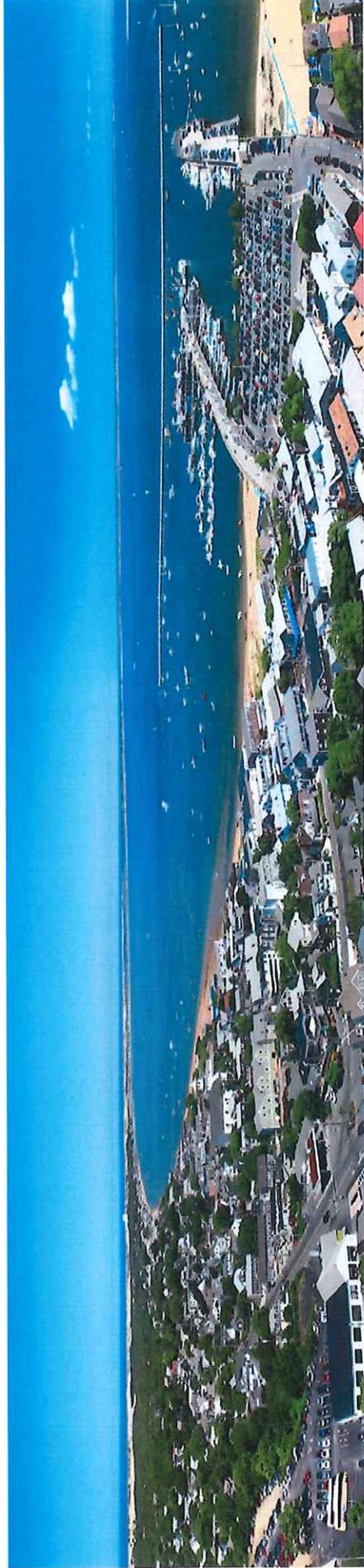
Next Steps (Water Service Replacement):

- Bidding of water service replacement
- Tentative advertisement period of 9/5/18 through 9/21/18
- Town review of required bidding documents (plans and specifications)
- Construction October - December



Next Steps (Road Reconstruction):

- Work on design of road reconstruction over winter
- Tentative bidding January 2019
- Construction March through May 2019



Phase 5 Update

- Awarded CZM CPR grant for final design of Phase 5 for the amount of \$95,250. Towns match was \$31,750.
- Recently submitted MassWorks application online for a total of \$1,950,000, \$0 match required.

PRESS RELEASE

Baker-Polito Administration Awards Funding to Communities to Protect Coastal Water Quality

Provincetown - \$95,250: The Town of Provincetown will develop final designs for porous pavement along a section of Commercial Street—the fifth and final phase of a larger project. When constructed, the porous pavement will allow stormwater to infiltrate into the ground, filtering out bacteria and capturing sediment to improve water quality in Provincetown Harbor.



Phase 5 Next Steps

- Approval of motion(s) for acceptance of the contracts with the Commonwealth (CZM) and GHD
- Schedule Kick-Off meeting with CZM
- Complete design prior to 6/31/19
- Construction pending MassWorks funding, tentatively scheduled for Fall 2019 / Spring 2020





www.ghd.com

**Town of Provincetown Scope of Services
Coastal Pollutant Remediation Grant Program FY19
August 13, 2018**

Contact

Richard Waldo, P.E.
Department of Public Works
Veterans Memorial Community Center
2 Mayflower Street
Provincetown, MA 02657

(p) 508-487-7060

rwaldo@provincetown-ma.gov

Project Title

Final Design of Commercial Street Porous Asphalt/Stormwater BMP Installation – Phase 5

Project Summary

The Town of Provincetown will develop final designs, construction specifications, and cost estimates for a porous pavement project along a portion of Commercial Street. This will be part of the fifth and final phase of the Commercial Street Porous Asphalt project, part of a large-scale water quality project begun in 2002. Through combined funds from MassDEP’s 604(b) and 319 grant programs, MassWorks and other grants, the town has been able to install four sections of porous asphalt to capture and infiltrate stormwater, treating nutrients and bacteria, and reducing flooding. Once constructed, this project will improve water quality in Provincetown Harbor, leading to the reduction of beach and shellfishing area closures after rain events.

Project Scope

The following tasks will be performed under this contract. **Please note that it is highly preferable to receive deliverables according to the due dates below rather than at the end of the grant period.**

Task	Description	Deliverable(s)	Due Date
1 Conduct project kickoff meeting	CZM and the Town of Provincetown will meet to discuss the project tasks, deliverables and due dates. During the meeting, the role of the Town, CZM, and project partners will be clearly identified.	Kickoff meeting	September 2018
2 50% Designs	50% design plans will be developed by the Town and project consultants.	Electronic copy of 50% designs for CZM review and other supporting documents as appropriate	December 2018
3 90% Designs	90% design plans, project specifications and construction cost estimates will be developed by the Town and project consultants.	Electronic copy of 90% designs for CZM review and other supporting documents as appropriate	February 2019

Task	Description	Deliverable(s)	Due Date
4 Final Designs and Construction Bidding Documents	Final design plans and construction documents, in preparation for future implementation, will be completed by the Town and project consultants. Draft final designs will be provided for CZM review (allow two weeks) prior to finalization.	Electronic copy of final designs stamped by a professional engineer and construction bidding documents including project specifications, construction cost estimates and other supporting documents as appropriate	May 2019
5 Grant Administration and Reporting	The applicant will provide administrative services, including review of contractor invoices, contractor payment, compilation of staff time and match contribution, submission of all deliverables including submission of a brief project summary (see below) , and submission of reimbursement package.	Paperwork and records necessary to enable CZM reimbursement to the grantee under the CPR FY19 Grant including submission of brief project summary	Deliverables: June 30, 2019 Reimbursement: July 31, 2019

Project Summary Requirement for CPR Grantees

Completed Tasks

- Provide a *brief* summary for each task confirming that deliverables were completed, describing any changes to the project or timeline, and describe any issues that came up and how they were resolved

Lessons Learned

- Please provide any lessons learned or comments on project tasks or project management that may be informative for CZM staff or other municipalities

Provide the following information for each constructed BMP (implementation projects only)

- Location (street address and latitude/longitude)
- Pictures of construction and of completed BMP (or site if BMP is underground)
- Total area and % impervious area treated
- Water quality volume and design storm that BMP is sized for
- Pollutant removal estimates for pollutant(s) of concern when applicable (SIMPLE or other applicable method)
- Cost per unit pollutant(s) of concern when applicable (e.g. cost per pound of Total Nitrogen removed)

Submission of Reimbursement Package

In order to receive the grant reimbursement, the applicant must have agreed to the fiscal requirements of the program by providing a statement from the authorized signatory of the organization acknowledging and accepting the following:

- The organization commits to match 25% of total project cost (cash and/or in-kind) and acknowledges that funding is provided on a reimbursement basis.
- Advanced payments shall not be made. No payments will be made for Massachusetts sales tax. CZM will retain a minimum of ten percent (10%) of the total maximum obligation of funds until all contract provisions are satisfied and final reports and other products are delivered and accepted.

Reimbursement will be issued for costs incurred for the project during the contractual period only. Work done prior to the project start date: the date issued and signed by the Commonwealth's Department Authorized Signatory; shall NOT be reimbursed, (unless the work is approved as match by CZM's Project Manager prior to its commencement). The applicant can submit multiple reimbursement requests for each task during the grant period, or submit one request at the end of the grant period.

The contractor must submit a reimbursement package containing the following items (**electronic submission is preferred**):

1. A letter (on city or town letterhead) from the contractor's authorized signatory requesting reimbursement. The letter should include the amount requested, the amount of match provided and the request invoice number in the convention used by the municipality or if no invoice system is in place the MMARS Doc ID number found in the contract **CT ENV 08031800000000000356** with -01, -02, -03 etc. to indicate multiple reimbursement requests.
2. All invoices requesting payment, including those from subcontractors. Invoices must itemize costs consistent with the original proposal or any subsequent amendments. Invoices must demonstrate sufficient information for CZM to determine that the services were performed and/or products were received, and that the invoiced items meet all contractual performance requirements.
3. A detailed breakdown of the required match for the project. For in-kind services, include sufficient details to demonstrate the total amounts of match contributed, and as appropriate, a list of personnel, hours worked, hourly rate, etc.

Following approval of the reimbursement package by the project manager, the Commonwealth will reimburse the Town of Provincetown for an amount not to exceed the maximum obligation of **\$95,250**. Reimbursement is generally made within 45 days subsequent to a grantee submitting an approved reimbursement package.

All work must be completed by June 30, 2019 and all invoicing must be submitted by July 31, 2019.

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



This form is jointly issued and published by the [Executive Office for Administration and Finance \(ANF\)](#), the [Office of the Comptroller \(CTR\)](#) and the [Operational Services Division \(OSD\)](#) as the default contract for all Commonwealth Departments when another form is not prescribed by regulation or policy. Any changes to the official printed language of this form shall be void. Additional non-conflicting terms may be added by Attachment. Contractors may not require any additional agreements, engagement letters, contract forms or other additional terms as part of this Contract without prior Department approval. Click on hyperlinks for definitions, instructions and legal requirements that are incorporated by reference into this Contract. An electronic copy of this form is available at www.mass.gov/osc under [Guidance For Vendors - Forms](#) or www.mass.gov/osd under [OSD Forms](#).

CONTRACTOR LEGAL NAME: Town of Provincetown (and d/b/a):		COMMONWEALTH DEPARTMENT NAME: Executive Office of Energy & Environmental Affairs MMARS Department Code: ENV	
Legal Address: (W-9, W-4, T&C): 2 Mayflower Street, Provincetown, MA 02657		Business Mailing Address: CZM, 251 Causeway Street, Room 800, Boston, MA 02114	
Contract Manager: Richard Waldo, PE, Director of Public Works		Billing Address (if different):	
E-Mail: rwaldo@provincetown-ma.gov		Contract Manager: Adrienne Pappal	
Phone 508-487-7060	Fax:	E-Mail: Adrienne.Pappal@mass.gov	
Contractor Vendor Code: VC6000191950		Phone: 617-626-1218	Fax: 617-626-1240
Vendor Code Address ID (e.g. "AD001"): AD01____ (Note: The Address Id Must be set up for EFT payments.)		MMARS Doc ID(s): CT ENV 0803180000000000356	
<input checked="" type="checkbox"/> NEW CONTRACT		<input type="checkbox"/> CONTRACT AMENDMENT	
PROCUREMENT OR EXCEPTION TYPE: (Check one option only) <input type="checkbox"/> Statewide Contract (OSD or an OSD-designated Department) <input type="checkbox"/> Collective Purchase (Attach OSD approval, scope, budget) <input checked="" type="checkbox"/> Department Procurement (includes State or Federal grants 815 CMR 2.00) (Attach RFR and Response or other procurement supporting documentation) <input type="checkbox"/> Emergency Contract (Attach justification for emergency, scope, budget) <input type="checkbox"/> Contract Employee (Attach Employment Status Form , scope, budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification, scope and budget)		Enter Current Contract End Date Prior to Amendment: _____, 20____. Enter Amendment Amount: \$ _____ (or "no change") AMENDMENT TYPE: (Check one option only. Attach details of Amendment changes.) <input type="checkbox"/> Amendment to Scope or Budget (Attach updated scope and budget) <input type="checkbox"/> Interim Contract (Attach justification for Interim Contract and updated scope/budget) <input type="checkbox"/> Contract Employee (Attach any updates to scope or budget) <input type="checkbox"/> Legislative/Legal or Other: (Attach authorizing language/justification and updated scope and budget)	
The following COMMONWEALTH TERMS AND CONDITIONS (T&C) has been executed, filed with CTR and is incorporated by reference into this Contract. <input checked="" type="checkbox"/> Commonwealth Terms and Conditions <input type="checkbox"/> Commonwealth Terms and Conditions For Human and Social Services			
COMPENSATION: (Check ONE option): The Department certifies that payments for authorized performance accepted in accordance with the terms of this Contract will be supported in the state accounting system by sufficient appropriations or other non-appropriated funds, subject to intercept for Commonwealth owed debts under 815 CMR 9.00. <input type="checkbox"/> Rate Contract (No Maximum Obligation. Attach details of all rates, units, calculations, conditions or terms and any changes if rates or terms are being amended.) <input checked="" type="checkbox"/> Maximum Obligation Contract Enter Total Maximum Obligation for total duration of this Contract (or <i>new</i> Total if Contract is being amended) \$95,250.00			
PROMPT PAYMENT DISCOUNTS (PPD): Commonwealth payments are issued through EFT 45 days from invoice receipt. Contractors requesting accelerated payments must identify a PPD as follows: Payment issued within 10 days ___% PPD; Payment issued within 15 days ___% PPD; Payment issued within 20 days ___% PPD; Payment issued within 30 days ___% PPD. If PPD percentages are left blank, identify reason: x___agree to standard 45 day cycle ___ statutory/legal or Ready Payments (G.L. c. 29, § 23A); ___ only initial payment (subsequent payments scheduled to support standard EFT 45 day payment cycle. See Prompt Pay Discounts Policy .)			
BRIEF DESCRIPTION OF CONTRACT PERFORMANCE or REASON FOR AMENDMENT: (Enter the Contract title, purpose, fiscal year(s) and a detailed description of the scope of performance or what is being amended for a Contract Amendment. Attach all supporting documentation and justifications.) FY19 Coastal Pollutant Remediation grant. Final Design of Commercial Street Porous Asphalt/Stormwater BMP Installation - Phase 5			
ANTICIPATED START DATE: (Complete ONE option only) The Department and Contractor certify for this Contract, or Contract Amendment, that Contract obligations: <input checked="" type="checkbox"/> 1. may be incurred as of the Effective Date (latest signature date below) and no obligations have been incurred prior to the Effective Date . <input type="checkbox"/> 2. may be incurred as of _____, 20____, a date LATER than the Effective Date below and no obligations have been incurred prior to the Effective Date . <input type="checkbox"/> 3. were incurred as of _____, 20____, a date PRIOR to the Effective Date below, and the parties agree that payments for any obligations incurred prior to the Effective Date are authorized to be made either as settlement payments or as authorized reimbursement payments, and that the details and circumstances of all obligations under this Contract are attached and incorporated into this Contract. Acceptance of payments forever releases the Commonwealth from further claims related to these obligations.			
CONTRACT END DATE: Contract performance shall terminate as of 06/30/2019 , with no new obligations being incurred after this date unless the Contract is properly amended, provided that the terms of this Contract and performance expectations and obligations shall survive its termination for the purpose of resolving any claim or dispute, for completing any negotiated terms and warranties, to allow any close out or transition performance, reporting, invoicing or final payments, or during any lapse between amendments.			
CERTIFICATIONS: Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract or Amendment shall be the latest date that this Contract or Amendment has been executed by an authorized signatory of the Contractor, the Department, or a later Contract or Amendment Start Date specified above, subject to any required approvals. The Contractor makes all certifications required under the attached Contractor Certifications (incorporated by reference if not attached hereto) under the pains and penalties of perjury, agrees to provide any required documentation upon request to support compliance, and agrees that all terms governing performance of this Contract and doing business in Massachusetts are attached or incorporated by reference herein according to the following hierarchy of document precedence, the applicable Commonwealth Terms and Conditions , this Standard Contract Form including the Instructions and Contractor Certifications , the Request for Response (RFR) or other solicitation, the Contractor's Response, and additional negotiated terms, provided that additional negotiated terms will take precedence over the relevant terms in the RFR and the Contractor's Response only if made using the process outlined in 801 CMR 21.07 , incorporated herein, provided that any amended RFR or Response terms result in best value, lower costs, or a more cost effective Contract.			
AUTHORIZING SIGNATURE FOR THE CONTRACTOR:		AUTHORIZING SIGNATURE FOR THE COMMONWEALTH:	
X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature)		X: _____ Date: _____ (Signature and Date Must Be Handwritten At Time of Signature)	
Print Name: _____		Print Name: William Nichols	
Print Title: _____		Print Title: Finance Director, EEA	

COMMONWEALTH OF MASSACHUSETTS ~ STANDARD CONTRACT FORM



ATTACHMENT B
Project Budget

The Town of Provincetown shall be paid an amount of \$95,250 as a grant per an award under RFR ENV 19 CZM 02 (FY19 Coastal Pollutant Remediation Grant Program). Payment will be made in accordance with the following schedule:

FY 2019	\$95,250.00	Upon request from the municipality, after partial and/or final completion of work, from funds available in Appropriation Account Number 2000-7026.
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**Provincetown Select Board
AGENDA ACTION REQUEST
Monday, August 27, 2018**

6D

TREASURER'S UPDATE

Tax Title – Intent to Initiate Foreclosure Petitions, and Status of Outstanding Balances

Requested by: Alexander N. Williams, Treasurer

Action Sought: Consent

Proposed Motion(s)

MOVE that the Select Board, in accordance with the Tax Title Policy, consent to the next step of the tax title process: initiation of Land Court foreclosure on the 7 identified properties.

Additional Information

This Motion relates to the actions the Town intends to take in Land Court, noted as step four in the Tax Title Policy, and pursuant to Massachusetts General Law Chapter 60 Section 50.

The following two properties entered into and subsequently defaulted on their payment plans. In accordance with the Tax Title Policy, the owners have been provided notice, which is more notice of the intent to foreclose than required by state law. The owners listed below have not responded to requests for payment or contact in the past six months.

PROPERTY ADDRESS	PROPERTY OWNER	UNPAID	TIME IN TAX TITLE
19 U2 Tremont Street	Raymond Trevino Jr.	\$ 77,471.52	11 Years
41 R Howland Street	Paul Tasha et al	\$ 16,802.62	6 Years

The following five parcels of land have no known owner and are considered unbuildable due to their size. We will confer with the Conservation Commission and/or abutters on possible sale or transfer.

28 R Creek Road	Unknown Owners	\$ 10,465.13	13 Years
29 R Nickerson Street	Unknown Owners	\$ 469.91	7 Years
73 R Franklin Street	Unknown Owners	\$ 5,110.73	4 Years
438 R Commercial St	Unknown Owners	\$ 3,656.26	12 Years
26 A Bangs Street	Unknown Owners	\$ 3,443.85	11 Years

Board Action

Motion	Second	Yea	Nay	Abstain	Disposition

Town of Provincetown Financial Policies and Procedures Manual

8. Tax Title Policy

Purpose:

It is the policy of the Town of Provincetown to ensure all property taxes are paid on a timely basis to the Town. All taxpayers shall be treated equally and are responsible for the payment of their taxes. Any delinquent taxpayers may have a tax title lien placed on their property and may be subject to foreclosure proceedings should the delinquent taxes remain unpaid.

Authority:

The Town Collector is authorized to record a tax title lien on any Town of Provincetown property which is delinquent in the payment of taxes to the Town. The Town Treasurer has the responsibility for maintaining the tax title records, monitoring payment agreements, and initiating foreclosure proceedings on behalf of the Town through Town Counsel when warranted.

Definition:

The tax taking is a claim of legal ownership by the Town, subject to the right to redeem. In accordance with State law, taxes assessed upon real estate and unpaid constitute a lien on real estate from January first of the year of assessment. Taxes that are unpaid for six months or more are certified to the tax title account and, in accordance with state law, accrue interest at a rate of 16%.

Policy

A foreclosure process may begin when a property is put into Tax Title. Foreclosure is a legal process by which the Town seeks to recover the balance of unpaid taxes from a taxpayer who has stopped making payments, to the Town, by forcing a transfer of title to the real estate upon which the taxes are assessed.

Foreclosure proceedings may begin on any property in Tax Title, at any time. The following properties will be considered a priority for foreclosure proceedings:

- Vacant or uninhabited properties
- Multi-family properties
- Any property in tax title for three years or more without a current payment plan
- Commercial properties, both occupied and unoccupied

Taxpayers may avoid foreclosure proceedings by agreeing to and abiding by a payment plan with the Town. The Town of Provincetown will not actively pursue owner-occupied residential properties through foreclosure, except in extreme financial circumstances or other instances of a threat to public safety or health. The Town may consider selling a property lien to an outside party; however, on a case-by-case basis. Any property is subject to foreclosure if taxes have not been paid.

**Town of Provincetown
Financial Policies and Procedures Manual**

8. Tax Title Policy

Procedure

I. Tax Title Notification:

Taxpayers shall receive notification from Town Counsel that their property has been entered into Tax Title and a lien has been placed on their property and request the owner contact the Treasurer to arrange for payment or to enter into a payment plan.

2. Payment Plan:

The Town shall provide taxpayers an opportunity to set up a payment plan with the Treasurer's office. Taxpayers may call the Treasurer's office, at any time, to discuss their individual situation. At that time, the Treasurer and taxpayer may enter into a mutually beneficial payment agreement. Payment plans will not exceed five years and will include taxes, interest, and tax title fees. All taxes will be paid to date at the end of the five year agreement.

3. Notification of Impending Foreclosure:

If the tax title notification correspondence is ignored, a second and final notification letter shall be sent thirty days prior to the Treasurer filing for any foreclosure action on the property. The taxpayer will be given one opportunity for a payment plan; if the payment plan is not kept current, another payment plan will not be offered. The agreement will be in effect as long as the payment plan is current and in good standing. If the payment plan is delinquent more than sixty days and the taxpayer has not corrected such delinquency within thirty days, then the Treasurer is authorized to begin foreclosure. If so, no other legal action will be taken against this property. However, the lien will stay on the property until the debt is cleared.

4. Town Counsel Initiates Foreclosure Proceedings:

In accordance with the provisions of this policy, the Treasurer may pursue a foreclosure process through Town Counsel. Town Counsel will send out a letter of foreclosure to the appropriate party to begin the legal process of foreclosure. As foreclosure may take up to two years to be completed, the taxpayer will continue to have the opportunity to avoid having their property foreclosed upon, by the town, by paying their back taxes, penalty, and interest at any time until the foreclosure is complete.

All properties are eligible to receive the same payment plan option with the same parameters and consequences. A commercial property owner in Tax Title without a current payment plan will not be allowed to obtain a license or permit from the Town.

Conclusion

The Town's last option is to foreclose on a property. Every reasonable opportunity will be provided to the taxpayer to pay off their back taxes and every effort will be made to keep from evicting a property owner from their property. However, all taxpayers have a responsibility to pay their taxes to fund the services provided by the Town. Those that are unable to pay their taxes on a timely basis are a drain on the resources of taxpayers who do pay their taxes on a timely basis. As a matter of fairness, all taxpayers are responsible for paying their taxes on time.

Approved by BOS 04/11/16

Tax Title Policy

Town of Provincetown, Massachusetts

Treasurer: Tax Title

June 30, 2018

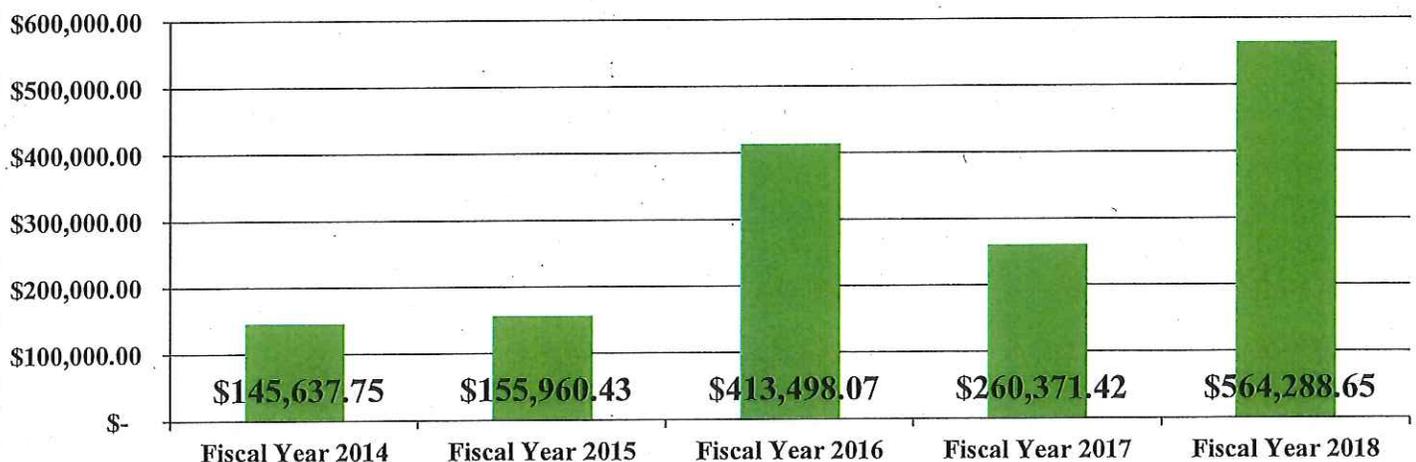
	2017 Tax-Title Owed	2018 Tax-Title Owed
Real Estate and Commercial Taxes	\$ 828,500.00	\$ 441,500.00
Surcharges (Land Bank and CPA)	\$ -	\$ 20,000.00
Water Dept. Fee Liens	\$ -	\$ 52,000.00
Sewer Dept. Fee Liens & Betterments	\$ -	\$ 72,000.00
TOTAL RECEIVABLE	\$ 828,500.00	\$ 585,500.00

<i>Total Tax Title Owed to Town on June 30, 2017:</i>	\$ 828,500.00
<i>New Tax Title Liens Added in Fiscal Year 2018:</i>	\$ 130,000.00
<i>Back-Taxes Paid Off in Fiscal Year 2018:</i>	\$ (373,000.00)

Total Tax Lien Receivable Due to the Town of Provincetown as of June 30, 2018: \$ 585,500.00

	Tax Title Principal Paid	Tax Title Interest Paid
<i>Fiscal Year 2014</i>	\$ 117,164.31	\$ 28,473.44
<i>Fiscal Year 2015</i>	\$ 103,993.60	\$ 51,966.83
<i>Fiscal Year 2016</i>	\$ 307,260.05	\$ 106,238.02
<i>Fiscal Year 2017</i>	\$ 208,421.02	\$ 51,950.40
<i>Fiscal Year 2018</i>	\$ 373,246.87	\$ 191,041.78

Total Back-Taxes Paid: Previous Five Years



Percent Decrease in Principal Outstanding Balance Over Prior Fiscal Year:

29%

Town of Provincetown, Massachusetts

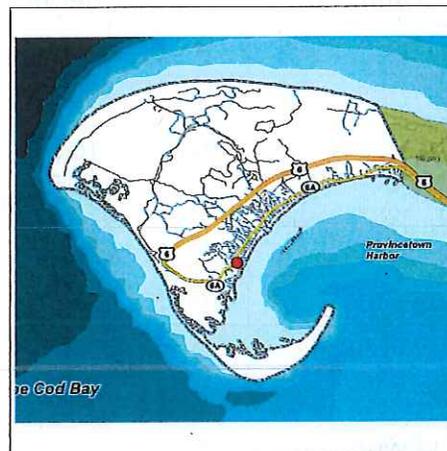
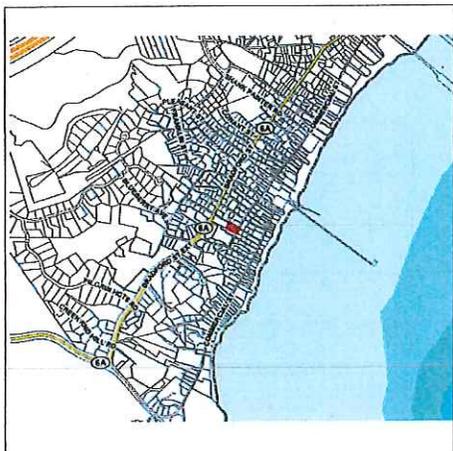
Treasurer - Tax Title Report

...as of July 31, 2018

Bill Year	Bill Number	Bill Name	Property ID	Property Address	Principal Due	Interest Due	Total Due
2012	20120014	ESTATE OF ALTA COSTEN ALEMANY	062019	61 A COMMERCIAL ST	\$ 4,151.37	\$ 21.83	\$ 4,173.20
2013	2013011	ESTATE OF ALTA COSTEN ALEMANY	062019	61 A COMMERCIAL ST	\$ 14,740.18	\$ 10,900.56	\$ 25,640.74
2014	2014010	ALEMANY ALTA COSTEN ESTATE OF	062019	61 A COMMERCIAL ST	\$ 15,617.00	\$ 9,351.48	\$ 24,968.48
2015	2015006	ALEMANY ALTA COSTEN ESTATE OF	062019	61 A COMMERCIAL ST	\$ 9,570.00	\$ 4,023.10	\$ 13,593.10
2016	6	ALEMANY ALTA COSTEN ESTATE OF	062019	61 A COMMERCIAL ST	\$ 13,152.79	\$ 4,479.93	\$ 17,632.72
61 A COMMERCIAL ST Total					\$ 57,231.34	\$ 28,776.90	\$ 86,008.24
1994	1	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 123.65	\$ 91.45	\$ 215.10
1995	1996001	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 120.13	\$ 113.59	\$ 233.72
1996	2011001	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 104.81	\$ 115.46	\$ 220.27
1997	19970001	EST OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 90.75	\$ 112.74	\$ 203.49
2000	20090027	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 87.78	\$ 123.02	\$ 210.80
2001	20080000	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 229.88	\$ 355.41	\$ 585.29
2002	2007002	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 279.37	\$ 477.12	\$ 756.49
2003	20061174	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 2,290.68	\$ 2,167.94	\$ 4,458.62
2004	2	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 5,177.01	\$ 14,976.02	\$ 20,153.03
2005	7	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 8,512.98	\$ 10,693.12	\$ 19,206.10
2006	53	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 284.88	\$ 527.73	\$ 812.61
2007	2007003	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 2,424.94	\$ 2,134.50	\$ 4,559.44
2008	20080005	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 1,553.17	\$ 1,241.87	\$ 2,795.04
2009	20090004	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 1,785.24	\$ 1,268.18	\$ 3,053.42
2010	20100003	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 1,909.51	\$ 1,227.13	\$ 3,136.64
2011	2	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 1,854.72	\$ 1,049.21	\$ 2,903.93
2012	20120004	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 2,304.52	\$ 1,093.10	\$ 3,397.62
2013	2013005	ESTATE OF LENA F JOSEPH	062050	16 WEST VINE ST	\$ 2,372.46	\$ 958.34	\$ 3,330.80
2014	2014021	JOSEPH LENA F ESTATE OF	062050	16 WEST VINE ST	\$ 4,495.30	\$ 2,691.78	\$ 7,187.08
2015	2015013	JOSEPH LENA F ESTATE OF	062050	16 WEST VINE ST	\$ 4,570.45	\$ 1,921.36	\$ 6,491.81
2016	16	JOSEPH LENA F ESTATE OF	062050	16 WEST VINE ST	\$ 4,904.62	\$ 1,670.54	\$ 6,575.16
2017	2017011	JOSEPH LENA F ESTATE OF	062050	16 WEST VINE ST	\$ 5,251.59	\$ 497.25	\$ 5,748.84
16 WEST VINE ST Total					\$ 50,728.44	\$ 45,506.86	\$ 96,235.30
2016	30	PERKINS ALBERT	064050	8 BRADFORD ST	\$ 2,725.52	\$ 918.72	\$ 3,644.24
8 BRADFORD ST Total					\$ 2,725.52	\$ 918.72	\$ 3,644.24
2005	31	OWNERS UNKNOWN	071070	73 R FRANKLIN ST	\$ 1,339.62	\$ 2,841.34	\$ 4,180.96
2006	57	OWNERS UNKNOWN	071070	73 R FRANKLIN ST	\$ 182.89	\$ 338.80	\$ 521.69
2008	20080020	OWNERS UNKNOWN	071070	73 R FRANKLIN ST	\$ 156.00	\$ 241.20	\$ 397.20
2017	2017015	OWNERS UNKNOWN	071070	73 R FRANKLIN ST	\$ 9.95	\$ 0.93	\$ 10.88
73 R FRANKLIN ST Total					\$ 1,688.46	\$ 3,422.27	\$ 5,110.73
2014	2014009	175 BEACH HOUSE LLC	072001	175 COMMERCIAL ST	\$ 48,522.36	\$ 12,707.88	\$ 61,230.24
175 COMMERCIAL ST Total					\$ 48,522.36	\$ 12,707.88	\$ 61,230.24
2014	2014029	SHANK PAINTER ASSOCIATES INC	073021	207 ROUTE 6	\$ 13,891.59	\$ 4,225.92	\$ 18,117.51
2015	2015028	SHANK PAINTER ASSOCIATES INC	073021	207 ROUTE 6	\$ 15,080.67	\$ 5,256.07	\$ 20,336.74
207 ROUTE 6 Total					\$ 28,972.26	\$ 9,481.99	\$ 38,454.25
2013	2013014	GROSSO PETER P ET UX	091006	11 SANDY HILL LN	\$ 6,151.28	\$ 1,750.72	\$ 7,902.00
2015	2015010	GROSSO PETER P ET UX	091006	11 SANDY HILL LN	\$ 4,961.19	\$ 2,085.62	\$ 7,046.81
2016	13	GROSSO PETER P ET UX	091006	11 SANDY HILL LN	\$ 6,589.39	\$ 2,244.37	\$ 8,833.76
2017	2017017	GROSSO PETER P ET UX	091006	11 SANDY HILL LN	\$ 2,212.72	\$ 41.71	\$ 2,254.43
11 SANDY HILL LN Total					\$ 19,914.58	\$ 6,122.42	\$ 26,037.00
2014	2014022	MARINE SPECIALTIES INC	113033	235 COMMERCIAL ST	\$ 19,080.72	\$ 8.36	\$ 19,089.08
2015	2015015	MARINE SPECIALTIES INC	113033	235 COMMERCIAL ST	\$ 19,669.21	\$ 7,883.51	\$ 27,552.72
235 COMMERCIAL ST Total					\$ 38,749.93	\$ 7,891.87	\$ 46,641.80
2017	2017037	QUITZOWERICA D	113107	129 A BRADFORD ST	\$ 5,772.05	\$ 530.44	\$ 6,302.49
129 A BRADFORD ST Total					\$ 5,772.05	\$ 530.44	\$ 6,302.49
2016	32	BERUBE THOMAS E ESTATE OF	122010	403 COMMERCIAL ST	\$ 65.47	\$ 8.18	\$ 73.65
403 COMMERCIAL ST Total					\$ 65.47	\$ 8.18	\$ 73.65
2005	30	OWNERS UNKNOWN	124149	26 A BANGS ST	\$ 573.44	\$ 1,325.73	\$ 1,899.17
2006	56	OWNERS UNKNOWN	124149	26 A BANGS ST	\$ 156.02	\$ 289.02	\$ 445.04
2007	2007056	OWNERS UNKNOWN	124149	26 A BANGS ST	\$ 157.36	\$ 268.74	\$ 426.10
2008	20080030	OWNERS UNKNOWN	124149	26 A BANGS ST	\$ 161.31	\$ 249.41	\$ 410.72
2009	20090020	OWNERS UNKNOWN	124149	26 A BANGS ST	\$ 22.28	\$ 31.22	\$ 53.50
2010	20100027	OWNERS UNKNOWN	124149	26 A BANGS ST	\$ 7.60	\$ 9.44	\$ 17.04
2011	2011029	OWNERS UNKNOWN	124149	26 A BANGS ST	\$ 22.58	\$ 24.88	\$ 47.46
2012	20120039	OWNERS UNKNOWN	124149	26 A BANGS ST	\$ 23.02	\$ 21.76	\$ 44.78
2014	2014027	OWNERS UNKNOWN	124149	26 A BANGS ST	\$ 27.37	\$ 16.39	\$ 43.76

2016	22	OWNERS UNKNOWN	124149	26 A BANGS ST	\$ 16.42	\$ 5.60	\$ 22.02
2017	2017020	OWNERS UNKNOWN	124149	26 A BANGS ST	\$ 31.30	\$ 2.96	\$ 34.26
26 A BANGS ST Total					\$ 1,198.70	\$ 2,245.15	\$ 3,443.85
2015	2015043	RODS REALTY TR	131002	42 CONWELL ST	\$ 484.48	\$ 0.84	\$ 485.32
2016	25	RODS REALTY TR	131002	42 CONWELL ST	\$ 2,773.17	\$ 944.56	\$ 3,717.73
42 CONWELL ST Total					\$ 3,257.65	\$ 945.40	\$ 4,203.05
2013	2013012	ESTATE OF ROBERT R MEADS	133001	29 NELSON AVE	\$ 2,476.88	\$ 39.09	\$ 2,515.97
2014	2014023	MEADS ROBERT R ESTATE OF	133001	29 NELSON AVE	\$ 3,755.74	\$ 2,248.94	\$ 6,004.68
2015	2015017	MEADS ROBERT R ESTATE OF	133001	29 NELSON AVE	\$ 404.32	\$ 169.97	\$ 574.29
2015	2015018	MEADS ROBERT R ESTATE OF	133001	29 NELSON AVE	\$ 3,301.90	\$ 1,388.08	\$ 4,689.98
2016	17	MEADS ROBERT R ESTATE OF	133001	29 NELSON AVE	\$ 3,990.48	\$ 1,359.18	\$ 5,349.66
2017	2017023	MEADS ROBERT R ESTATE OF	133001	29 NELSON AVE	\$ 4,245.99	\$ 402.04	\$ 4,648.03
29 NELSON AVE Total					\$ 18,175.31	\$ 5,607.30	\$ 23,782.61
2016	10	DEL DEO SALVATORE A ET UX	152042	31 ATKINS MAYO RD	\$ 381.38	\$ 107.84	\$ 489.22
2017	2017025	DEL DEO SALVATORE A ET UX	152042	31 ATKINS MAYO RD	\$ 4,768.40	\$ 451.50	\$ 5,219.90
31 ATKINS MAYO RD Total					\$ 5,149.78	\$ 559.34	\$ 5,709.12
2010	20100040	DELGIZZI DANIEL	153074	341 BRADFORD ST	\$ 21,489.03	\$ 26,300.45	\$ 47,789.48
2011	2011033	DELGIZZI DANIEL	153074	341 BRADFORD ST	\$ 6,899.68	\$ 7,600.68	\$ 14,500.36
2012	20120032	DELGIZZI DANIEL	153074	341 BRADFORD ST	\$ 6,233.09	\$ 5,900.63	\$ 12,133.72
2013	2013010	DELGIZZI DANIEL	153074	341 BRADFORD ST	\$ 9,045.31	\$ 6,689.14	\$ 15,734.45
2014	2014013	DELGIZZI DANIEL	153074	341 BRADFORD ST	\$ 7,058.77	\$ 4,226.79	\$ 11,285.56
2015	2015009	DELGIZZI DANIEL	153074	341 BRADFORD ST	\$ 9,961.07	\$ 4,187.50	\$ 14,148.57
2016	11	DELGIZZI DANIEL	153074	341 BRADFORD ST	\$ 11,487.40	\$ 3,912.67	\$ 15,400.07
2017	2017026	DELGIZZI DANIEL	153074	341 BRADFORD ST	\$ 18,245.79	\$ 1,727.64	\$ 19,973.43
341 BRADFORD ST Total					\$ 90,420.14	\$ 60,545.50	\$ 150,965.64
2012	20120055	JONES DENNIS	153087	7 SNOW ST	\$ 3,488.47	\$ 3,159.34	\$ 6,647.81
2013	2013016	JONES DENNIS	153087	7 SNOW ST	\$ 3,960.77	\$ 2,929.04	\$ 6,889.81
7 SNOW ST Total					\$ 7,449.24	\$ 6,088.38	\$ 13,537.62
2015	2015041	READ ELIZABETH B	171033	674 A COMMERCIAL ST	\$ 541.39	\$ 1.42	\$ 542.81
2016	24	READ ELIZABETH B	171033	674 A COMMERCIAL ST	\$ 5,336.00	\$ 1,817.47	\$ 7,153.47
674 A COMMERCIAL ST Total					\$ 5,877.39	\$ 1,818.89	\$ 7,696.28
2008	20080018	TREVINO RAYMOND JR	0620741002	19 U2 TREMONT ST	\$ 1,096.91	\$ 516.60	\$ 1,613.51
2009	20090028	TREVINO RAYMOND JR	0620741002	19 U2 TREMONT ST	\$ 3,181.59	\$ 4,458.80	\$ 7,640.39
2009	20090029	TREVINO RAYMOND JR	0620741002	19 U2 TREMONT ST	\$ 310.44	\$ 435.06	\$ 745.50
2010	20100012	TREVINO RAYMOND JR	0620741002	19 U2 TREMONT ST	\$ 3,860.36	\$ 4,795.76	\$ 8,656.12
2011	2011006	TREVINO RAYMOND JR	0620741002	19 U2 TREMONT ST	\$ 4,180.26	\$ 4,604.97	\$ 8,785.23
2012	20120015	TREVINO RAYMOND JR	0620741002	19 U2 TREMONT ST	\$ 4,845.60	\$ 4,619.24	\$ 9,464.84
2013	2013029	TREVINO RAYMOND JR	0620741002	19 U2 TREMONT ST	\$ 4,807.96	\$ 3,555.56	\$ 8,363.52
2014	2014036	TREVINO RAYMOND JR	0620741002	19 U2 TREMONT ST	\$ 4,972.43	\$ 2,977.49	\$ 7,949.92
2015	2015030	TREVINO RAYMOND JR	0620741002	19 U2 TREMONT ST	\$ 4,058.67	\$ 1,706.21	\$ 5,764.88
2016	27	TREVINO RAYMOND JR	0620741002	19 U2 TREMONT ST	\$ 6,860.33	\$ 2,336.66	\$ 9,196.99
2017	2017012	TREVINO RAYMOND JR	0620741002	19 U2 TREMONT ST	\$ 8,487.04	\$ 803.58	\$ 9,290.62
19 U2 TREMONT ST Total					\$ 46,661.59	\$ 30,809.93	\$ 77,471.52
2014	2014019	HARBOR HILL CONDOMINIUM TR	053038D	41 BRADFORD ST EXT	\$ 13,143.33	\$ 2,062.38	\$ 15,205.71
41 BRADFORD ST EXT Total					\$ 13,143.33	\$ 2,062.38	\$ 15,205.71
2014	2014053	PROVINCETOWN CAPE COD MA LA TR	061009C	8 R PILGRIM HGTS RD	\$ 331.12	\$ 186.81	\$ 517.93
2015	2015026	PROVINCETOWN CAPE COD MA LA TR	061009C	8 R PILGRIM HGTS RD	\$ 147.17	\$ 61.86	\$ 209.03
2016	23	PROVINCETOWN CAPE COD MA LA TR	061009C	8 R PILGRIM HGTS RD	\$ 188.31	\$ 64.13	\$ 252.44
2017	2017010	PROVINCETOWN CAPE COD MA LA TR	061009C	8 R PILGRIM HGTS RD	\$ 201.44	\$ 19.07	\$ 220.51
8 R PILGRIM HGTS RD Total					\$ 868.04	\$ 331.87	\$ 1,199.91
2005	28	OWNERS UNKNOWN	063004A	28 R CREEK RD	\$ 2,133.81	\$ 5,589.49	\$ 7,723.30
2006	55	OWNERS UNKNOWN	063004A	28 R CREEK RD	\$ 241.00	\$ 446.45	\$ 687.45
2007	2007057	OWNERS UNKNOWN	063004A	28 R CREEK RD	\$ 267.32	\$ 456.55	\$ 723.87
2008	20080019	OWNERS UNKNOWN	063004A	28 R CREEK RD	\$ 305.27	\$ 471.98	\$ 777.25
2009	20090023	OWNERS UNKNOWN	063004A	28 R CREEK RD	\$ 30.17	\$ 42.27	\$ 72.44
2010	20100014	OWNERS UNKNOWN	063004A	28 R CREEK RD	\$ 30.90	\$ 38.38	\$ 69.28
2011	2011008	OWNERS UNKNOWN	063004A	28 R CREEK RD	\$ 30.93	\$ 34.07	\$ 65.00
2012	20120036	OWNERS UNKNOWN	063004A	28 R CREEK RD	\$ 31.82	\$ 30.07	\$ 61.89
2013	2013018	OWNERS UNKNOWN	063004A	28 R CREEK RD	\$ 41.04	\$ 30.35	\$ 71.39
2014	2014024	OWNERS UNKNOWN	063004A	28 R CREEK RD	\$ 42.22	\$ 25.28	\$ 67.50
2015	2015024	OWNERS UNKNOWN	063004A	28 R CREEK RD	\$ 43.13	\$ 18.13	\$ 61.26
2016	20	OWNERS UNKNOWN	063004A	28 R CREEK RD	\$ 27.13	\$ 9.25	\$ 36.38
2017	2017013	OWNERS UNKNOWN	063004A	28 R CREEK RD	\$ 43.95	\$ 4.17	\$ 48.12
28 R CREEK RD Total					\$ 3,268.69	\$ 7,196.44	\$ 10,465.13
2016	39	OROURKE ROBERT P	063018B002	54 U2 FRANKLIN ST	\$ 1,260.24	\$ 429.25	\$ 1,689.49
2017	2017014	OROURKE ROBERT P	063018B002	54 U2 FRANKLIN ST	\$ 1,362.30	\$ 129.00	\$ 1,491.30
54 U2 FRANKLIN ST Total					\$ 2,622.54	\$ 558.25	\$ 3,180.79
2009	20091030	OWNERS UNKNOWN	063041A	29 R NICKERSON ST	\$ 97.76	\$ 135.24	\$ 233.00

2011	2011009	OWNERS UNKNOWN	063041A	29 R NICKERSON ST	\$ 21.82	\$ 24.04	\$ 45.86
2012	20120037	OWNERS UNKNOWN	063041A	29 R NICKERSON ST	\$ 22.20	\$ 20.98	\$ 43.18
2013	2013019	OWNERS UNKNOWN	063041A	29 R NICKERSON ST	\$ 12.58	\$ 9.30	\$ 21.88
2014	2014025	OWNERS UNKNOWN	063041A	29 R NICKERSON ST	\$ 29.79	\$ 17.84	\$ 47.63
2015	2015023	OWNERS UNKNOWN	063041A	29 R NICKERSON ST	\$ 30.35	\$ 12.76	\$ 43.11
2017	2017016	OWNERS UNKNOWN	063041A	29 R NICKERSON ST	\$ 32.20	\$ 3.05	\$ 35.25
29 R NICKERSON ST Total					\$ 246.70	\$ 223.21	\$ 469.91
2013	2013040	HENRIQUE RICHARD L	082019E	52 WINSLOW ST	\$ 593.21	\$ 33.03	\$ 626.24
2014	2014020	HENRIQUE RICHARD L	082019E	52 WINSLOW ST	\$ 2,843.19	\$ 1,702.50	\$ 4,545.69
2016	14	HENRIQUE RICHARD L	082019E	52 WINSLOW ST	\$ 2,524.50	\$ 859.86	\$ 3,384.36
52 WINSLOW ST Total					\$ 5,960.90	\$ 2,595.39	\$ 8,556.29
2013	2013023	ROSE BRADFORD	111001A	227 R COMMERCIAL ST	\$ 26,303.24	\$ 20,787.61	\$ 47,090.85
2014	2014028	ROSE BRADFORD	111001A	227 R COMMERCIAL ST	\$ 25,482.08	\$ 15,258.55	\$ 40,740.73
2015	2015027	ROSE BRADFORD	111001A	227 R COMMERCIAL ST	\$ 26,125.87	\$ 10,982.99	\$ 37,108.86
2017	2017018	ROSE BRADFORD	111001A	227 R COMMERCIAL ST	\$ 4,801.77	\$ 454.66	\$ 5,256.43
227 R COMMERCIAL ST Total					\$ 82,712.96	\$ 47,483.91	\$ 130,196.87
2006	100	OWNERS UNKNOWN	124069A	438 R COMMERCIAL ST	\$ 266.79	\$ 494.22	\$ 761.01
2007	2007048	OWNERS UNKNOWN	124069A	438 R COMMERCIAL ST	\$ 320.49	\$ 547.36	\$ 867.85
2008	20080029	OWNERS UNKNOWN	124069A	438 R COMMERCIAL ST	\$ 328.69	\$ 508.18	\$ 836.87
2009	20090019	OWNERS UNKNOWN	124069A	438 R COMMERCIAL ST	\$ 54.61	\$ 76.53	\$ 131.14
2010	20100026	OWNERS UNKNOWN	124069A	438 R COMMERCIAL ST	\$ 53.72	\$ 66.73	\$ 120.45
2011	2011028	OWNERS UNKNOWN	124069A	438 R COMMERCIAL ST	\$ 53.69	\$ 59.15	\$ 112.84
2012	20120038	OWNERS UNKNOWN	124069A	438 R COMMERCIAL ST	\$ 55.89	\$ 52.84	\$ 108.73
2013	2013020	OWNERS UNKNOWN	124069A	438 R COMMERCIAL ST	\$ 89.53	\$ 66.21	\$ 155.74
2014	2014026	OWNERS UNKNOWN	124069A	438 R COMMERCIAL ST	\$ 94.15	\$ 56.38	\$ 150.53
2015	2015025	OWNERS UNKNOWN	124069A	438 R COMMERCIAL ST	\$ 96.86	\$ 40.72	\$ 137.58
2016	21	OWNERS UNKNOWN	124069A	438 R COMMERCIAL ST	\$ 89.80	\$ 30.59	\$ 120.39
2017	2017019	OWNERS UNKNOWN	124069A	438 R COMMERCIAL ST	\$ 139.89	\$ 13.24	\$ 153.13
438 R COMMERCIAL ST Total					\$ 1,644.11	\$ 2,012.15	\$ 3,656.26
2017	2017021	HAWTHORNE CARO C	131025J	46 HARRY KEMP WY	\$ 2,647.75	\$ 250.69	\$ 2,898.44
46 HARRY KEMP WY Total					\$ 2,647.75	\$ 250.69	\$ 2,898.44
2017	2017022	HAWTHORNE CARO C	131025K	46 1/2 HARRY KEMP WY	\$ 2,357.13	\$ 223.19	\$ 2,580.32
46 1/2 HARRY KEMP WY Total					\$ 2,357.13	\$ 223.19	\$ 2,580.32
2012	20120062	TASHA PAUL ET AL	152017A	41 R HOWLAND ST	\$ 556.18	\$ 123.89	\$ 680.07
2013	2013028	TASHA PAUL ET AL	152017A	41 R HOWLAND ST	\$ 2,074.12	\$ 1,533.84	\$ 3,607.96
2014	2014034	TASHA PAUL ET AL	152017A	41 R HOWLAND ST	\$ 2,166.24	\$ 1,297.15	\$ 3,463.39
2015	2015029	TASHA PAUL ET AL	152017A	41 R HOWLAND ST	\$ 2,241.00	\$ 942.09	\$ 3,183.09
2016	26	TASHA PAUL ET AL	152017A	41 R HOWLAND ST	\$ 2,339.13	\$ 796.72	\$ 3,135.85
2017	2017024	TASHA PAUL ET AL	152017A	41 R HOWLAND ST	\$ 2,495.93	\$ 236.33	\$ 2,732.26
41 R HOWLAND ST Total					\$ 11,872.60	\$ 4,930.02	\$ 16,802.62
GRAND TOTAL					\$ 559,904.96	\$ 291,854.92	\$ 851,759.88





Massachusetts PROVINCETOWN

July 31, 2018

FINAL NOTICE – INTENT TO INITIATE FORECLOSURE PROCESS

19 U2 Tremont Street

Raymond Trevino Jr.

19 Tremont Street #2
Provincetown, Massachusetts 02657

Ray,

Your property will be discussed before the Select Board on August 27, 2018 to detail my intent to initiate the foreclosure process on 19 U2 Tremont St. by petitioning with the Commonwealth of Massachusetts Land Court.

After that date, significant legal fees may be added to the property and must be paid before the property can be redeemed.

As stated in the letter mailed to you on April 23, 2018, you have fully defaulted on your payment plan and all outstanding taxes and fees must be paid in full in order to redeem your property.

Dated to August 31, 2018, the total amount to be paid in order to end my intent to foreclose is **\$86,372.08.**

Please contact me as soon as possible.

Sincerely,

Alexander N. Williams



Massachusetts PROVINCETOWN

April 23, 2018

NOTICE OF DEFAULT ON TAX-TITLE PAYMENT AGREEMENT

RE: 19 U2 Tremont Street

Raymond Trevino, Jr.,

You have defaulted on your payment agreement with the Town of Provincetown related to your outstanding real estate taxes for the fiscal years of 2008 – 2018. Your agreement states that all current year taxes must be paid in full and installments must be paid each month.

As of today, the following amounts are due immediately:

Overdue Installments:	\$6,500.00	
2017 Real Estate Taxes:	\$8,922.31	
2018 Real Estate Taxes:	\$7,812.16	
	\$23,234.47	(increases by \$5.39 per day)

Please be aware of the following:

- Partial payments may no longer be accepted on this property.
- The Town may petition your property for foreclosure with the Commonwealth of Massachusetts Land Court.

Please contact me immediately upon receipt of this letter.

Sincerely,

Alexander N. Williams
Town Treasurer

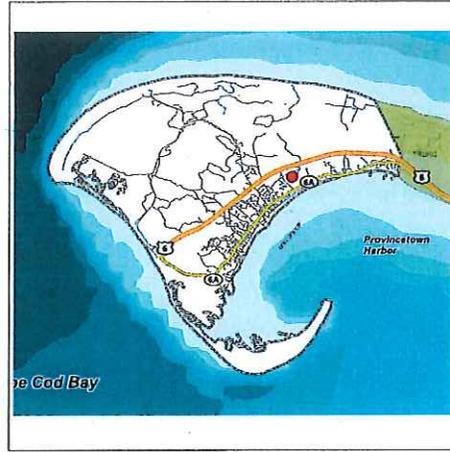
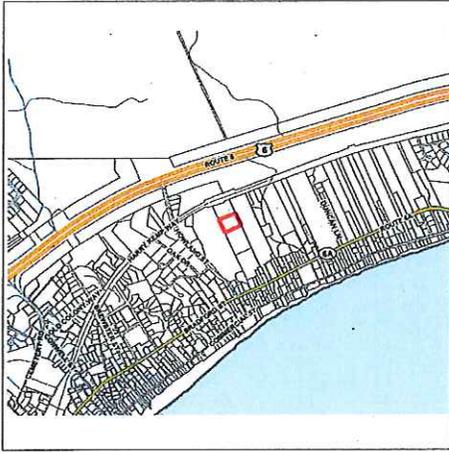
TOWN OF PROVINCETOWN - PROPERTY SUMMARY REPORT

ELEMENT	DESCRIPTION	CD
KITCHENS		0
AFFORD.HSG		0

CAPACITY	UNIT

CONDITION	DESCRIPTION	CD







Massachusetts PROVINCETOWN

July 31, 2018

FINAL NOTICE – INTENT TO INITIATE FORECLOSURE PROCESS

41 R Howland Street

Paul Tasha

41 R Howland Street
Provincetown, Massachusetts 02657

Paul,

Your property will be discussed before the Select Board on August 27, 2018 to detail my intent to initiate the foreclosure process on 41 R Howland Street by petitioning with the Commonwealth of Massachusetts Land Court.

After that date, significant legal fees may be added to the property and must be paid before the property can be redeemed.

As stated in the letters mailed to you on January 22, 2018 and April 23, 2018, you have fully defaulted on your payment plan and all outstanding taxes and fees must be paid in full in order to redeem your property.

Dated to August 31, 2018, the total amount to be paid in order to end my intent to foreclose is \$19,373.37.

Please contact me as soon as possible.

Sincerely,

Alexander N. Williams



Massachusetts PROVINCETOWN

April 23, 2018

NOTICE OF DEFAULT ON TAX-TITLE PAYMENT AGREEMENT

RE: 41 R Howland Street

Paul,

You have defaulted on your payment agreement with the Town of Provincetown related to your outstanding real estate taxes for the fiscal years of 2012 – 2018. Your agreement states that all installments must be paid monthly, and that all current year taxes must be paid in full outside of the payment plan.

As of today, the following amounts are due immediately:

Overdue Installments:	\$1,200.00	
2017 Real Estate Taxes:	\$2,623.94	
2018 Real Estate Taxes:	<u>\$2,216.15</u>	
	\$6,040.09	(Increases by \$1.51 each day)

Please be aware of the following:

- The Town may petition your property for foreclosure with the Commonwealth of Massachusetts Land Court.
- Any business or rental licenses currently issued by the Town may be revoked.

Please contact me immediately upon receipt of this letter.

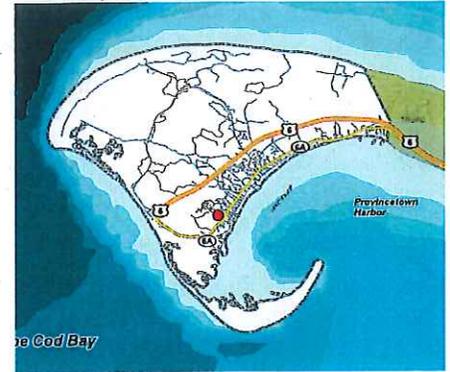
Sincerely,

Alexander N. Williams
Town Treasurer

TOWN OF PROVINCETOWN - PROPERTY SUMMARY REPORT

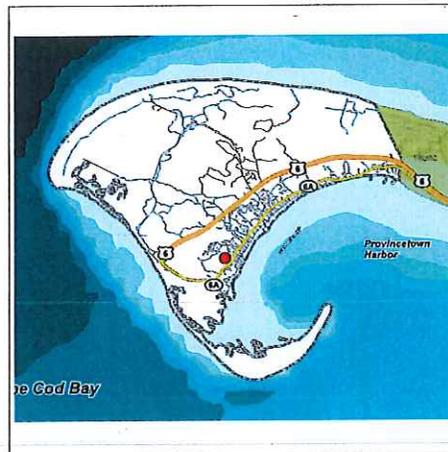
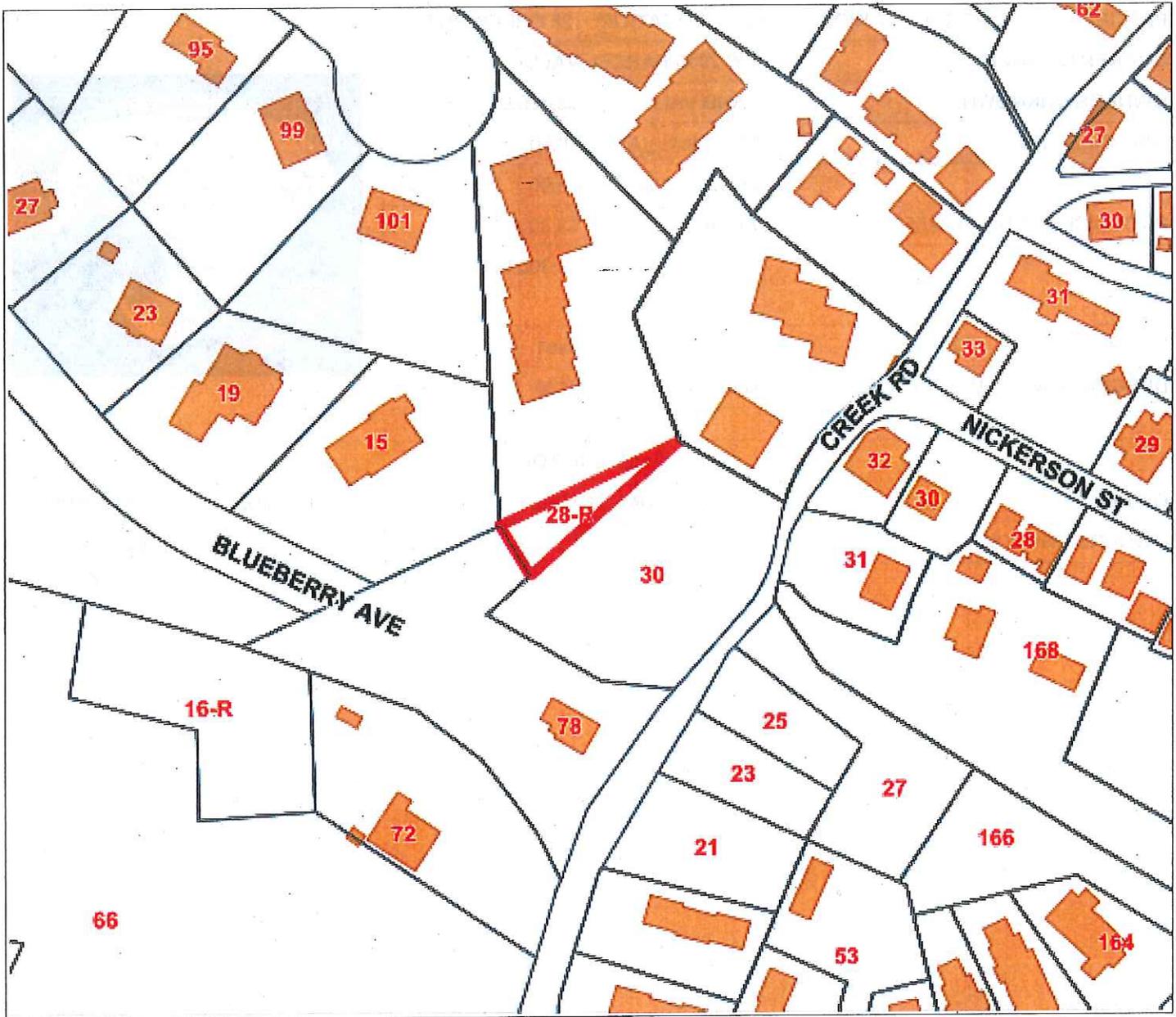
PARCEL	6-3-4-A	KEY:	519	LOCATION:	28 CREEK RD R
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CURRENT OWNER	FY' 2015 PARCEL VALUE	
OWNERS UNKNOWN,	LAND VAL:	\$3,300.00
28R CREEK RD	BUILDING VAL:	\$0.00
	DETACH VAL:	\$0.00
PROVINCETOWN, MA 02657	APPR VAL:	\$3,300.00
	TAX VAL:	\$3,300.00



STATE CLASS:	1320	ZONING:	Res1
DESCRIPTION:	UNDEV LAND	BILL SQ FT:	2130

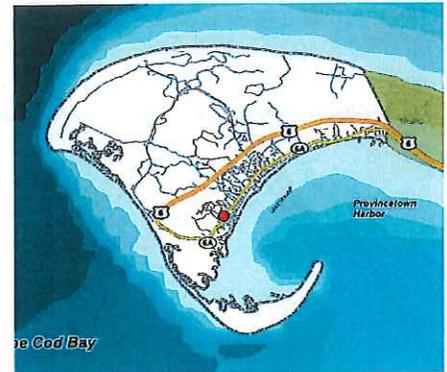
SALES HISTORY				
OWNER	SALE TYPE	BOOK / PAGE	SALE DATE	SALE PRICE
OWNERS UNKNOWN	X	N/A / N/A		\$ 0



TOWN OF PROVINCETOWN - PROPERTY SUMMARY REPORT

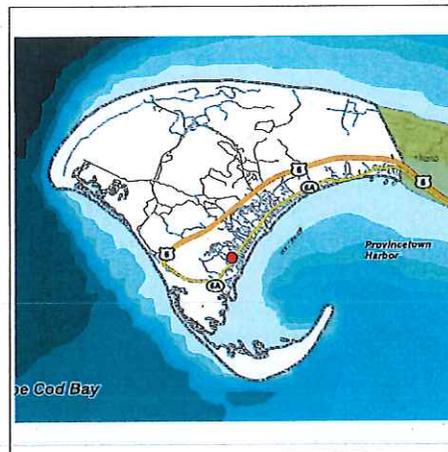
PARCEL	6-3-41-A	KEY:	585	LOCATION:	29 NICKERSON ST R
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CURRENT OWNER	FY' 2015 PARCEL VALUE	
OWNERS UNKNOWN,	LAND VAL:	\$2,000.00
29R NICKERSON ST	BUILDING VAL:	\$0.00
	DETACH VAL:	\$0.00
PROVINCETOWN, MA 02657	APPR VAL:	\$2,000.00
	TAX VAL:	\$2,000.00



STATE CLASS:	1320	ZONING:	Res3
DESCRIPTION:	UNDEV LAND	BILL SQ FT:	900

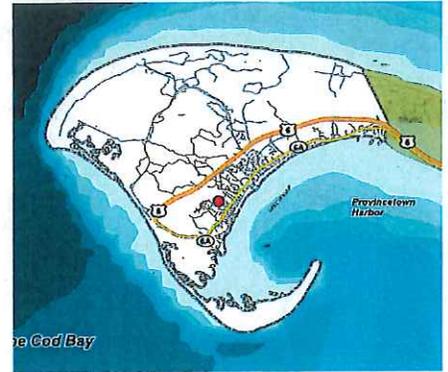
SALES HISTORY				
OWNER	SALE TYPE	BOOK / PAGE	SALE DATE	SALE PRICE
OWNERS UNKNOWN	X	N/A / N/A		\$ 0



TOWN OF PROVINCETOWN - PROPERTY SUMMARY REPORT

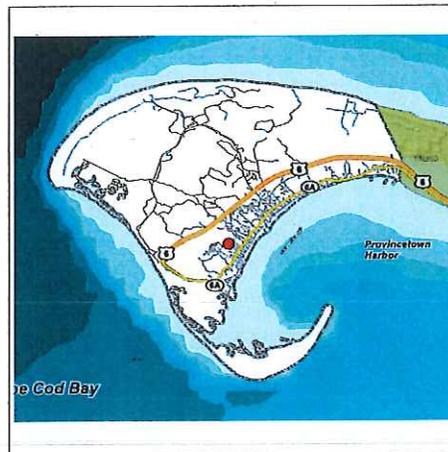
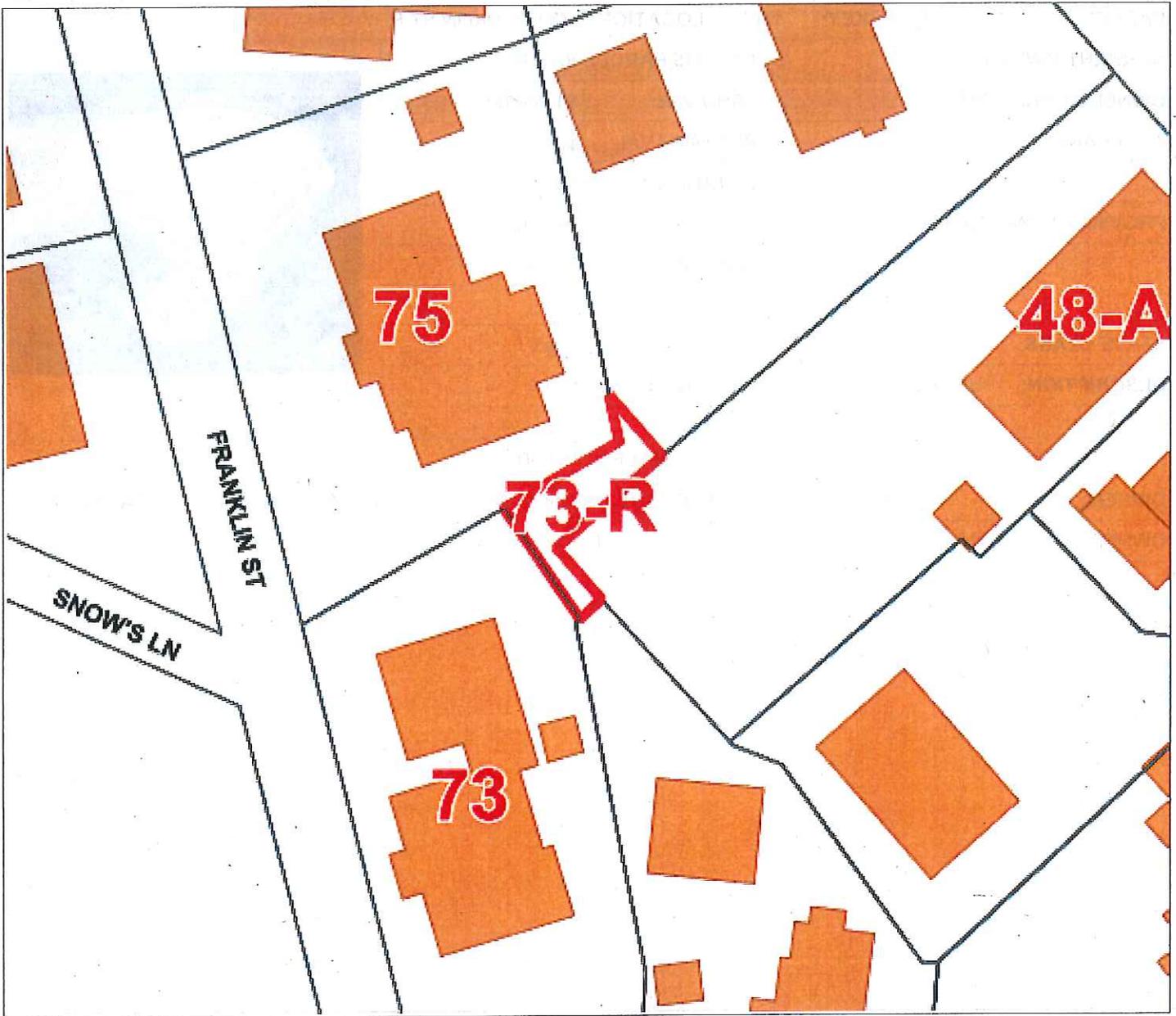
PARCEL	7-1-70-0	KEY:	1063	LOCATION:	73 FRANKLIN ST R
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CURRENT OWNER	FY' 2015 PARCEL VALUE	
OWNERS UNKNOWN,	LAND VAL:	\$1,200.00
73R FRANKLIN ST	BUILDING VAL:	\$0.00
	DETACH VAL:	\$0.00
PROVINCETOWN, MA 02657	APPR VAL:	\$1,200.00
	TAX VAL:	\$1,200.00



STATE CLASS:	1320	ZONING:	Res3
DESCRIPTION:	UNDEV LAND	BILL SQ FT:	539

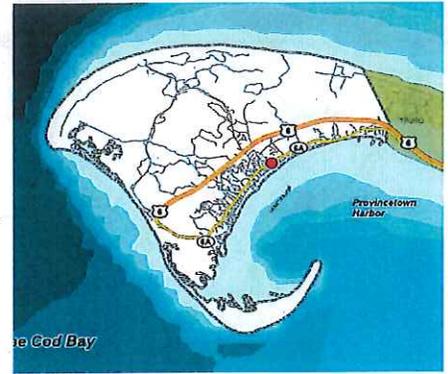
SALES HISTORY				
OWNER	SALE TYPE	BOOK / PAGE	SALE DATE	SALE PRICE
OWNERS UNKNOWN	X	N/A / N/A		\$ 0



TOWN OF PROVINCETOWN - PROPERTY SUMMARY REPORT

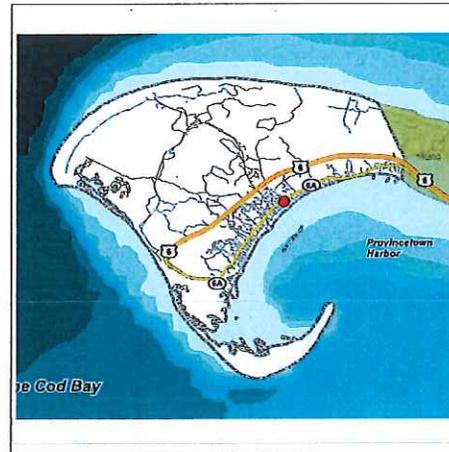
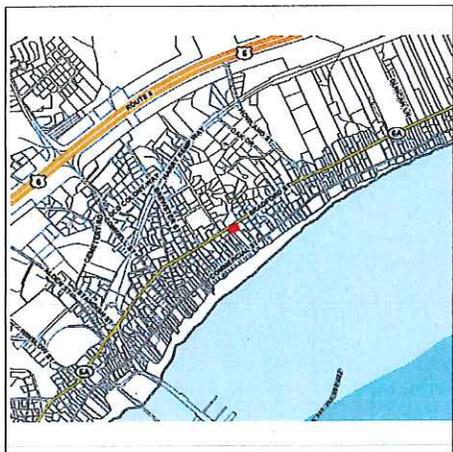
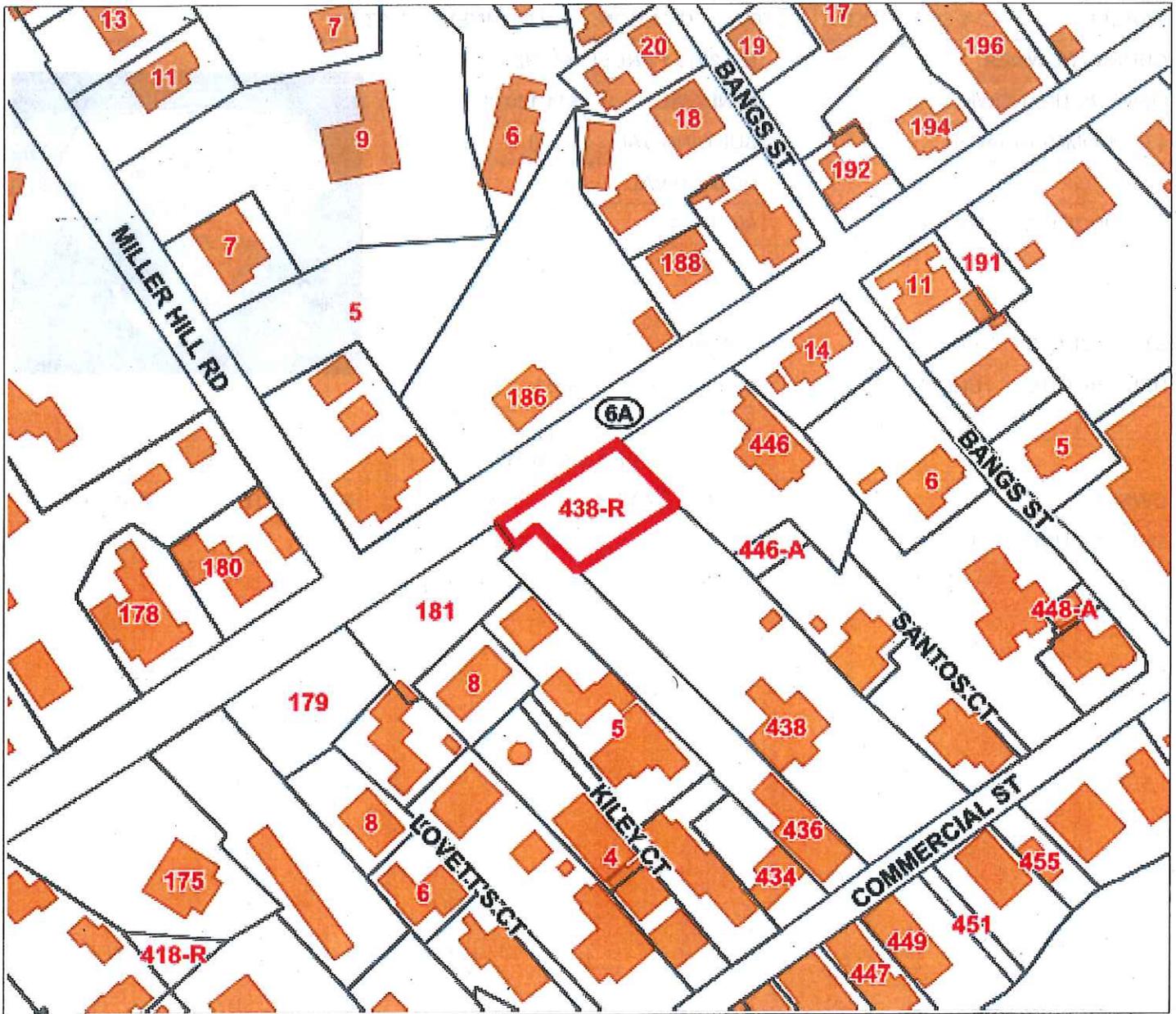
PARCEL	12-4-69-A	KEY:	2766	LOCATION:	438 COMMERCIAL ST R
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CURRENT OWNER		FY' 2015 PARCEL VALUE	
OWNERS UNKNOWN,		LAND VAL:	\$14,100.00
438R COMMERCIAL ST		BUILDING VAL:	\$0.00
		DETACH VAL:	\$0.00
PROVINCETOWN, MA 02657		APPR VAL:	\$14,100.00
		TAX VAL:	\$14,100.00



STATE CLASS:	1320	ZONING:	Res3
DESCRIPTION:	UNDEV LAND	BILL SQ FT:	5253

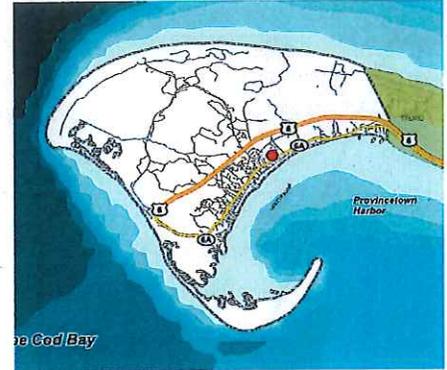
SALES HISTORY				
OWNER	SALE TYPE	BOOK / PAGE	SALE DATE	SALE PRICE
OWNERS UNKNOWN	X	N/A / N/A		\$ 0



TOWN OF PROVINCETOWN - PROPERTY SUMMARY REPORT

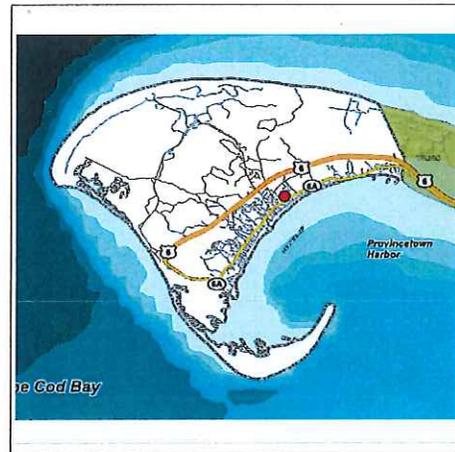
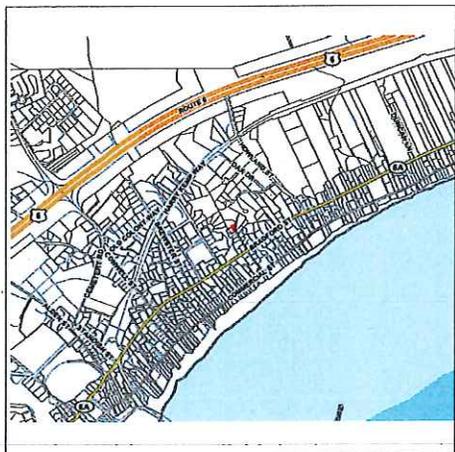
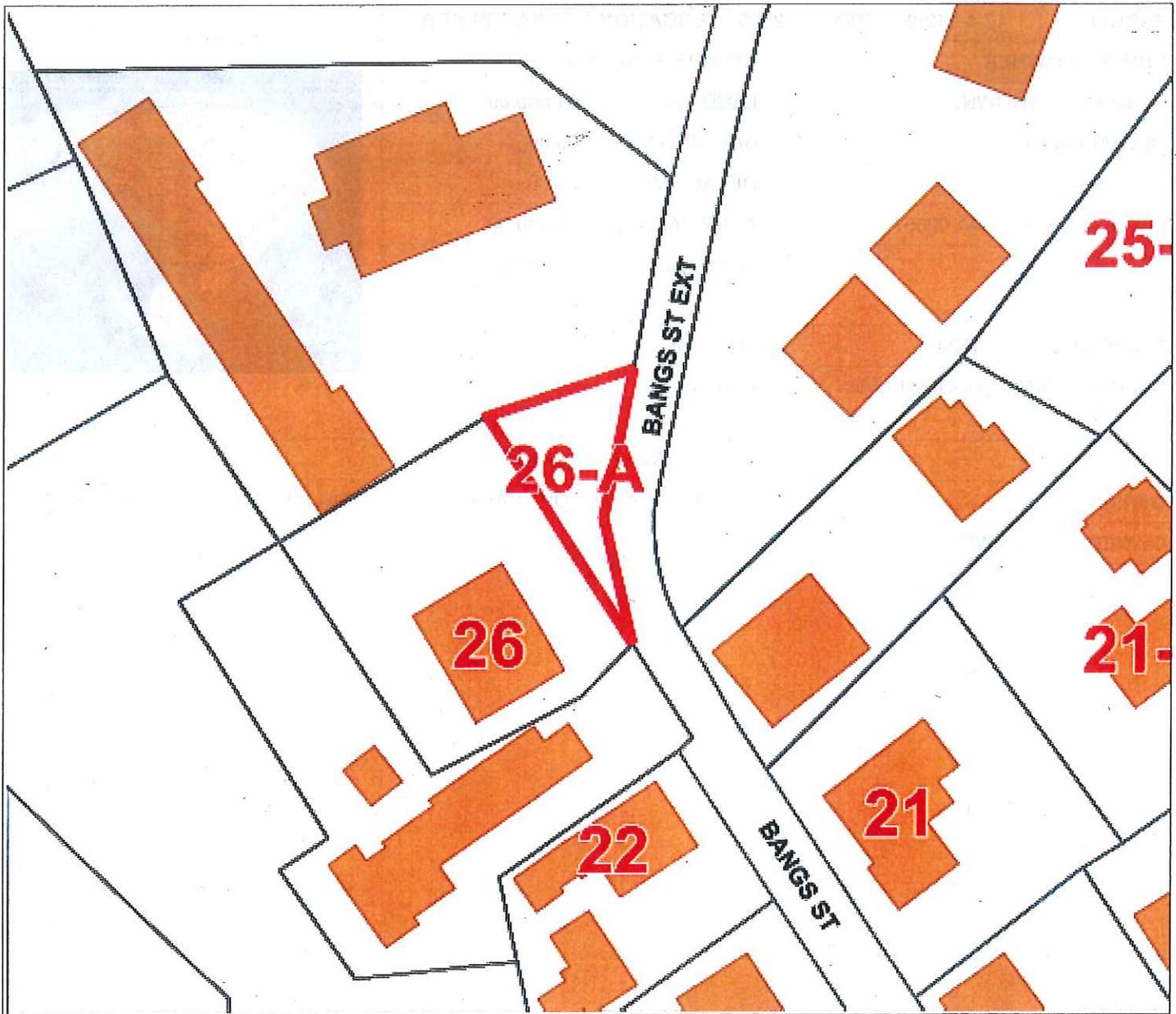
PARCEL	12-4-149-0	KEY:	2925	LOCATION:	26 BANGS ST A
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CURRENT OWNER	FY' 2015 PARCEL VALUE	
OWNERS UNKNOWN,	LAND VAL:	\$1,800.00
26A BANGS ST	BUILDING VAL:	\$0.00
	DETACH VAL:	\$0.00
PROVINCETOWN, MA 02657	APPR VAL:	\$1,800.00
	TAX VAL:	\$1,800.00



STATE CLASS:	1320	ZONING:	Res3
DESCRIPTION:	UNDEV LAND	BILL SQ FT:	1029

SALES HISTORY				
OWNER	SALE TYPE	BOOK / PAGE	SALE DATE	SALE PRICE
OWNERS UNKNOWN	X	N/A / N/A		\$ 0





**Provincetown Select Board
AGENDA ACTION REQUEST**

Monday, August 27, 2018

6E

PROVINCETOWN 400 TOWN SPONSORED EVENTS

Provincetown 400 Town Sponsored Events – Select Board role

Requested by: Governor’s Commission Member Cheryl Andrews

Action sought: give direction

Proposed Motion(s)

Additional Information

On June 11, 2018 the Select Board voted to co-sponsor the following events: a. Ribbon-Cutting at the Bas Relief: date TBD b. Ribbon-Cutting at the First Landing Park: date TBD c. Opening Ceremony – April 24, 2020 Town Hall d. Fireworks – date TBD November.)

Talking Points: How would the board members would like to be involved (or not) in creating, budgeting and executing these 4 events? What other co-sponsors should we consider or approach?

From Cheryl: "Provincetown 400 is now meeting monthly. We met Thursday August 23rd and discussed these 4 events. The P400 Task Force Committee agreed to co-sponsor the opening event on April 24, 2020..details & budget TBD. Members of P400 travel to Boston Tuesday morning Aug. 30, 2018 for Gov. Baker’s press conference on 2020 to be held at 10am at the State House. "

Copied from the Plymouth 400 website on 8.23.18:

PLYMOUTH 400 COMMEMORATION OPENING CEREMONY

Friday, April 24, 2020 (All day) The Opening Ceremony of the Plymouth 400 Commemoration will be a two-hour event of historical content, musical headliners, interpretive readings, choreographed movement, original productions, and visual narratives to create a once-in-a-lifetime spectacle for attendees and viewers across the globe. The Plymouth 400 Legacy Time Capsule will be introduced and the first items will be placed inside by special guests. Honoring the past and celebrating the future, each of the commemoration themes - *exploration, innovation, self-governance, religious expression, immigration, and thanksgiving* - will be presented in creative ways.

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>
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**TOWN OF PROVINCETOWN – SELECT BOARD
MEETING MINUTES – REGULAR MEETING
MONDAY, JUNE 11, 2018 6:00 PM
TOWN HALL – JUDGE WELSH ROOM**

Vice Chair Donegan convened the open meeting at 6:05 pm noting the following:

Select Board Members attending: Chair Louise Venden, Vice Chair Donegan, Members Robert Anthony, Cheryl Andrews and Lise King

Excused:

Other attendees: Town Manager David B. Panagore, and Board Secretary Elizabeth Paine, Temporary On-Call Secretary Linda Fiorella

Recorder: Linda Fiorella

Consent Agenda – Approval without objection required for the following items:

- A. Approve the parade permit application for James Morgrage on behalf of the Harbor to the Bay's 16th Annual AIDS Bike Ride to be held on Saturday, September 15, 2018.*
- B. Approve the parade permit application for Paul Curley on behalf of the American Lung Association's Annual Autumn Escape Bike Trek to be held on Saturday, September 30, 2018*
- C. Approve the reappointment of Lynne Martin, Ginny Binder, Tom Coen, Stephen Latasa-Nicks, Steve Katsurinas, Max Cliggott-Perit and Elaine Anderson to the Local Comprehensive Planning Committee, with term ending July 1, 2020*

Without objection Vice Chair Donegan waived the reading of the consent agenda and without objection it was approved unanimously by the Select Board

Chair Venden joined the meeting at 6:10 pm

1. Public Hearings:

- A. Curb Cut - Application by Mark Sellers and Najjia Mahmoud, requesting approval to install an 18 foot curb cut for a driveway for 1 parking spaces on the front of the property located at 25 Cottage Street, Provincetown, MA in order to access the property for parking. (Assessor's Map 6-4, Parcel 53).**

Select Member Andrews read the public hearing notice.

Exhibits/Documents: Public Hearing notice, application dated May 15, 2018, and staff comments

The attorney for the applicant stated there is limited parking on the street so they propose the creation of an 8ft by 18ft parking space running parallel to the building off the street in front of the house for one vehicle. No street parking would be removed.

Staff report – Assistant Town Manager Gardner reported that staff reviewed and supports off street parking where parking is not otherwise available. Selectmen's guidelines suggest the space should be no more than 18 feet but he feels because the space would be surrounded by retaining walls on three sides

lengthening it would allow them to get in more seamlessly. He said staff would support either lengthening the space or angle the south end of it at a 45 degree angle to allow the car to just drive in.

Public Input - none

Select Board Input

- Select Member Andrews –The application is for a curb cut – but the notice says driveway. But from my vantage point if you want to do something different you’d have to re-notice.
- Vice Chair Donegan – asked if Assistant Town Manager Gardner supports approval as is or to modify the proposal. Assistant Town Manager Gardner supports the 45 degree angle because although it would add an additional four feet it would not remove any parking spaces.
- Chair Venden – asked for a suggested remedy. Assistant Town Manager Gardner responded that he considered the application properly noticed.

Vice Chair Donegan MOVED that the Select Board vote, pursuant to Provincetown General By-Law Section 11, § 6-2, to approve the request of Mark Sellers and Najjia Mahound, for a curb cut at 25 Cottage Street as amended with a submission of a certified plan. (Assessor’s Map 6-4, Parcel 53)

Select Member King second the motion

VOTED

In Favor: 4

Opposed: 1(ca)

Abstain:

2. **Pole Hearing – Utility Pole #20/2 Nearest 8 Court Street - Application by Tim Whalen on behalf of AT&T requesting permission to construct and maintain telecommunications wires and wireless attachment appurtenances, including fiber cables(s), remote nodes and pole top antennas, to be attached to existing Eversource utility poles, located upon, along and under the public ways within the Town of Provincetown, as substantially shown on the plans filed with said Petition. In addition AT&T is requesting permission to install conduit or direct bury fiber cable(s) as depicted on the plans submitted**

Vice Chair Donegan read the public hearing notice.

Exhibits/Document – Public hearing notice, Policy Statement, A copy of ATT’s petition, Staff Comments

Michael Dolan, the lawyer representing ATT explained that they are requesting to install a small cell antenna and cabinet on an existing Eversource pole.

Staff Report: Assistant Town Manager Gardner reported that staff had reviewed the request and supports it.

Public Comments

- None

Selectmen Comments

Vice Chair Donegan MOVED that the Select Board vote, pursuant to MGL C.166,§22, to approve the requesting permission to construct and maintain telecommunications wires and wireless attachment appurtenances, including fiber cables(s), remote nodes and pole top antennas, to be attached to existing Eversource utility poles, located upon, along and under the public ways within the Town of Provincetown, as substantially shown on the plans filed with said Petition. In addition AT&T is requesting permission to install conduit or direct bury fiber cable(s) as depicted on the plans submitted. At the following locations:

Utility Pole #20/2 Nearest 8 Court Street

Select Board Member Anthony seconded the motion.

VOTED

**In Favor: 5
Opposed: 0
Abstain: 0**

Town Manager David Panagore recuses at 6:23 p.m.

- C. Special Traffic Hearing – Two-wheeled Motorized Vehicles/Electric Bicycles - to consider traffic regulations related to the proliferation of the use of two-wheeled motorized vehicles or electric bicycles within the Town of Provincetown.**

Vice Chair Donegan read the public hearing notice.

Exhibits/Document – Public hearing notice, draft Regulations provided by Town Counsel John Giorgio.

Assistant Town Manager David Gardner introduced proposed regulations for the safe use of motorized bicycles that address previously raised concerns including travel on commercial in both directions, driving without helmets, and while impaired, enforcement of the rules of the road, the use of bike racks on town property, insurance and licensing. He read into the record highlights of the proposed regulations based on existing state definitions of types of motorized bicycles, scooters, etc.

The highlights included; where business transactions may take place, flow of traffic, storage, parking, licensing targeted toward the business activity, age requirements, requirements to provide demonstrations for operation and explanation of local rules of the road.

Public Comments

Bill Meadows Owner of P-Town Bikes – Whatever decision is made regarding motorized bikes is meaningless unless it is enforced by police. They aren't enforcing speed limits and the use of lights at night.

Dave Fournier – I sell bikes. Helmets are mandatory. You have to understand the tech of the vehicles. Take the tech coming along and get down on the safety.

Heather Baker Co-owner of Coast – It is stamped by the federal government as a class two electric bicycle. The Massachusetts legislature doesn't have the language yet to recognize it. We should not park in a regular parking spot. The new regulations seemed focused on our bikes.

Joseph Centrello – Disputed an opposition letter point by point.

Mike Reilly - I rent pedal assist bikes. Been doing this 3 years no complaints. Customers are told the same things a normal bike rental would be subject do.

John Swanson- They are smaller. Take up less space. No emissions. If you park in a space it's a waste.

Robert Beaton, Arnold's Bike Shop - Concerned about safety, congestion, rules of the road, and taking them on the national seashore

Paul Melanson, Co-owner of Tin Pan Alley – The bikes are small and harmless. Shouldn't have to take up a regular parking space.

Kaliope – Good for people who need help getting around.

Deborah Kerr –The URB-E site makes no reference to electric bike or scooter. 18 miles an hour down Commercial Street is accidents waiting to happen. The lower levels go much slower.

Penny – Rode one and wasn't offered a helmet. Seems like people were racing. I thought it was unsteady and was told to go faster.

Selectmen Comments

Vice Chair Donegan read into the record a 14 point opposition letter by Liz Athineos and a letter by Dr. Elise Cozzi regarding safety concerns.

Select Member King - Discussed concerns related to parking and speed and proliferation of the new vehicle. Appreciates the green aspect and the entrepreneurial spirit of the company but feels that the

motorized bike in question is a throttle induced vehicle and should follow the rules that a moped would follow including not going against the traffic. What new type of license.

David Gardner -- Currently services that do not have a storefront are not required to get license. What is being proposed is a new type that relates to motorized bicycles and that businesses would be required to get a license specific to the conditions in your packet.

Select Member Andrews – Proposes including Town Council be present to explain definitions, considering regulations regarding bicycle lights and parking options.

Select Member Anthony – expressed concerns about one way traffic on Commercial Street and the throttle and speed against traffic and bikes being dropped all over town because it is a concierge service.

Vice Chair Donegan – would like to see inclusion of bicycle lights be a part of the licensing.

David Gardner – I will add this to licensing requirements.

Chair Venden – I would like to move it along but I have concerns about parking issues and what is possible for enforcement to enforce and traffic going both ways on streets that weren't even designed for cars.

Select Member King-- Policy making is looking down the road. The congestion on Commercial Street warrants a larger discussion.

Select Member Andrews Moved that the Select Board vote to approve the proposed amendments to the Provincetown Traffic and Parking Regulations relating to the Operation of Motorized Bicycles and Scooters.

Select Member Anthony seconded

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

Select Member Moved to refer the attached draft Licensing Regulations to the Licensing Board for consideration and approval at their next available meeting.

Select Member Anthony seconded the motion.

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

Town Manager David Panagore returned at 6:42 pm

2. Public Statements: none

3. Select Member's Statements:

- Lise King -- I appreciate that entrepreneurship is key to our sustainability.
- Cheryl Andrews – DCI, Development of Community Interest. They need to hear from us in terms of the next step.

Select Member Andrews Moved that the Select Board ask staff to prepare a model on the parking for the motorized scooters.

Vice Chair Donegan Seconded

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

- Vice Chair Donegan -- Public discourse has taken a turn for the worse: voice, in person, Facebook. We need to remind ourselves that tomorrows ally is today's foe, we all agree and disagree.
- Chair Venden-- I support the review of the select board role in establishing policies that board members are informed of and the scope of their roles.
- Elizabeth Paine-- Staff has been working on new pending requests and follow up. The first has a list of 9 pending topics and dates where the topics will be discussed. The next is what have been moved. These are things that haven't been scheduled yet but if we have a date that gives staff enough to time to prepare for.
- Chair Venden -- I support that were keeping track of this. I think we will be taking up this issue to understand the scope of our authorities and how we deal with the boards and what their scope is as well.

4. Joint meeting/Presentations:

A. Presentation by Tourism Director: FY2019 Institutional Matching Marketing Grants & FY2019 Co-op Marketing Grants –Chamber, PBG

Exhibits/Document – Memo from the Tourism Director

Tourism Director Anthony Fuccillo discussed cooperative marketing grants with Provincetown Business Guild and the Chamber of Commerce which were originally \$10,000 matching grants. They were increased to \$15,000 and then for the past few years they've been \$20,000. Requested the Board approve these two grants to the Provincetown Business Guild and the Chamber of Commerce for Fiscal

Year 2019.

The Board and staff discussed concerns about providing more detail going forward about the process of grant applications etc., and that will be addressed in a Select Board meeting on July 9, 2018.

Further discussion included matching grants, how much say Boards have in how money is spent, what is done with unspent grant money, and how some grantees spend the grant money.

Cheryl Andrews MOVED that the Select Board vote to approve the FY 2019 co-operative marketing grant agreements with the Provincetown Chamber of Commerce for up to \$20,000 and the Provincetown Business Guild for up to \$20,000 as recommended by the Visitor Services Board.

Robert Anthony seconded the motion

Vice Chair Donegan – Not that I don't support the work of the organizations but giving \$20,000 grants to someone who doesn't want it seems a poor policy.

Cheryl Andrews – Does the grant applicant actually request a specific amount?

Tony Fuccillo – They've been granted without an application and we are going to propose in the new process that they will be submitting an application and sharing how they intend to spend the money.

VOTED

In Favor: 4
Opposed: 1(td)
Abstain:

Vice Chair Donegan – I vote to divide the question.

Cheryl Andrews MOVED that the Select Board vote to approve the FY 2019 matching Institutional marketing grant agreements with the following Four (4) Provincetown Institutions: Center for Coastal Studies (CCS), Provincetown Art Association and Museum (PAAM), Pilgrim Monument and Provincetown Museum (PMPM) and Provincetown Theater (PT) for up to \$5,000 each as recommended by the Visitor Services Board.

Robert Anthony seconded the motion

Vice Chair Donegan - my question is all of the rest of the grants that we've looked at with the exception of the two 20 [thousand dollar]s those 34 grants that we've approved have had an inflation factor. How come these didn't have inflation factor?

Anthony Fuccillo- This was how it was put into the 5 year plan and no one discussed increasing it.

Cheryl Andrews – You're talking about potentially asking your two marketing partners to do applications. Would you also be doing applications for these? For example to give \$5000 to an institution that has a huge fundraising arm and I think these all do. The distinction between these 5 that

have staff that do fundraising and the PBG and the Chamber which are membership organizations and then comparing them to a lot of small groups that are fighting for every penny to breathe to keep their events going-.

Chair Venden —The Center for Coastal Studies and the Provincetown Theater do not have a robust fundraising arm. Whether these five the grants are sufficient. What these organizations represent for pulling in tourism I think should be taken up by the VSB.

Rick Murray – What happened when I was on the board the other entities went through the grant process. We put it into a guarantee of 5k. I would be open to changing that guaranteeing 5k every year. Some have paid staff and raise a lot of money and others don't have that capability. That would be a dialogue between you as our appointing authority so you can give us some direction on how you want us to go.

Lise King—If we are going to set a precedent that a member org filled with for profit businesses and these are our key nonprofit organizations that are the soul of Provincetown and the diversity of our tourism industry as well. Maybe we should be encouraging them to make an organization like the PBG and the Chamber.

Anthony Fuccillo -- Of the 5k some received less. This is first year they all got 5k. Last year they 4k. This year they got 5 as a match.

Vice Chair Donegan recused himself at 8:48 pm

Cheryl Andrews MOVED that the Select Board vote to approve the FY 2019 matching Institutional marketing grant agreements with The Fine Arts Work Center (FAWC) for up to \$5,000 each as recommended by the Visitor Services Board.

Lise King seconded the motion

VOTED

In Favor: 4

Opposed: 0

Abstain:

Vice Chair Donegan returned at 8:49

5. Appointments:

A. Zoning Board of Appeals – Peter H. Okun

Chair Venden asked Peter H. Okun his reason for wanting to be on the Zoning Board of Appeals.

Peter H. Okun - Business Owner in town and I keep ignoring all the calls to volunteer and I'm a full-

time resident and I finally decided it is time to give back.

Select Member Andrews Moved that the Select Board vote to appoint Peter H. Okun as an alternate member to the Zoning Board of Appeals effective immediately and expiring on December 31, 2020.

Select Member Anthony seconded

Vice Chair Donegan-- Do you anticipate any conflicts?

Peter H. Okun - from what I understand I have to recuse from any abutters as a resident or business owners.

VOTED

In Favor: 5

Opposed: 0

Abstain:

B. Provincetown Business Guild Represented on the Historic District Commission – Michela Carew-Murphy and John Dowd

Michela Carew-Murphy – Shared her background as a current alternate on the Historic District Commission, willingness to learn, educational background, examples of her work on the Historic District Commission and her approach to application processes and guidelines and concerns about developing and moving too quickly.

John Dowd – Described his history as an artist in Provincetown and his place in the community, his education in historic preservation and architecture, and his previous service on the Historic District Commission.

Vice Chair Donegan Moved that the Select Board vote to approve the appointment of John Dowd to the Historic District Commission as Provincetown Business Guild’s Representative, with a term to expire on December 31, 2018.

Select Member Anthony.... Seconded

Vice Chair Donegan- This way we get to keep both and Alternate and a new member. The Historic District Commission needs John’s experience. Michela has enthusiasm.

Select Member King -- We need more women. Architecture has lots of men. Don’t let your spirit get dampened.

Select Member Andrews-- it’s a rare day when we can’t appoint everybody. John is a proven leader.

Chair Venden-- as former chair of the Historic District Commission I hope that the board will work together. John understands the changes and the balancing act. I’ll support the vote of the majority.

VOTED

In Favor: 5
Opposed: 0
Abstain:

6. Requests:

A. Charter Revision Suggestions - Discussion of KP Law memo on suggested amendments to the Revised Charter to address Legal Risks

Town Manager Panagore summarized the KP Law memo regarding suggested amendments to the revised Charter and presented options for scheduling a special town meeting to address the items or waiting until the Annual Town Meeting and the options for amending the revised Charter.

Vice Chair Donegan -- I would advocate for a fall town meeting. We have civic engagement workshops of what we think are important things. If they bring us a reasonable item because it's a special town meeting it requires 100 signatures but if we have a charter fixing session as expansive.

Select Member Andrews-- neat and simple would be better. Let people do a survey and tell us what they're interested in.

Chair Venden the whole charter was too much for people to understand and focus on. If we know there are things that would make a big impact on how we move forward we should focus on those.

Select Member King -- if people want to add something they can get signatures.

Town Manager Panagore --I prefer late October. Staff would need to be spending early September for financial review. Doing it well takes time and effort. You want a good education process.

Vice Chair Donegan Moved the Select Board request the staff begin the process of calling a Special Town Meeting during the last week of October and a Civic Engagement Process starting in September.

Select Member Anthony seconded the motion

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

Town Manager Panagore-- I can come back with some draft language on the time sensitive ones

Vice Chair Tom Donegan -- some equally important are the ones where we have liability.

Select Member Andrews --I'd like us to have a Charter Enforcement Commission.

B. Appointment of Select Board Liaisons.

Vice Chair Donegan – The Stellwagen Bank is back on. There’s a lot of work to do. Had a chance to talk to NOAA people funding is less secure but the process is moving forward.

Elizabeth Paine—You’re looking for reappointment to that board.

Vice Chair Donegan – yes.

Select Member Andrews MOVED that the Select Board vote to appoint Tom Donegan as Liaison to Stellwagen Bank, for a term ending July 1, 2019.

Select Member Anthony seconded the motion

VOTED

**In Favor: 5
Opposed: 0
Abstain: 0**

C. Discuss and review Select Board Rules and Procedures Annual Review Process

Vice Chair Donegan MOVED that the Select Board vote to schedule adoption of the Rules of Procedure at its regular meeting on Monday, June 25, 2018, with any proposed amendments to be submitted in writing to the Select Board’s Secretary by 12 Noon on Tuesday, June 19, 2018.

Select Member Anthony seconded

VOTED

**In Favor: 5
Opposed: 0
Abstain: 0**

D. 2020 Update/Town Sponsored Events Provincetown 400 Update from State Commission Member Andrews

Select Member Andrews shared that the signature events are being listed as Plymouth 400 events and doesn’t want to miss out on an opportunity to include Provincetown in some of the events by having events that coincide with Plymouths and with having our own at our own time as well. What role does the Town of Provincetown want to play? Plymouth is eliminating Thanksgiving. We should do the fireworks on Thanksgiving either Thursday night or Friday. Harvest feast for kids shindig at monument Would we be willing to sponsor those two events one in April upstairs and fireworks on Thanksgiving.

Select Member King-- There’s been a movement of Native American tribal leaders to have Friday after Thansksgiving become Native American Heritage Day and we could take ownership of that. We could get the tribe involved.

Vice Chair Donegan -- I love Native American day

Town Manager Panagore - I do see this as a big lift. Work with you guys how we.. our focus is too divided. Depending on how this rolls out. I want somebody who is dedicated to make this work.

Select Member King Moved that the Town of Provincetown sponsor or co-sponsor the following events in support of the 2020 Commemoration

- a. Ribbon –cutting at the Bas Relief : date TBD
- b. Ribbon-cutting at the First Landing Park: date TBD
- c. Opening Ceremony- April 24, 2020 Town Hall
- d. Thanksgiving Fireworks –date TBA November 25,26,27 and recognition of Native American Heritage Day Friday November 26, 2020.
- e. Closing Ceremony December 18, 2020

Select Member Anthony seconded

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

E. May 21, 2018 Lower Cape Meeting follow up from Chair Venden

Chair Venden—I'd like to send a thank you letter of the six town group and invite a broader group of people from the select board.

Vice Chair Donegan Moved that the Select Board authorize the Chair to send the attendees of the May 21st, 2018 meeting a thank you letter.

Select Member Andrews seconded

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

F. Schedule Meeting - VSB Tourism Grant's policies, procedures and criteria.

Vice Chair Donegan Moved that the Select Board request the Town Manager to work with the Tourism Department Staff to prepare a presentation for the July 9, 2018 regular Select Board meeting on the process, procedures and criteria of the Visitor Services Grants.

Select Member Anthony seconded the motion.

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

7. Town Manager / Assistant Town Manager:

A. Town Manager's Report – Administrative Updates.

Town Manager Panagore discussed upcoming memos on the revised Charter and a planned meeting with Rae Ann Palmer on shared services with Truro.

8. Minutes: Approve minutes of previous meetings.

Board suggested minor typo corrections and wording changes to minutes.

Select Member Andrews moved that the Select Board approve the minutes of: April 9, 2018 5:30 pm (Special) April 24, 2018 4:00 pm (Special), May 14, 2018 6:00 pm (Regular), May 15, 2018 5:00 pm (Special), and May 15, 2018 6:30 pm (Special) as amended.

RA seconded the motion.

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

9. Closing Statements/Administrative Updates:

- **Lise King – nothing**
- **Cheryl Andrews – the word I was thinking of before was prototype**
- **Robert Anthony –**
- **Vice Chair Tom Donegan –**
- **Chair Louise Venden –**

9B. Executive Session Motion:

No Action Taken

Without objection the meeting was adjourned at 10:58 pm

Minutes transcribed by: Linda Fiorella



**Provincetown Select Board
AGENDA ACTION REQUEST**

Monday, August 27, 2018

6F

SELECT BOARD POLICY FOR TOWN TALK:

Provincetown Town Manager's Facebook Page

Requested by: Select Board Member Cheryl Andrews

Action sought: Discuss/set policy

Proposed Motion(s)

MOVE that the Select Board direct the Town Manager to limit the posts & comments on his Town Talk page to only members of the public that are not subject to the Open Meeting Law. Members of all town boards and committees are subject to the Open Meeting Law which is:

REGULATORY AUTHORITY 940 CMR 29.00: M.G.L. c. 30A, § 25(a) and (b).

Additional Information

This proposed policy attempts to address 3 concerns raised about the page:

1. That OML violations may occur.
2. Current officials are posting on the page but have blocked some Town voters, limiting those voters ability to read the page.
3. Some officials may use the page for political purposes.

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>

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The Official Website of the Attorney General of Massachusetts

Attorney General Maura Healey

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940 CMR 29.00

Open Meetings

[29.01 Purpose, Scope and Other General Provisions](#)

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[29.10 Remote Participation](#)

29.01: Purpose, Scope and Other General Provisions

(1) **Authority**. The Attorney General promulgates 940 CMR 29.00, relating to the Open Meeting Law, pursuant to [M.G.L. c. 30A, sec. 25 \(a\) and \(b\)](#).

(2) **Purpose**. The purpose of 940 CMR 29.00 is to interpret, enforce and effectuate the purposes of the Open Meeting Law, [M.G.L. c. 30A, sec. 18-25](#).

(3) **Severability**. If any provision of 940 CMR 29.00 or the application of such provision to any person, public body, or circumstances shall be held invalid, the validity of the remainder of 940 CMR 29.00 and the applicability of such provision to other persons, public bodies, or circumstances shall not be affected thereby

(4) **Mailing**. All complaints, notices (except meeting notices) and other materials that must be sent to another party shall be sent by one of the following means: first class mail, email, hand delivery, or by any other means at least as expeditious as first class mail.

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29.02: Definitions

As used in 940 CMR 29.00, the following terms shall, unless the context clearly requires otherwise, have the following meanings:

Commission means the Open Meeting Law Advisory Commission, as defined by [G.L. c. 30A, sec. 19\(c\)](#).

District Public Body means a public body with jurisdiction that extends to two or more municipalities.

Emergency means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

Intentional Violation means an act or omission by a public body or a member thereof, in knowing violation of [M.G.L. c. 30A, sec. 18-25](#). Evidence of an intentional violation of [M.G.L. c. 30A, sec. 18-25](#) shall include, but not be limited to, that the public body or public body member (a) acted with specific intent to violate the law; (b) acted with deliberate ignorance of the law's requirements; or (c) was previously informed by receipt of a decision from a court of competent jurisdiction or advised by the Attorney General, pursuant to [940 CMR 29.07](#) or [940 CMR 29.08](#), that the conduct violates [M.G.L. c. 30A, sec. 18-25](#). Where a public body or public body member has made a good faith attempt at compliance with the law, but was reasonably mistaken about its requirements or, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel, such conduct will not be considered an intentional violation of [M.G.L. c. 30A, sec. 18-25](#).

Person means all individuals and entities, including governmental officials and employees. **Person** does not include public bodies.

Post notice means to place a written announcement of a meeting on a bulletin board, electronic display, website, cable television channel, newspaper or in a loose-leaf binder in a manner conspicuously visible to the public, including persons with disabilities, at all hours, in accordance with [940 CMR 29.03](#).

Public body has the identical meaning as set forth in M.G.L. c. 30A, sec. 18, that is, a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however, that the governing board of a local housing, redevelopment or similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that "public body" shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided, further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

Qualification for Office means the election or appointment of a person to a public body and the taking of the oath of office, where required, and shall include qualification for a second or any subsequent term of office. Where no term of office for a member of a public body is specified, the member shall be deemed to be qualified for office on a biannual basis on January 1st of a calendar year beginning on January 1, 2011. Where a member's term of office began prior to July 1, 2010, and will not expire until after July 1, 2011, the member shall be deemed to have qualified for office on January 1, 2011.

Remote Participation means participation by a member of a public body during a meeting of that public body where the member is not physically present at the meeting location.

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29.03: Notice Posting Requirements

(1) Requirements Applicable to All Public Bodies

(a) Except in an emergency, public bodies shall file meeting notices sufficiently in advance of a public meeting to permit posting of the notice at least 48 hours in advance of the public meeting, excluding Saturdays, Sundays and legal holidays, in accordance with M.G.L. c. 30A, sec. 20. In an emergency, the notice shall be posted as soon as reasonably possible prior to such meeting

(b) Meeting notices shall be printed or displayed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. The list of topics shall have sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting. The date and time that the notice is posted shall be conspicuously recorded thereon or therewith.

(c) Notices posted under an alternative posting method authorized by 940 CMR 29.03(2)-(5) shall include the same content as required by 940 CMR 29.03(1)(b). If such an alternative posting method is adopted, the municipal clerk, in the case of a municipality, or the body, in all other cases, shall file with the Attorney General written notice of adoption of the alternative method, including the website address where applicable, and any change thereto, and the most current notice posting method on file with the Attorney General shall be consistently used

(2) Requirements Specific to Local Public Bodies

(a) The municipal clerk, or other person designated by agreement with the municipal clerk, shall post notice of the meeting in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located. Such notice shall be accessible to the public in the municipal clerk's office. If such notice is not conspicuously visible to the public during hours when the clerk's office is closed, such notice shall also be made available through an alternative method prescribed or approved by the Attorney General under 940 CMR 29.03(2)

(b) A description of such alternative method, sufficient to allow members of the public to obtain notice through such method, shall be posted in a manner conspicuously visible to the public at all hours on or adjacent to the main and handicapped accessible entrances to the municipal building in which the clerk's office is located.

(b) For local public bodies, the Attorney General has determined, pursuant to M.G.L. c. 30A, sec. 20(c), that the following alternative methods will provide more effective notice to the public:

- a. Public bodies may post notice of meetings on the municipal website;
- b. Public bodies may post notice of meetings on cable television, AND, post notice or provide cable television access in an alternate municipal building (e.g., police or fire station) where the notice is accessible at all hours;
- c. Public bodies may post notice of meetings in a newspaper of general circulation in the municipality, AND, post notice or a copy of the newspaper containing the meeting notice at an alternate municipal building (e.g., police or fire station) where the notice is accessible at all hours;
- d. Public bodies may place a computer monitor or electronic or physical bulletin board displaying meeting notices on or in a door, window, or near the entrance of the municipal building in which the clerk's office is located in such a manner as to be visible to the public from outside the building, or;
- e. Public bodies may provide an audio recording of meeting notices, available to the public by telephone at all hours.

(3) Requirements Specific to Regional or District Public Bodies

(a) Notice shall be filed and posted in each city and town within the region or district in the manner prescribed for local public bodies in that city or town.

(b) As an alternative method of notice, a regional or district public body may post a meeting notice on the regional or district public body's website. A copy of the notice shall be filed and kept by the chair of the public body or the chair's designee.

(4) Requirements Specific to Regional School Districts.

(a) The secretary of the regional school district committee shall be considered to be its clerk. The clerk of the regional school district shall file notice with the municipal clerk of each city and town within such district and each such municipal clerk shall post the notice in the manner prescribed for local public bodies in that city or town.

(b) As an alternative method of notice, a regional school district committee may post a meeting notice on the regional school district's website. A copy of the notice shall be filed and kept by the secretary of the regional school district committee or the secretary's designee.

(5) Requirements Specific to County Public Bodies.

(a) Notice shall be filed and posted in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for this purpose.

(b) As an alternative method of notice, a county public body may post a meeting on the county public body's website. A copy of the notice shall be filed and kept by the chair of the county public body or the chair's designee.

(6) Requirements Specific to State Public Bodies. Notice shall be posted on a website in accordance with procedures established by the Attorney General in consultation with the Information Technology Division of the Executive Office for Administration and Finance for the purpose of providing the public with effective notice. A copy of each notice shall also be sent by first class or electronic mail to the Secretary of State's Regulations Division. The chair of each state public body shall notify the Attorney General in writing of its Internet notice posting location and any change thereto. The public body shall consistently use the most current notice posting method on file with the Attorney General.

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29.04: Certification

(1) For local public bodies, a document including M.G.L. c. 30A, sec. 18-25; a document including 940 CMR 29.00; and educational materials prepared by the Attorney General explaining M.G.L. c. 30A, sec. 18-25, and its application, shall be delivered by the municipal clerk to each member of a public body, whether elected or appointed, upon taking the oath of office, if required, and in every case before entering into performance of the office. Within two weeks after receipt of such materials, the member shall certify, on the form prescribed by the Attorney General, receipt of such materials. The municipal clerk shall maintain the signed certification for each such person, indicating the date the person received the materials.

(2) For regional, district, county or state public bodies, a document including M.G.L. c. 30A, sec. 18-25; a document including 940 CMR 29.00; and educational materials prepared by the Attorney General explaining M.G.L. c. 30A, sec. 18-25, and its application, shall be delivered by the appointing authority, executive director or other appropriate administrator or their designees, to each member of a public body, whether elected or appointed, upon taking the oath of office, if required, and in every case before entering into the performance of the office. Within two weeks after receipt of such materials, the member shall certify, on the form prescribed by the Attorney General, receipt of such materials. The appointing authority, executive director or other appropriate administrator, or their designees, shall maintain the signed certification for each such person, indicating the date the person received the materials.

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29.05: Complaints

(1) All complaints shall be in writing, using the form approved by the Attorney General and available on the Attorney General's website. A public body need not, and the Attorney General will not, investigate or address anonymous complaints.

(2) Public bodies, or the municipal clerk in the case of a local public body, should provide any person, on request, with an Open Meeting Law complaint form. If a paper copy is unavailable, then the public body should direct the requesting party to the Attorney General's website, where an electronic copy of the form will be available for downloading and printing.

(3) For local public bodies, the complainant shall file the complaint with the chair of the public body, who shall disseminate copies of the complaint to the members of the public body. The complainant shall also file a copy of the complaint with the municipal clerk, who shall keep such filings in an orderly fashion for public review on request during regular business hours. For all other public bodies, the complainant shall file the complaint with the chair of the relevant public body, or if there is no chair, then with the public body. The complaint shall be filed within 30 days of the alleged violation of M.G.L. c. 30A, sec. 18-25, or if the alleged violation of M.G.L. c. 30A, sec. 18-25, could not reasonably have been known at the time it occurred, then within 30 days of the date it should reasonably have been discovered.

(4) The public body shall review timely complaints to ascertain the time, date, place and circumstances which constitute the alleged violation. If the public body needs additional information to resolve the complaint, then the chair may request it from the complainant within seven business days of receiving the complaint. The complainant shall respond within 10 business days after he or she receives the request. The public body will then have an additional 10 business days after receiving the complainant's response to review the complaint and take any remedial action pursuant to 940 CMR 29.05(5)..

(5) Within 14 business days after receiving the complaint, unless an extension has been granted by the Attorney General as provided in 940 CMR 29.05(5)(a) and (b), the public body shall review the complaint's allegations; take remedial action, if appropriate; and send to the Attorney General a copy of the complaint and a description of any remedial action taken. The public body shall simultaneously notify the complainant that it has sent such materials to the Attorney General and shall provide the complainant with a copy of the description of any remedial action taken.

(a) Any remedial action taken by the public body in response to a complaint under 940 CMR 29.05(5) shall not be admissible as evidence that a violation occurred in any later administrative or judicial proceeding against the public body relating to the alleged violation.

(b) If the public body requires additional time to resolve the complaint, it may obtain an extension from the Attorney General by submitting a written request within 14 business days after receiving the complaint. The Attorney General will grant an extension if the request demonstrates good cause. Good cause will generally be found if, for example, the public body cannot meet within the 14 business day period to consider proposed remedial action. The Attorney General shall notify the complainant of any extension and the reason for it.

(6) If at least 30 days have passed after the complaint was filed with the public body, and if the complainant is unsatisfied with the public body's resolution of the complaint, the complainant may file a complaint with the Attorney General. When filing a complaint with the Attorney General, the complainant shall include a copy of the original complaint along with any other materials the complainant believes are relevant. The Attorney General may decline to investigate complaints filed with the Attorney General more than 90 days after the alleged violation of M.G.L. c. 30A, sec. 18-25, unless an extension was granted to the public body or the complainant demonstrates good cause for the delay.

(7) The Attorney General shall acknowledge receipt of all complaints and will resolve them within a reasonable period of time, generally 90 days. If additional time is necessary to resolve a particular complaint, the Attorney General will notify the complainant and the public body.

(8) If a complaint appears untimely, is not in the proper form, or is missing information, the Attorney General shall return the complaint to the complainant within 14 business days of its receipt, noting its deficiencies. The complainant shall then have 14 business days to correct the deficiencies and resubmit the complaint to the Attorney General. If the deficiencies are not corrected, no further action on the complaint will be taken by the Attorney General.

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29.06: Investigation

Whenever the Attorney General has reasonable cause to believe that a violation of M.G.L. c. 30A, sec. 18-25, has occurred that has not been adequately remedied, then the Attorney General may conduct an investigation.

(1) The Attorney General shall notify the public body or person that is the subject of a complaint and an investigation of the existence of the investigation within a reasonable period of time. The Attorney General shall also notify the public body or person of the nature of the alleged violation

(2) Upon notice of the investigation, the subject of the investigation shall provide the Attorney General with all information relevant to the investigation. The subject may also submit a memorandum or other writing to the Attorney General, addressing the allegations being investigated.

If the subject of the investigation fails to voluntarily provide the necessary or relevant information within 30 days of receiving notice of the investigation, the Attorney General may issue subpoenas to obtain the information in accordance with M.G.L. c. 30A, sec. 24, to:

- (a) Take testimony under oath;
- (b) Examine or cause to be examined any documentary material; or
- (c) Require attendance during such examination of documentary material by any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material.

Any documentary material or other information produced by any person pursuant to 940 CMR 29.06 shall not, unless otherwise ordered by a court of the Commonwealth for good cause shown, be disclosed without that person's consent by the Attorney General to any person other than the Attorney General's authorized agent or representative. However, the Attorney General may disclose the material in court pleadings or other papers filed in court; or, to the extent necessary, in an administrative hearing or other action taken to conduct or resolve the investigation pursuant to 940 CMR 29.00.

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29.07: Resolution

(1) No Violation. If the Attorney General determines, after investigation, that the M.G.L. c. 30A, sec. 18-25, has not been violated, the Attorney General shall terminate the investigation and notify, in writing, the subject of the investigation and any complainant

(2) Violation Resolved Without Hearing. If the Attorney General determines after investigation that M.G.L. c. 30A, sec. 18-25, has been violated, the Attorney General may resolve the investigation without a hearing. The Attorney General shall determine whether the relevant public body, one or more of its members, or both, were responsible, and whether the violation was intentional or unintentional. The Attorney General will notify, in writing, any complainant of the investigation's resolution. Upon finding a violation of M.G.L. c. 30A, sec. 18-25, the Attorney General may take one of the following actions:

(a) Informal action. The Attorney General may resolve the investigation with a telephone call, letter or other appropriate form of communication that explains the violation and clarifies the subject's obligations under M.G.L. c. 30A, sec. 18-25, providing the subject with a reasonable period of time to comply with any outstanding obligations.

(b) Formal order. The Attorney General may resolve the investigation with a formal order. The order may require:

1. Immediate and future compliance with M.G.L. c. 30A, sec. 18-25;
2. Attendance at a training session authorized by the Attorney General;
3. That minutes, records or other materials be made public; or
4. Other appropriate action.

Orders shall be available on the Attorney General's website.

(3) Violation Resolved After Hearing. The Attorney General may conduct a hearing where the Attorney General deems appropriate. The hearing shall be conducted pursuant to , as modified by any regulations issued by the Attorney General. At the conclusion of the hearing, the Attorney General shall determine whether a violation of M.G.L. c. 30A, sec. 18-25, occurred, whether the public body, one or more of its members, or both, were responsible, and whether the violation was intentional or unintentional. The Attorney General will notify, in writing, any complainant of the investigation's resolution. Upon a finding that a violation occurred, the Attorney General may order:

- (a) Immediate and future compliance with M.G.L. c. 30A, sec. 18-25;
- (b) Attendance at a training session authorized by the Attorney General;
- (c) Nullification of any action taken at the relevant meeting, in whole or in part;
- (d) Imposition of a fine upon the public body of not more than \$1,000 for each intentional violation;
- (e) That an employee be reinstated without loss of compensation, seniority, tenure or other benefits;
- (f) That minutes, records or other materials be made public; or
- (g) Other appropriate action.

Orders issued following a hearing shall be available on the Attorney General's website.

(4) A public body or any member of a body aggrieved by any order issued by the Attorney General under 940 CMR 29.07 may obtain judicial review of the order through an action in Superior Court seeking relief in the nature of certiorari. Any such action must be commenced in Superior Court within 21 days of receipt of the order.

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29.08: Advisory Opinions

The Attorney General may issue advisory opinions on request or at his or her own initiative to provide guidance to public bodies and the public on changes to M.G.L. c. 30A, sec. 18-25, court decisions interpreting M.G.L. c. 30A, sec. 18-25, or other developments concerning M.G.L. c. 30A, sec. 18-25.

(1) The Attorney General shall ordinarily make a draft advisory opinion available for comment on the Attorney General's website at least 60 days prior to the planned issuance of the opinion. Notice of the posting shall be provided to the Commission.

(2) Comments on the draft advisory opinion shall be submitted, in writing, to the Attorney General at least 30 days prior to the planned issuance of the opinion.

(3) Action taken by a public body in good faith compliance with an advisory opinion, provided that the circumstances are not materially different, shall not constitute an intentional violation of the M.G.L. c. 30A, sec. 18-25.

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29.09: Other Enforcement Actions

Nothing in 940 CMR 29.06 or 29.07 shall limit the Attorney General's authority to file a civil action to enforce M.G.L. c. 30A, sec 18-25 M.G.L. c. 30A, sec. 18-25 pursuant to M.G.L. c. 30A, sec. 23(f).

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29.10: Remote Participation

(1) **Preamble.** Remote participation may be permitted subject to the following procedures and restrictions. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. By promulgating these regulations, the Attorney General hopes to promote greater participation in government. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of the Open Meeting Law, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

(2) **Adoption of Remote Participation.** Remote participation in meetings of public bodies is not permitted unless the practice has been adopted as follows:

(a) **Local Public Bodies.** The Chief Executive Officer, as defined in M.G.L. c. 4, sec. 7, must authorize or, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that authorization or vote applying to all subsequent meetings of all local public bodies in that municipality.

(b) **Regional or District Public Bodies.** The regional or district public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.

(c) **Regional School Districts.** The regional school district committee must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.

(d) **County Public Bodies.** The county commissioners must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of all county public bodies in that county.

(e) **State Public Bodies.** The state public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.

(f) **Retirement Boards.** A retirement board created pursuant to M.G.L. c. 32, sec. 20 or M.G.L. c. 34B, § 19 must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.

(3) **Revocation of Remote Participation.** Any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) may revoke that adoption in the same manner.

(4) **Minimum Requirements for Remote Participation.**

(a) Members of a public body who participate remotely and all persons present at the meeting location shall be clearly audible to each other;

(b) A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location, as required by M.G.L. c. 30A, sec 20(d);

(c) Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of M.G.L. c. 39, sec. 23D.

(5) **Permissible Reasons for Remote Participation.** If remote participation has been adopted in accordance with 940 CMR 29.10(2), a member of a public body shall be permitted to participate remotely in a meeting, in accordance with the procedures described in 940 CMR 29.10(7), if the chair or, in the chair's absence, the person chairing the meeting, determines that one or more of the following factors makes the member's physical attendance unreasonably difficult:

- (a) Personal illness;
- (b) Personal disability;
- (c) Emergency;
- (d) Military service; or
- (e) Geographic distance.

(6) **Technology.**

(a) The following media are acceptable methods for remote participation. Remote participation by any other means is not permitted. Accommodations shall be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.

- (i) telephone, internet, or satellite enabled audio or video conferencing;

(ii) any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.

(b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.

(c) The public body shall determine which of the acceptable methods may be used by its members.

(d) The chair or, in the chair's absence, the person chairing the meeting, may decide how to address technical difficulties that arise as a result of utilizing remote participation, but is encouraged, wherever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.

(e) The amount and source of payment for any costs associated with remote participation shall be determined by the applicable adopting entity identified in 940 CMR 29.10(2).

(7) Procedures for Remote Participation.

(a) Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.

(b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reason under 940 CMR 29.10(5) for his or her remote participation. This information shall also be recorded in the meeting minutes.

(c) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.

(d) A member participating remotely may participate in an executive session, but shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the public body.

(e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants, in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting, and shall be listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, sec. 22.

(8) Further Restriction by Adopting Authority. These regulations do not prohibit any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) from enacting policies, laws, rules or regulations that prohibit or further restrict the use of remote participation by public bodies within that person or entity's jurisdiction, provided those policies, laws, rules or regulations do not violate state or federal law.

(9) Remedy for Violation. If the Attorney General determines, after investigation, that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

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Open Meeting Law Guide



COMMONWEALTH OF MASSACHUSETTS

OFFICE OF ATTORNEY GENERAL
MAURA HEALEY

OCTOBER 6, 2017

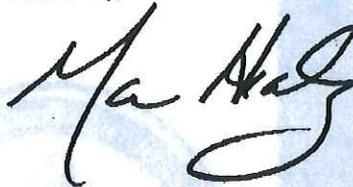
Dear Massachusetts Residents:

One of the most important functions of the Attorney General's Office is to promote openness and transparency in government. Every resident of Massachusetts should be able to access and understand the reasoning behind the government policy decisions that affect our lives. My office is working to achieve that goal through fair and consistent enforcement of the Open Meeting Law, along with robust educational outreach about the law's requirements.

The Open Meeting Law requires that most meetings of public bodies be held in public, and it establishes rules that public bodies must follow in the creation and maintenance of records relating to those meetings. Our office is dedicated to providing educational materials, outreach and training sessions to ensure that members of public bodies and citizens understand their rights and responsibilities under the law.

Whether you are a town clerk or town manager, a member of a public body, or a concerned citizen, I want to thank you for taking the time to understand the Open Meeting Law. If you would like additional guidance on the law, I encourage you to contact my Division of Open Government at (617) 963-2540 or visit our website at www.mass.gov/ago/openmeeting for more information.

Sincerely,



Maura Healey
Massachusetts Attorney General

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Attorney General's Open Meeting Law Guide

Overview

Purpose of the Law

The purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based. Because the democratic process depends on the public having knowledge about the considerations underlying governmental action, the Open Meeting Law requires, with some exceptions, that meetings of public bodies be open to the public. It also seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently.

Attorney General's Authority

The Open Meeting Law was revised as part of the 2009 Ethics Reform Bill, and now centralizes responsibility for statewide enforcement of the law in the Attorney General's Office. G.L. c. 30A, § 19(a). To help public bodies understand and comply with the law, the Attorney General has created the Division of Open Government. The Division of Open Government provides training, responds to inquiries, investigates complaints, and when necessary, makes findings and orders remedial action to address violations of the law. The purpose of this Guide is to inform elected and appointed members of public bodies, as well as the interested public, of the basic requirements of the law.

Certification

Within two weeks of a member's election or appointment or the taking of the oath of office, whichever occurs later, all members of public bodies must complete the attached Certificate of Receipt of Open Meeting Law Materials certifying that they have received these materials, and that they understand the requirements of the Open Meeting Law and the consequences of violating it. The certification must be retained where the public body maintains its official records. All public body members should familiarize themselves with the Open Meeting Law, the Attorney General's regulations, this Guide, and Open Meeting Law determinations issued to the member's public body within the last five years in which the Attorney General found a violation of the law.

In the event a Certificate has not yet been completed by a presently serving member of a public body, the member should complete and submit the Certificate at the earliest opportunity to be considered in compliance with the law. A public body

member must sign a new Certificate upon reelection or reappointment to the public body but need not sign a Certificate when joining a subcommittee.

Open Meeting Law Website

This Guide is intended to be a clear and concise explanation of the Open Meeting Law's requirements. The complete law, as well as the Attorney General's regulations, training materials, and determinations and declinations as to complaints can be found on the Attorney General's Open Meeting website, www.mass.gov/ago/openmeeting. Members of public bodies, other local and state government officials, and the public are encouraged to visit the website regularly for updates on the law and the Attorney General's interpretations of it.

Meetings of Public Bodies

What meetings are covered by the Open Meeting Law?

With certain exceptions, all meetings of a public body must be open to the public. A meeting is generally defined as "a deliberation by a public body with respect to any matter within the body's jurisdiction." As explained more fully below, a deliberation is a communication between or among members of a public body.

These four questions will help determine whether a communication constitutes a meeting subject to the law:

- 1) is the communication between or among members of a **public body**;
- 2) if so, does the communication constitute a **deliberation**;
- 3) does the communication involve a matter within the body's **jurisdiction**; and
- 4) if so, does the communication fall within an **exception** listed in the law?

What constitutes a public body?

While there is no comprehensive list of public bodies, any multi-member board, commission, committee or subcommittee within the executive or legislative branches¹ of state government, or within any county, district, city, region or town, if established to serve a public purpose, is subject to the law. The law includes any multi-member body created to advise or make recommendations to a public body, and also includes the governing board of any local housing or redevelopment authority, and the governing board or body of any authority established by the Legislature to serve a public purpose. The law excludes the Legislature and its committees, bodies of the judicial branch, and

¹Although the Legislature itself is not a public body subject to the Open Meeting Law, certain legislative commissions must follow the Law's requirements.

bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer.

Boards of selectmen and school committees (including those of charter schools) are certainly subject to the Open Meeting Law, as are subcommittees of public bodies, regardless of whether their role is decision-making or advisory. Individual government officials, such as a town manager or police chief, and members of their staff are not subject to the law, and so they may meet with one another to discuss public business without needing to comply with Open Meeting Law requirements. This exception for individual officials to the general Open Meeting Law does not apply where such officials are serving as members of a multiple-member public body that is subject to the law.

Bodies appointed by a public official solely for the purpose of advising the official on a decision that individual could make alone are not public bodies subject to the Open Meeting Law. For example, a school superintendent appoints a five-member advisory body to assist her in nominating candidates for school principal, a task the superintendent could perform herself. That advisory body would not be subject to the Open Meeting Law.²

What constitutes a deliberation?

The Open Meeting Law defines deliberation as “an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.” Distribution of a meeting agenda, scheduling or procedural information, or reports or documents that may be discussed at a meeting is often helpful to public body members when preparing for upcoming meetings. These types of communications generally will not constitute deliberation, provided that, when these materials are distributed, no member of the public body expresses an opinion on matters within the body’s jurisdiction. Additionally, certain communications that may otherwise be considered deliberation are specifically exempt by statute from the definition of deliberation (for example, discussion of the recess and continuance of a Town Meeting pursuant to G.L. c. 39, § 10A(a) is not deliberation).

To be a deliberation, the communication must involve a quorum of the public body. A quorum is usually a simple majority of the members of a public body. Thus, a communication among less than a quorum of the members of a public body will not be a deliberation, unless there are multiple communications among the members of the public body that together constitute communication among a quorum of members. Courts have held that the Open Meeting Law applies when members of a public body communicate in a serial manner in order to evade the application of the law.

² See *Connelly v. School Committee of Hanover*, 409 Mass. 232 (1991).

Note that the expression of an opinion on matters within the body's jurisdiction to a quorum of a public body is a deliberation, even if no other public body member responds. For example, if a member of a public body sends an email to a quorum of a public body expressing her opinion on a matter that could come before that body, this communication violates the law even if none of the recipients responds.



What matters are within the jurisdiction of the public body?

The Open Meeting Law applies only to the discussion of any "matter within the body's jurisdiction." The law does not specifically define "jurisdiction." As a general rule, any matter of public business on which a quorum of the public body may make a decision or recommendation is considered a matter within the jurisdiction of the public body. Certain discussions regarding procedural or administrative matters may also relate to public business within a body's jurisdiction, such as where the discussion involves the organization and leadership of the public body, committee assignments, or rules or bylaws for the body. Statements made for political purposes, such as where a public body's members characterize their own past achievements, generally are not considered communications on public business within the jurisdiction of the public body.

What are the exceptions to the definition of a meeting?

There are five exceptions to the definition of a meeting under the Open Meeting Law.

1. Members of a public body may conduct an on-site inspection of a project or program; however, they may not deliberate at such gatherings;
2. Members of a public body may attend a conference, training program or event; however, they may not deliberate at such gatherings;
3. Members of a public body may attend a meeting of another public body provided that they communicate only by open participation; however, they may not deliberate at such gatherings;
4. Meetings of quasi-judicial boards or commissions held solely to make decisions in an adjudicatory proceeding are not subject to the Open Meeting Law; and
5. Town Meetings, which are subject to other legal requirements, are not governed by the Open Meeting Law. See, e.g. G.L. c. 39, §§ 9, 10 (establishing procedures for Town Meeting).

The Attorney General interprets the exemption for "quasi-judicial boards or commissions" to apply only to certain state "quasi-judicial" bodies and a very limited number of public bodies at other levels of government whose proceedings are specifically defined as "agencies" for purposes of G.L. c. 30A.

We have received several inquiries about the exception for Town Meeting and whether it applies to meetings outside of a Town Meeting session by Town Meeting members or Town Meeting committees or to deliberation by members of a public body – such as a board of selectmen – during a session of Town Meeting. The Attorney General interprets this exemption to mean that the Open Meeting Law does not reach any aspect of Town Meeting. Therefore, the Attorney General will not investigate complaints alleging violations in these situations. Note, however, that this is a matter of interpretation and future Attorneys General may choose to apply the law in such situations.

Notice

What are the requirements for posting notice of meetings?

Except in cases of emergency, a public body must provide the public with notice of its meeting 48 hours in advance, excluding Saturdays, Sundays, and legal holidays. Notice of emergency meetings must be posted as soon as reasonably possible prior to the meeting. Also note that other laws, such as those governing procedures for public hearings, may require additional notice.

What are the requirements for filing and posting meeting notices for local public bodies?

For local public bodies, meeting notices must be filed with the municipal clerk with enough time to permit posting of the notice at least 48 hours in advance of the public meeting. Notices may be posted on a bulletin board, in a loose-leaf binder, or on an electronic display (e.g. television, computer monitor, or an electronic bulletin board), provided that the notice is conspicuously visible to the public at all hours in, on, or near the municipal building in which the clerk's office is located. In the event that meeting notices posted in the municipal building are not visible to the public at all hours, then the municipality must either post notices on the outside of the building or adopt the municipal website as the official method of notice posting.

Prior to utilizing the municipal website, the Chief Executive Officer of the municipality must authorize or vote to adopt such website as the official method of posting notice. The clerk of the municipality must inform the Division of Open Government of its notice posting method and must inform the Division of any future changes to that posting method. Public bodies must consistently use the most current notice posting method on file with the Division. A description of the website, including directions on how to locate notices on the website, must also be posted on or adjacent to the main and handicapped accessible entrances to the building where the clerk's office is located. Note that meeting notices must still be available in or around the

clerk's office so that members of the public may view the notices during normal business hours.

What are the requirements for posting notices for regional, district, county and state public bodies?

For regional or district public bodies and regional school districts, meeting notices must be filed and posted in the same manner required of local public bodies in each of the communities within the region or district. As an alternative method of notice, a regional or district public body may post a meeting notice on the regional or district public body's website. The regional school district committee must file and post notice of the website address, as well as directions on how to locate notices on the website, in each city and town within the region or district. A copy of the notice must be filed and kept by the chair of the public body or the chair's designee.

County public bodies must file meeting notices in the office of the county commissioners and post notice of the meeting in a manner conspicuously visible to the public at all hours at a place or places designated by the county commissioners for notice postings. As an alternative method of notice, a county public body may post notice of meetings on the county public body's website. The county public body must file and post notice of the website address, as well as directions on how to locate notices on the website, in the office of the county commissioners. A copy of the notice shall be filed and kept by the chair of the county public body or the chair's designee.

State public bodies must post meeting notices on the website of the public body or its parent agency. The chair of a state public body must notify the Attorney General in writing of the specific webpage location where notices will be posted and of any subsequent changes to that posting location. A copy of each meeting notice must also be sent to the Secretary of State's Regulations Division and should be forwarded to the Executive Office of Administration and Finance, which maintains a listing of state public body meetings.

Where a public body adopts a website as the official method of posting notices, it must make every effort to ensure that the website is accessible at all hours. If a website becomes inaccessible within 48 hours of a meeting, not including Saturdays, Sundays or legal holidays, the website must be restored within six business hours of the discovery. If the website is not restored within six business hours, the public body must re-post notice of its meeting to another date and time, in accordance with the requirements of the Open Meeting Law.

A note about accessibility

Public bodies are subject to all applicable state and federal laws that govern accessibility for persons with disabilities. These laws include the Americans with

Disabilities Act, the federal Rehabilitation Act of 1973, and state constitutional provisions. For instance, public bodies that adopt website posting as an alternative method of notice must ensure that the website is readily accessible to people with disabilities, including individuals who use screen readers. All open meetings of public bodies must be accessible to persons with disabilities. Meeting locations must be accessible by wheelchair, without the need for special assistance. Also sign language interpreters for deaf or hearing-impaired persons must be provided, subject to reasonable advance notice.³ The Attorney General's Disability Rights Project is available to answer questions about accessibility and may be reached at (617) 963-2939.

What information must meeting notices contain?

Meeting notices must be posted in a legible, easily understandable format; contain the date, time, and place of the meeting; and list all topics that the chair reasonably anticipates, 48 hours in advance, will be discussed at the meeting. The list of topics must be sufficiently specific to reasonably inform the public of the issues to be discussed at the meeting. Where there are no anticipated topics for discussion in open session other than the procedural requirements for convening an executive session, the public body should list "open session" as a topic, in addition to the executive session, so the public is aware that it has the opportunity to attend and learn the basis for the executive session.

Meeting notices must also indicate the date and time that the notice was posted, either on the notice itself or in a document or website accompanying the notice. If a notice is revised, the revised notice must also conspicuously record both the date and time the original notice was posted as well as the date and time the last revision was posted. Recording the date and time enables the public to observe that public bodies are complying with the Open Meeting Law's notice requirements without requiring constant vigilance. Additionally, in the event of a complaint, it provides the Attorney General with evidence of compliance with those requirements.

If a discussion topic is proposed after a meeting notice is posted, and it was not reasonably anticipated by the chair more than 48 hours before the meeting, the public body should update its posting to provide the public with as much notice as possible of what subjects will be discussed during the meeting. Although a public body may consider a topic that was not listed in the meeting notice if it was not anticipated, the Attorney General strongly encourages public bodies to postpone discussion and action on topics that are controversial or may be of particular interest to the public if the topic was not listed in the meeting notice.

³ The Massachusetts Commission for the Deaf and Hard of Hearing will assist with arrangements for a sign language interpreter. The Commission may be reached at 617-740-1600 VOICE and 617-740-1700 TTY.

Executive Session

When can a public body meet in executive session?

While all meetings of public bodies must be open to the public, certain topics may be discussed in executive, or closed, session. Before going into an executive session, the chair of the public body must first:

- Convene in open session;
- State the reason for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
- State whether the public body will reconvene in open session at the end of the executive session; and
- Take a roll call vote of the body to enter executive session.

Where a public body member is participating in an executive session remotely, the member must state at the start of the executive session that no other person is present or able to hear the discussion at the remote location. The public body may authorize, by a simple majority vote, the presence and participation of other individuals at the remote participant's location.

While in executive session, the public body must keep accurate records, all votes taken must be recorded by roll call, and the public body may only discuss matters for which the executive session was called.

The Ten Purposes for Executive Session

The law states ten specific purposes for which an executive session may be held, and emphasizes that these are the only reasons for which a public body may enter executive session.

The ten purposes for which a public body may vote to hold an executive session are:

- 1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties.**

This purpose is designed to protect the rights and reputation of individuals. Nevertheless, where a public body is discussing an employee evaluation, considering applicants for a position, or discussing the qualifications of any individual, these discussions should be held in open session to the extent that the discussion deals with issues other than the reputation, character, health, or any complaints or charges against the individual. An executive session called for this purpose triggers certain rights for the individual who is the subject of the discussion. The individual has the right to be present, though he or she may choose not to attend. The individual who is the subject of the discussion may also choose to have the discussion in an open meeting, and that choice takes precedence over the right of the public body to go into executive session.

While the imposition of disciplinary sanctions by a public body on an individual fits within this purpose, this purpose does not apply if, for example, the public body is deciding whether to lay off a large number of employees because of budgetary constraints.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;

Generally, a public body must identify the specific non-union personnel or collective bargaining unit with which it is negotiating before entering into executive session under Purpose 2. A public body may withhold the identity of the non-union personnel or bargaining unit if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

While a public body may agree on terms with individual non-union personnel in executive session, the final vote to execute such agreements must be taken by the public body in open session. In contrast, a public body may approve final terms and execute a collective bargaining agreement in executive session, but should promptly disclose the agreement in open session following its execution.

Collective Bargaining Sessions: These include not only the bargaining sessions, but also include grievance hearings that are required by a collective bargaining agreement.

- 3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;**

Generally, a public body must identify the collective bargaining unit with which it is negotiating or the litigation matter it is discussing before entering into executive session under Purpose 3. A public body may withhold the identity of the collective bargaining unit or name of the litigation matter if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

Collective Bargaining Strategy: Discussions with respect to collective bargaining strategy include discussion of proposals for wage and benefit packages or working conditions for union employees. The public body, if challenged, has the burden of proving that an open meeting might have a detrimental effect on its bargaining position. The showing that must be made is that an open discussion may have a detrimental effect on the collective bargaining process; the body is not required to demonstrate a definite harm that would have arisen. At the time the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's bargaining or litigating position.

Litigation Strategy: Discussions concerning strategy with respect to ongoing litigation obviously fit within this purpose but only if an open meeting may have a detrimental effect on the litigating position of the public body. Discussions relating to potential litigation are not covered by this exemption unless that litigation is clearly and imminently threatened or otherwise demonstrably likely. That a person is represented by counsel and supports a position adverse to the public body's does not by itself mean that litigation is imminently threatened or likely. Nor does the fact that a newspaper reports a party has threatened to sue necessarily mean imminent litigation.

Note: For the reasons discussed above, a public body's discussions with its counsel do not automatically fall under this or any other purpose for holding an executive session.

- 4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;**
- 5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;**

This purpose permits an executive session to investigate charges of criminal misconduct and to consider the filing of criminal complaints. Thus, it primarily involves discussions that would precede the formal criminal process in court. Purpose 1 is related, in that it permits an executive session to discuss certain complaints or charges, which may include criminal complaints or charges, but only those that have already been brought. However, Purpose 1 confers certain rights of participation on the individual involved, as well as the right for the individual to insist that the discussion occur in open session. Purpose 5 does not require that the same rights be given to the person who is the subject of a criminal complaint. To the limited extent that there is overlap between Purposes 1 and 5, a public body has discretion to choose which purpose to invoke when going into executive session.

- 6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;**

Generally, a public body must identify the specific piece of property it plans to discuss before entering into executive session under Purpose 6. A public body may withhold the identity of the property if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

Under this purpose, as with the collective bargaining and litigation purpose, an executive session may be held only where an open meeting may have a detrimental impact on the body's negotiating position with a third party. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's negotiating position.

- 7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;**

There may be provisions in state statutes or federal grants that require or specifically allow a public body to consider a particular issue in a closed session. Before entering executive session under this purpose, the public body must cite the specific law or federal grant-in-aid requirement that necessitates confidentiality. A public body may withhold that information only if publicly disclosing it would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the

inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

- 8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;**

This purpose permits a hiring subcommittee of a public body or a preliminary screening committee to conduct the initial screening process in executive session. This purpose does not apply to any stage in the hiring process after the screening committee or subcommittee votes to recommend candidates to its parent body. It may, however, include a review of résumés and multiple rounds of interviews by the screening committee aimed at narrowing the group of applicants down to finalists. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session will be detrimental to the public body's ability to attract qualified applicants for the position. If the public body opts to convene a preliminary screening committee, the committee must contain less than a quorum of the members of the parent public body. The committee may also contain members who are not members of the parent public body.

Note that a public body is not required to create a preliminary screening committee to consider or interview applicants. However, if the body chooses to conduct the review of applicants itself, it may not do so in executive session.

- 9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:**

- (i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and

- (ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session.

- 10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided:**

- in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164;
- in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164; or
- in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164;
- when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

Remote Participation

May a member of a public body participate remotely?

The Attorney General's Regulations, 940 CMR 29.10, permit remote participation in certain circumstances. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of the Open Meeting Law, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

Note that the Attorney General's regulations enable members of public bodies to participate remotely if the practice has been properly adopted, but do not require that a public body permit members of the public to participate remotely. If a public body chooses to allow individuals who are not members of the public body to participate remotely in a meeting, it may do so without following the Open Meeting Law's remote participation procedures.

How can the practice of remote participation be adopted?

Remote participation may be used during a meeting of a public body if it has first been adopted by the chief executive officer of the municipality for local public bodies, the county commissioners for county public bodies, or by a majority vote of the public body for retirement boards, district, regional and state public bodies. The chief executive officer may be the board of selectmen, the city council, or the mayor, depending on the municipality. See G.L. c. 4, § 7.

If the chief executive officer in a municipality authorizes remote participation, that authorization applies to all public bodies in the municipality. 940 CMR 29.10(2)(a). However, the chief executive officer determines the amount and source of payment for any costs associated with remote participation and may decide to fund the practice only

for certain public bodies. See 940 CMR 29.10(6)(e). In addition, the chief executive officer can authorize public bodies in that municipality to "opt out" of the practice altogether. See 940 CMR 29.10(8).

Note about Local Commissions on Disability: Local commissions on disability may decide by majority vote of the commissioners at a regular meeting to permit remote participation during a specific meeting or during all commission meetings. G.L. c. 30A, § 20(e). Adoption by the municipal adopting authority is not required.

What are the permissible reasons for remote participation?

Once remote participation is adopted, any member of a public body may participate remotely only if physical attendance would be unreasonably difficult.

What are the acceptable means of remote participation?

Acceptable means of remote participation include telephone, internet, or satellite enabled audio or video conferencing, or any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another. Text messaging, instant messaging, email and web chat without audio are not acceptable methods of remote participation. Note that accommodations must be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.

What are the minimum requirements for remote participation?

Any public body using remote participation during a meeting must ensure that the following minimum requirements are met:

1. A quorum of the body, including the chair or, in the chair's absence, the person chairing the meeting, must be physically present at the meeting location;
2. Members of a public body who participate remotely and all persons present at the meeting location must be clearly audible to each other; and
3. All votes taken during a meeting in which a member participates remotely must be by roll call vote.

What procedures must be followed if remote participation is used at a meeting?

At the start of any meeting during which a member of a public body will participate remotely, the chair must announce the name of any member who is participating remotely; such information must also be recorded in the meeting minutes. The chair's statement does not need to contain any detail about the reason for the member's remote participation.

Members of public bodies who participate remotely may vote and shall not be deemed absent for purposes of G.L. c. 39, § 23D. In addition, members who participate remotely may participate in executive sessions but must state at the start of any such session that no other person is present or able to hear the discussion at the remote location, unless the public body has approved the presence of that individual.

If technical difficulties arise as a result of utilizing remote participation, the chair (or, in the chair's absence, person chairing the meeting) may decide how to address the situation. Public bodies are encouraged, whenever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If a remote participant is disconnected from the meeting, the minutes must note that fact and the time at which the disconnection occurred.

Public Participation

What public participation in meetings must be allowed?

Under the Open Meeting Law, the public is permitted to attend meetings of public bodies but is excluded from an executive session that is called for a valid purpose listed in the law. While the public is permitted to attend an open meeting, an individual may not address the public body without permission of the chair. An individual may not disrupt a meeting of a public body, and at the request of the chair, all members of the public shall be silent. If, after clear warning, a person continues to be disruptive, the chair may order the person to leave the meeting. If the person does not leave, the chair may authorize a constable or other officer to remove the person. Although public participation is entirely within the chair's discretion, the Attorney General encourages public bodies to allow as much public participation as time permits.

Any member of the public may make an audio or video recording of an open session of a public meeting. A member of the public who wishes to record a meeting must first notify the chair and must comply with reasonable requirements regarding audio or video equipment established by the chair so as not to interfere with the meeting. The chair is required to inform other attendees of any such recording at the beginning of the meeting. If someone arrives after the meeting has begun and wishes to record a meeting, that person should attempt to notify the chair prior to beginning recording, ideally in a manner that does not significantly disrupt the meeting in progress (such as passing a note for the chair to the board administrator or secretary). The chair should endeavor to acknowledge such attempts at notification and announce the fact of any recording to those in attendance.

Minutes

What records of public meetings must be kept?

Public bodies are required to create and maintain accurate minutes of all meetings, including executive sessions. The minutes, which must be created and approved in a timely manner, must include:

- the date, time and place of the meeting;
- the members present or absent;
- the decisions made and actions taken, including a record of all votes;
- a summary of the discussions on each subject;
- a list of all documents and exhibits used at the meeting; and
- the name of any member who participated in the meeting remotely.

While the minutes must include a summary of the discussions on each subject, a transcript is not required. No vote taken by a public body, either in an open or in an executive session, shall be by secret ballot. All votes taken in executive session must be by roll call and the results recorded in the minutes. While public bodies must identify in the minutes all documents and exhibits used at a meeting and must retain them in accordance with the Secretary of the Commonwealth's records retention schedule, these documents and exhibits needn't be attached to or physically stored with the minutes.

Minutes, and all documents and exhibits used, are public records and a part of the official record of the meeting. Records may be subject to disclosure under either the Open Meeting Law or Public Records Law. The State and Municipal Record Retention Schedules are available through the Secretary of the Commonwealth's website at: <http://www.sec.state.ma.us/arc/arcrmu/rmuidx.htm>.

Open Session Meeting Records

The Open Meeting Law requires public bodies to create and approve minutes in a timely manner. A "timely manner" is considered to be within the next three public body meetings or 30 days from the date of the meeting, whichever is later, unless the public body can show good cause for further delay. The Attorney General encourages minutes to be approved at a public body's next meeting whenever possible. The law requires that existing minutes be made available to the public within ten days of a request, whether they have been approved or remain in draft form. Materials or other exhibits used by the public body in an open meeting must also be made available to the public within ten days of a request.

There are two exemptions to the open session records disclosure requirement:
1) materials (other than those that were created by members of the public body for the

purpose of the evaluation) used in a performance evaluation of an individual bearing on his professional competence, and 2) materials (other than any résumé submitted by an applicant, which is subject to disclosure) used in deliberations about employment or appointment of individuals, including applications and supporting materials. Documents created by members of the public body for the purpose of performing an evaluation are subject to disclosure. This applies to both individual evaluations and evaluation compilations, provided the documents were created by members of the public body for the purpose of the evaluation.

Executive Session Meeting Records

Public bodies are not required to disclose the minutes, notes, or other materials used in an executive session if the disclosure of these records may defeat the lawful purposes of the executive session. Once disclosure would no longer defeat the purposes of the executive session, however, minutes and other records from that executive session must be disclosed unless they fall within an exemption to the Public Records Law, G.L. c. 4, § 7, cl. 26, or the attorney-client privilege applies. Public bodies are also required to periodically review their executive session minutes to determine whether continued non-disclosure is warranted. These determinations must be included in the minutes of the body's next meeting.

A public body must respond to a request to inspect or copy executive session minutes within ten days of the request. If the public body has determined, prior to the request, that the requested executive session minutes may be released, it must make those minutes available to the requestor at that time. If the body previously determined that executive session minutes should remain confidential because publication would defeat the lawful purposes of the executive session, it should respond by stating the reason the minutes continue to be withheld. And if, at the time of a request, the public body has not conducted a review of the minutes to determine whether continued nondisclosure is warranted, the body must perform such a review and release the minutes, if appropriate, no later than its next meeting or within 30 days, whichever occurs first. In such circumstances, the body should still respond to the request within ten days, notifying the requestor that it is conducting this review.

Open Meeting Law Complaints

What is the Attorney General's role in enforcing the Open Meeting Law?

The Attorney General's Division of Open Government is responsible for enforcing the Open Meeting Law. The Attorney General has the authority to receive and investigate complaints, bring enforcement actions, issue advisory opinions, and promulgate regulations.

The Division of Open Government regularly seeks feedback from the public on ways in which it can better support public bodies to help them comply with the law's requirements. The Division of Open Government offers periodic online and in-person training on the Open Meeting Law and will respond to requests for guidance and information from public bodies and the public.

The Division of Open Government will take complaints from members of the public and will work with public bodies to resolve problems. While any member of the public may file a complaint with a public body alleging a violation of the Open Meeting Law, a public body need not, and the Division of Open Government will not, investigate anonymous complaints.

What is the Open Meeting Law complaint procedure?

Step 1. Filing a Complaint with the Public Body

Individuals who allege a violation of the Open Meeting Law must first file a complaint ***with the public body*** alleged to have violated the OML. The complaint must be filed within 30 days of the date of the violation, or the date the complainant could reasonably have known of the violation. The complaint must be filed on a **Complaint Form** available on the Attorney General's website, www.mass.gov/ago/openmeeting. When filing a complaint with a local public body, the complainant must also file a copy of the complaint with the municipal clerk.

Step 2. The Public Body's Response

Upon receipt, the chair of the public body should distribute copies of the complaint to the members of the public body for their review. The public body has 14 business days from the date of receipt to meet to review the complainant's allegations, take remedial action if appropriate, notify the complainant of the remedial action, and forward a copy of the complaint and description of the remedial action taken to the complainant. The public body must simultaneously notify the Attorney General that it has responded to the complainant and provide the Attorney General with a copy of the response and a description of any remedial action taken. While the public body may delegate responsibility for responding to the complaint to counsel or another individual, it must first meet to do so. A public body is not required to respond to unsigned complaints or complaints not made on the Attorney General's complaint form.

The public body may request additional information from the complainant within seven business days of receiving the complaint. The complainant then has ten business days to respond; the public body will then have an additional ten business days after receiving the complainant's response to review the complaint and take remedial action. The public body may also request an extension of time to respond to the

complaint. A request for an extension should be made within 14 business days of receipt of the complaint by the public body. The request for an extension should be made in writing to the Division of Open Government and should include a copy of the complaint and state the reason for the requested extension.

Step 3. Filing a Complaint with the Attorney General's Office

A complaint is ripe for review by the Attorney General 30 days after the complaint is filed with the public body. This 30-day period is intended to provide a reasonable opportunity for the complainant and the public body to resolve the initial complaint. It is important to note that complaints are **not** automatically treated as filed for review by the Attorney General upon filing with the public body. A complainant who has filed a complaint with a public body and seeks further review by the Division of Open Government must file the complaint with the Attorney General after the 30-day local review period has elapsed but before 90 days have passed since the date of the violation or the date that the violation was reasonably discoverable.

When filing the complaint with the Attorney General, the complainant must include a copy of the original complaint and may include any other materials the complainant feels are relevant, including an explanation of why the complainant is not satisfied with the response of the public body. Note, however, that the Attorney General will not review allegations that were not raised in the initial complaint filed with the public body. Under most circumstances, complaints filed with the Attorney General, and any documents submitted with the complaint, will be considered a public record and will be made available to anyone upon request.

The Attorney General will review the complaint and any remedial action taken by the public body. The Attorney General may request additional information from both the complainant and the public body. The Attorney General will seek to resolve complaints in a reasonable period of time, generally within 90 days of the complaint becoming ripe for review by our office. The Attorney General may decline to investigate a complaint that is filed with our office more than 90 days after the date of the alleged violation.

May a public body request mediation to resolve a complaint?

If a complainant files five complaints with the same public body or within the same municipality within 12 months, the public body may request mediation upon the fifth or subsequent complaint in order to resolve the complaint. The public body must request mediation prior to, or with, its response to the complaint, and will assume the expense of such mediation. If the parties cannot come to an agreement after mediation, the public body will have ten business days to respond to the complaint and its resolution will proceed in the normal course.

Mediation may occur in open session or in executive session under Purpose 9. In addition, a public body may designate a representative to participate on behalf of the public body. If mediation does not resolve the complaint to each party's satisfaction, the complainant may file the complaint with the Attorney General. The complaint must be filed within 30 days of the last joint meeting with the mediator.

The mediator will be chosen by the Attorney General. If the complainant declines to participate in mediation after a request by the public body, the Attorney General may decline to review a complaint thereafter filed with our office. A public body may always request mediation to resolve a complaint, but only mediation requested upon a fifth or subsequent complaint triggers the requirement that the complainant participate in the mediation before the Attorney General will review the complaint.

Any written agreement reached in mediation must be disclosed at the public body's next meeting following execution of the agreement and will become a public record.

When is a violation of the law considered "intentional"?

Upon finding a violation of the Open Meeting Law, the Attorney General may impose a civil penalty upon a public body of not more than \$1,000 for each intentional violation. G.L. c. 30A, § 23(c)(4). An "intentional violation" is an act or omission by a public body or public body member in knowing violation of the Open Meeting Law. G.L. c. 30A, § 18. In determining whether a violation was intentional, the Attorney General will consider, among other things, whether the public body or public body member 1) acted with specific intent to violate the law; 2) acted with deliberate ignorance of the law's requirements; or 3) had been previously informed by a court decision or advised by the Attorney General that the conduct at issue violated the Open Meeting Law. 940 CMR 29.02. If a public body or public body member made a good faith attempt at compliance with the law but was reasonably mistaken about its requirements, its conduct will not be considered an intentional violation of the Law. G.L. c. 30A, § 23(g); 940 CMR 29.02. A fine will not be imposed where a public body or public body member acted in good faith compliance with the advice of the public body's legal counsel. G.L. 30A, § 23(g); 940 CMR 29.07.

Will the Attorney General's Office provide training on the Open Meeting Law?

The Open Meeting Law directs the Attorney General to create educational materials and provide training to public bodies to foster awareness of and compliance with the Open Meeting Law. The Attorney General has established an Open Meeting

Law website, www.mass.gov/ago/openmeeting, on which government officials and members of public bodies can find the statute, regulations, FAQs, training materials, the Attorney General's determination letters resolving complaints, and other resources. The Attorney General offers periodic webinars and in-person regional training events for members of the public and public bodies, in addition to offering a free online training video.

Contacting the Attorney General

If you have any questions about the Open Meeting Law or anything contained in this guide, please contact the Attorney General's Division of Open Government. The Attorney General also welcomes any comments, feedback, or suggestions you may have about the Open Meeting Law or this guide.

Division of Open Government
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
Tel: 617-963-2540

www.mass.gov/ago/openmeeting
OpenMeeting@state.ma.us



**Provincetown Select Board
AGENDA ACTION REQUEST
Monday, August 13, 2018**



ANNUAL PERFORMANCE EVALUATION

Town Manager David B. Panagore

Requested by: Select Board

Action Sought: Approval

Proposed Motion(s)

MOVE that the Select Board vote to establish Town Manager David B. Panagore's annual performance appraisal score as 3.74.

MOVE that the Select Board vote to grant Town Manager David B. Panagore a 4.74% merit increase, raising his current salary of \$159,000 to \$166,536.60, effective July 1, 2018, pursuant to the contract for employment.

Additional Information

See attached: Town Manager Review Results, Evaluation Ratings, Evaluation Form, FY18 Town Wide Goals, Town Manager Panagore's Self-Evaluation.

Board Action

<i>Motion</i>	<i>Second</i>	<i>In favor</i>	<i>Opposed</i>	<i>Disposition</i>

Town Manager Annual Review - FY18 Goals

Five grading categories were established

1. Expectations/Goals not met
2. Can Improve
3. Meets Expectations/Goals
4. Exceeds Expectations/Goals
5. Exceptional

Each of the five members of the Select Board completed a separate review the results of which were compiled by the Assistant Town Manager for Finance & Administration.

The scoring is translated to the Town Manager's merit raise as follows:

Grade	1%	2%	3%	4%	5%
% of standard employee raise	50%	75%	100%	125%	150%

The Town Manager received an average score of 3.74%, therefore he will receive 118.5% of the FY19 standard employee raise of 4% which is a 4.74% merit based increase to his current salary.

Town of Provincetown
 Town Manager Evaluation
 8/8/2018

GOAL #		GRADING					SubTotal	Average
								Grade by
1	Increase the Year Round Population	4	3	4	3	4	18	3.6
2	Promote Policies that Encourage Income and Age Diverse Year Round Housing	4	2	4	4	4	18	3.6
3	Promote Policies that Encourage the Development of Year Round Business and Jobs While Maintaining Community Character	4	4	4	5	4	21	4.2
4	Pursue Public-Private Partnerships where ever Possible	4	1	3	4	4	16	3.2
5	Promote Policies that Promote Housing and Economic Opportunities, while Maintaining Community Charter	5	2	4	5	3.5	19.5	3.9
6	Support Effort to Bring Forward a Local Comprehensive Plan	4	5	3	4	4	20	4.0
7	Promote Efforts to Improve our Streetscapes and Intersections for Safety and Convenience of Pedestrians, Bicycles, and vehicles.	3	2	3	4	3.5	15.5	3.1
8	Support Efforts to Achieve Educational Excellence and Increase Student Population	3	5	3	3	4	18	3.6
9	Support Strong Financial Policies and Internal Controls to Improve Financial Transparency and Maintain Provincetown on a Secure, Stable Financial Basis.	5	4	4	5	4.5	22.5	4.5
10	Promote Policies that Properly Allocate Revenues to Expenses and Support Increasing Year Round Population	3	5	4	4	4	20	4.0
11	Support Efforts to Improve Residential Quality of Life and Tourist Experience.	4	3	3	4	4	18	3.6
12	Promote Policies and Programs that Protect and Sustain the Natural Environment, and Our Community's Way of Life.	4	4	3	3	4	18	3.6
13	Pursue Public -- Public Partnerships with State and Federal Government to Advance Town Wide Goals.	4	4	4	4	5	21	4.2
14	Implement Policies and Programs that Support Year Round Activity.	4	2	4	4	4	18	3.6
15	Develop Programs that Foster Community Education on issues of Public Concern.	5	3	3	3	3	17	3.4
Totals (75 Max)		60	49	53	59	59.5	280.5	56.1 Grade
								74.8% Percentage Grade
								3.74 Average Grade (1-5)

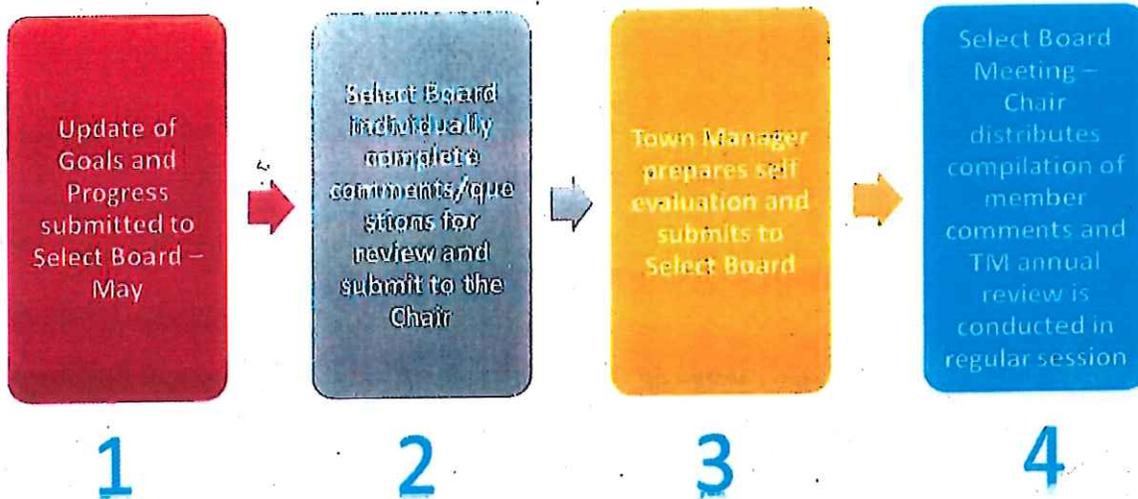


TOWN MANAGER ANNUAL PERFORMANCE REVIEW

Name:	
Position Title:	
Review Date:	

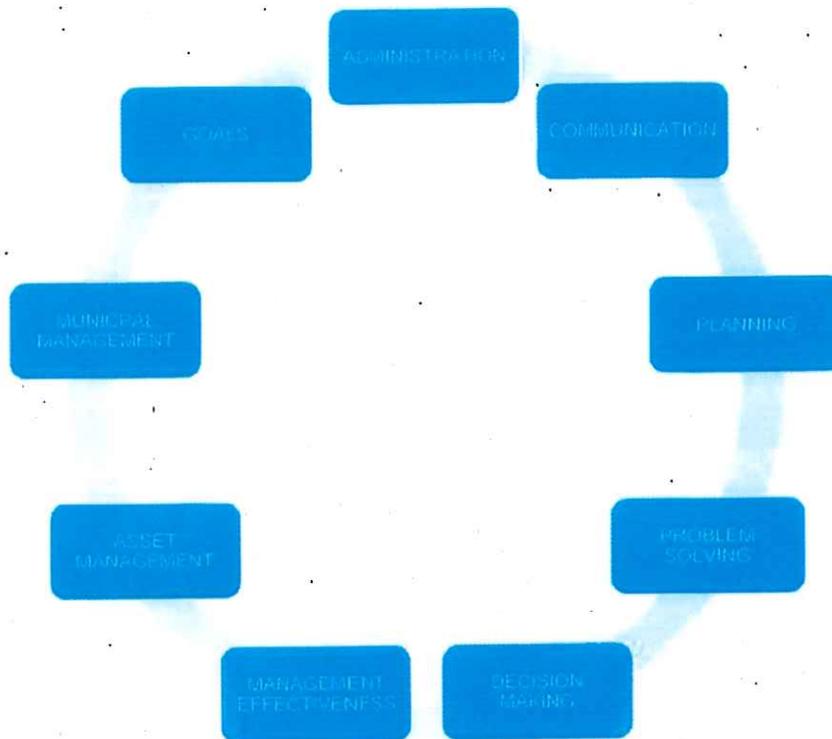
THE PROCESS

The performance review process commences in May to prepare for the annual review discussion which will take place between the Town Manager and Select Board at a time to be determined.



PERFORMANCE FACTORS

The following are commonly used performance factors that contribute to the success of the Town Manager role and can be used when evaluating performance.



Source: Society for Human Resource Management; Municipal Research and Svc Center; Microsoft Education; municipallties, et.al.

PURPOSE OF THE ANNUAL PERFORMANCE REVIEW

- ⇒ Provide a dialog between the Town Manager and Select Board that includes performance feedback measured against clear and specific goals and expectations.
- ⇒ Feedback should acknowledge observable and measurable outcomes and results as well as how the results were achieved.
- ⇒ Serve as a forum for recognizing overall performance and identify areas where the Town Manager should focus his/her performance and goals.
- ⇒ Identify a plan to promote the Town Manager's professional development.

RATING SCALE

LEVEL	RATING	DESCRIPTION
5	EXCEPTIONAL	Performance far exceeds expectations due to exceptionally high quality of work performed in all <i>essential</i> areas of responsibility, resulting in an overall quality of work that was superior. This rating is achievable and given infrequently.
4	EXCEEDS EXPECTATIONS/GOALS	Performance consistently exceeded expectations in all <i>essential</i> areas of responsibility, and the quality of work overall was excellent. Annual goals were met.
3	MEETS EXPECTATIONS/ GOALS	Performance consistently met expectations in all <i>essential</i> areas of responsibility, at times possibly exceeding expectations, and the quality of work overall was very good. The most critical annual goals were met.
2	CAN IMPROVE	Performance did not consistently meet expectations – performance failed to meet expectations in one or more <i>essential</i> areas of responsibility, and/or one or more of the most critical goals were not met.
1	EXPECTATIONS/GOALS NOT MET	Performance was consistently below expectations in most <i>essential</i> areas of responsibility, and/or reasonable progress toward critical goals was not made. Significant improvement is needed in one or more important areas. A plan to correct performance, including timelines, must be outlined and monitored to measure progress.
0	NOT EXPERIENCED OR OBSERVED	Not applicable to incumbent's role

IMPORTANCE SCALE (WEIGHT)

HIGH (H)	MEDIUM (M)	LOW (L)
<ul style="list-style-type: none"> • Important, critical, and urgent • High impact to the Town or role if not performed well • High risk 	<ul style="list-style-type: none"> • Important but not necessarily critical or urgent • Moderate impact if not performed well 	<ul style="list-style-type: none"> • Neither important nor urgent • Low impact if not completed or performed well
75	50	25

	Goals	Supportive Details/Comments	IMPT	Rating
1	Increase the Year Round Population			
2	Promote Policies that Encourage Income and Age Diverse Year Round Housing.			
3	Promote Policies that Encourage the Development of Year Round Business and Jobs While Maintaining Community Character			
4	Pursue Public-Private Partnerships where ever Possible			
5	Promote Policies that Promote Housing and Economic Opportunities, while Maintaining Community Charter			
6	Support Effort to Bring Forward a Local Comprehensive Plan			
7	Promote Efforts to Improve our Streetscapes and Intersections for Safety and Convenience of Pedestrians, Bicycles, and vehicles.			
8	Support Efforts to Achieve Educational Excellence and Increase Student Population			

	Goals	Supportive Details/Comments	IMPT	Rating
9	Support Strong Financial Policies and Internal Controls to Improve Financial Transparency and Maintain Provincetown on a Secure, Stable Financial Basis.			
10	Promote Policies that Properly Allocate Revenues to Expenses and Support Increasing Year Round Population.			
11	Support Efforts to Improve Residential Quality of Life and Tourist Experience.			
12	Promote Policies and Programs that Protect and Sustain the Natural Environment, and Our Community's Way of Life.			
13	Pursue Public – Public Partnerships with State and Federal Government to Advance Town Wide Goals.			
14	Implement Policies and Programs that Support Year Round Activity.			
15	Develop Programs that Foster Community Education on Issues of Public Concern.			

Fiscal Year 2018

Town Wide Goals

GOAL 1: TOWN -WIDE: INCREASE THE YEAR ROUND POPULATION

Task 1A	When carrying out programs and tasks determine whether they advance or impede achieving this goal.
	<ol style="list-style-type: none">1. Winter Wednesdays is one example of programming aimed at making Provincetown a desirable place to live year-round, by making the winter more engaging. The Schools, Health, Library, & Grant Administrator join together to offer free activities to the community in February & March.2. In reviewing the need for an expansion of the municipal sewer system, the Board of Health strongly advocates for it because it believes that is the only way the Town can support additional community housing and business expansion, both critical factors in increasing the year round population.3. The Community Resource Navigator, a program of the Health Department, is designed to help people stay in their homes and remain residents of Provincetown to the extent possible given their needs and the current housing climate. Additionally, the biannual Navigator reports will be a useful advocacy resource for policymakers.4. The Economic Development Permit process is another example of the program that focuses on increasing year round economic opportunities and workforce housing in Town.5. Town-wide participation in Regional Age-Friendly baseline assessment and development of action plan through Healthy Aging Cape Cod is another program that will advance this goal.6. Year round population increased by one with library director hire.

Task 1B	Share Goals and encourage all boards and commissions to consider how individual polices and goals assist or impede the growth of our year round population.
	<ol style="list-style-type: none">1. Down Payment & Closing Cost: As part of the Community Housing Council's Pathway to Ownership and with CPA funding assistance, in 2017, a new program was offered for Down Payment & Closing Cost Assistance. This offers \$10,000 in assistance for income eligible residents. 3 Provincetown residents completed the process to date. 3 applications pending. 2018 Town Meeting approved additional \$50,000 for the program.2. The BOH has made increasing community connectedness and wellbeing one of its three public health issue areas. They see this as critical to creating a community that people want to live in.3. Human Services/COA shares the Town goals with COA Board and Human Services Committee so they can actively assess impact of decisions

Task 1C	Work with UMass Dartmouth to develop population restoration performance measures.
	1. In response to further discussions with the Select Board, this year's project with UMass Dartmouth shifted to the Housing Demand Analysis, which is currently underway.

GOAL 2: HOUSING: PROMOTE POLICIES AND PROGRAMS THAT ENCOURAGE INCOME AND AGE DIVERSE YEAR ROUND HOUSING.

TASK 2A	Encourage staff, businesses, and the community at large to consider the impact on housing when making development decisions.
	<ol style="list-style-type: none"> 1. Winslow Farms: through the Growth Management permitting process the CHC approved 2 growth management permits on 10/28/16 for 2 one-bedroom condos to be constructed as community housing. Construction was completed in December 2017. The Housing Specialist conducted the marketing, outreach, application & lottery process targeting households with income up to 150% Area Median Income. 6 applications were received by the due date and a lottery was conducted on 12/12/17. Occupancy occurred in February/March 2018. 2. Resales: Two resale opportunities of deed restricted ownership units were presented in 2017 with 1 completed and 1 withdrew. 3. UMass Dartmouth has begun a Housing Demand Analysis to be completed summer 2018. 4. Share Town housing goals with staff and community as needed 5. Community Development staff conducts pre-application meetings with project proponents and provides information on the ability to provide workforce housing through applicable mechanisms such as Economic Development Permits and the Accessory Dwelling Unit bylaw.

Task 2B	Support efforts of YRRHT to successfully close and bring Harbor Hill on line.
	1. Harbor Hill: ongoing effort, procedurally approval of the transaction is in Land Court; once completed, it will return to Bankruptcy Court before closing. Architect/Engineering firm was hired and has assessment & design work for the renovations underway. The goal is to begin construction immediately upon ownership with gradual rent-up of units ASAP. Housing Specialist has been compiling a Notification List, which currently contains the names of 57 households.

Task 2C	Adopt and implement a development strategy for the VFW site.
	1. At town forum was conducted on 2/3/18, one of the four topics was Housing Development on the VFW site. The two break-out sessions for this topic were the most attended and led to passionate conversations about community vision and options for the sites. On 3/29/18, the Town submitted to the State an application for a Housing Production Planning grant seeking pre-development assistance

- for this site. The April 2018 annual town meeting approved \$75,000 for a development consultant to assist.
2. The current Police Station site on Bradford Street has been added to the housing development efforts noted above for the VFW.

Task 2D	Identify and analyze the potential of other town owned properties for housing (e.g. Fire House #2)
	1. The existing facility study of 2015 still needs review and may require an update. In 2016, memos were prepared by the Building Official regarding potential for housing development for Fire House #2 and Jerome Smith for tiny homes. A plan for removal and storage of the material in Firehouse #2 is needed. With the new staff planner on board, a grant application in for a housing production plan and the UMass Housing Demand Analysis underway, staff plans to focus as time is available to focus on other opportunities beyond Harbor Hill in the coming year. Potential focus of Project Administrator.

Task 2E	Review YRRH legislation for possible improvements, board composition, expansion of authority for for-sale products (rent to town project)
	1. No action taken.

Task 2F	Continue joint P/T effort to create workforce housing at the North Truro Air Force.
	1. This initiative was discussed at the joint meeting of the Truro and Provincetown Boards and agreed that the issue would be raised with the new Superintendent. State officials and Congressman's office have both been contacted and both expressed a willingness to assist.

Task 2G	Develop and Issue Housing Playbook 3rd edition
	1. In progress. Slated for Fall 2019. Current plan is for an update and pursuant to ULI TAP recommendation an online version.

Task 2H	Develop guidelines and investigate opportunities for seasonal worker housing and incorporate into the Housing Playbook.
	1. Community Development staff continuously encourages work force housing when meeting with developers. 2. See above Task 2G

Task 2I	Support expansion efforts of the Housing Authority's expansion efforts.
1. Housing Authority's potential expansion effort has been on hold until a new executive director was appointed. Over the last several months, Town staff have supported the Housing Authority with navigating the State bureaucracy as they transition between executive directors. The new executive director was recently appointed on April 9, 2018.	

GOAL 3: ECONOMIC DEVELOPMENT 1: PROMOTE POLICIES THAT ENCOURAGE THE DEVELOPMENT OF YEAR ROUND BUSINESS AND JOBS WHILE MAINTAINING COMMUNITY CHARACTER

Task 3A	Hold two round tables and continue the review of growth management and related by-laws, its historical impact, operation in light of current goals and recommend appropriate changes if any.
1. Held multiple joint meetings of the Select Board with the Water and Sewer Board in January and February. Implemented recommended changes.	

Task 3B	Develop and adopt an Economic Development Plan that analyzes market data, establishes market sectors, identifies opportunities and develops policy goals prioritizing year round population growth.
1. Completed Tourism Economy Report CY' 17 to support.	
2. A Baseline Assessment of Economic Conditions was completed by UMass Dartmouth in 2017.	

Task 3C	Implement the new branding strategy and marketing plan.
1. In August of 2017 rebranding was presented by the Red Thread Productions, the contracted Communications Agency. The strategy was implemented in September 2017. In October 2017, the BoS voted to not use the new logo and return to using the previous Tourism logo. The new branding is on hold while additional quantitative and qualitative information is being gathered to assist in the process.	
2. A Visitor Survey was conducted in February 2018, and results were delivered March. A RFP for a new Tourism website was posted with a due date of April 23, 2018.	
3. Media space buying began April 2018	

Task 3D	Support 400th anniversary efforts
1. Launched the Provincetown 400 Facebook page and contributed to posting and increasing followers to create awareness.	
2. The Provincetown 400 went through organizational changes during FY'18 and is now a Task Force within PMPM.	
3. PMPM is formally communicating with Boards and organizations, including Town departments to support their initiatives.	
4. A Tourism Marketing Grant of \$75,000 from the Tourism Fund was provided to Provincetown 400, accumulating over five fiscal	

years 2015-2019.

5. Bas Relief: The restoration effort of the Bas Relief and surrounding park is underway; the schematic design is in progress with construction to begin the fall of 2018.
6. Reconstruction of the sidewalk and guardrail system at Pilgrim Park Rotary by the MassDOT in anticipation of acquisition by the Town; to be completed by Memorial Day, acquisition to be forth coming.

Task 3E	Support Provincetown Marina efforts to obtain federal and state approval necessary to implement the harbor walk.
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1. The Community Development has participated in preliminary meetings discussing the viability of Provincetown Marina's plans.
2. Staff has met several times with the owner's development team to review alternative concepts for the harborwalk as they seek approval from the Army Corps. The Harbor Plan Amendment provides an update on this project and recommends alternatives to address Army Corp concerns for eelgrass.

Task 3F	Establish a Broadband Working Group to assist with the Broadband initiative effort.
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1. Have engaged MASS IT to assist with identifying other communities that have formed a Broadband Committee and undergone a similar effort.

Task 3G	Continue to support local aqua-culture efforts including improvement to shell fish nursery program.
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1. Economic Development Committee & BOS awarded 4 out of 9 economic development grants to shellfish endeavors for a various equipment and seed.
2. Funding to expand the shellfish nursery at Bennett Pier was approved at special town meeting. Expanded west end grant permitting in process.

Task 3H	Retain staff and/or consulting thru Community Development Partners to support this goal and these tasks.
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1. CDP and town staff met on 9/5/17 to discuss economic development and opportunities for collaboration.

GOAL 4: ECONOMIC DEVELOPEMT 2: PURSUE PUBLIC PRIVATE PARTNERSHIPS WHEREVER POSSIBLE.

Task 4A	Pursue public private partnership wherever possible.
	<ol style="list-style-type: none"> 1. The Town and PMPM have been working collaboratively on their adjacent projects for the Bas Relief and PMPM's funicular. Share Town goals with COA Board, staff and Friends of the Provincetown COA (fundraising organization) to encourage partnerships 2. Library receives funding from private donors and will continue annual appeal that contributes to this revenue. 3. Town received an Opportunity Zone designation from the Governor, now pending US Treasury approval. This program provides for substantial reductions in the capital gains tax on private sector investment in public projects.

GOAL 5: LAND USE 1: PROMOTE POLICIES THAT PROMOTE HOUSING AND ECONOMIC OPPORTUNITIES, WHILE MAINTAINING COMMUNITY CHARTER.

Task 5A	Investigate zoning changes to allow food trucks in certain locations and/or at certain times
	<ol style="list-style-type: none"> 1. The Planning Department conducted a survey on food trucks, and the survey was presented to the Planning Board. Discussions on potential changes to the zoning bylaws are ongoing.

Task 5B	Investigate zoning changes to appropriately regulate locations for recreational and medical marijuana facilities
	<ol style="list-style-type: none"> 1. Zoning changes to accommodate adult-use marijuana establishments were passed at the April 2018 Town Meeting. Community Development staff is evaluating other regulatory changes necessary to ensure a smooth implementation of marijuana establishments.

Task 5C	Continue reviewing existing land use regulations to ensure they align with current practice, alleviate conflicts, improve clarity and overall align with these goals and adopted plans.
	<ol style="list-style-type: none"> 1. A number of zoning changes were passed at the April 2018 Town Meeting to clarify language and remove conflicts from the zoning bylaws. These changes include provisions to consistently define restaurant seats in the zoning bylaws and applicable health regulations, provisions to ease compliance with FEMA regulations during administration of the Town's Scale Bylaw, and a reorganization/redefinition of commercial accommodation uses to better align with actual uses existing in the Town.

GOAL 6: LAND USE 2: SUPPORT EFFORT TO BRING FORWARD A LOCAL COMPREHENSIVE PLAN

Task 6A	Adopt Local Comprehensive Plan at April 2019 Town Meeting
1. Community Development staff is developing a project schedule to complete the LCP for the April 2019 Town Meeting. Public engagement and planning activities will resume later this year.	

Task 6B	Have a robust community outreach process for the development of the LCP.
1. A robust public process to advance the LCP is being developed by Community Development staff. The process will include community events and a media campaign.	

GOAL 7: LAND USE 3: PROMOTE EFFORTS TO IMPROVE OUR STREETSAPES AND INTERSECTIONS FOR SAFETY AND CONVENIENCE OF PEDESTRIANS, BICYCLES AND VEHICLES.

Task 7A	Determine preferred option through Town for the Cape Rail Trail and adopt the Outer Cape Bicycle & Pedestrians Master Plan
<ol style="list-style-type: none"> 1. The Outer Cape Bike and Pedestrian Committee is taking the lead working with Barnstable County to determine a path forward to extend the Cape Rail Trail. The project is ongoing. 2. The Outer Cape Bicycle and Pedestrian Master Plan was adopted by the BOS at the October 24th, 2017 Traffic Hearing. 3. Bike Climbing lanes on Bradford Street – Spring 2018 4. Crosswalk added to Conwell Street – Spring 2018 5. Repainted crosswalks on Bradford Street to create High visibility – Spring 2018 	

Task 7B	Adopt a Complete Street Policy
1. DPW has reviewed the proposed policy and provided comments to Community Development, Planning staff currently reviewing and the project is moving forward, no timeframe set.	

GOAL 8: EDUCATION: SUPPORT EFFORTS TO ACHIEVE EDUCATIONAL EXCELLENCE AND INCREASE STUDENT POPULATION

Task 8A	Support Efforts of the School Committee & Superintendent to establish a Charter High School.
1. Support efforts as requested by School Committee & Superintendent	

Task 8B	Investigate how to make early childhood education and WeeCare more affordable and accessible.
	1. Full subsidy for Town Resident Families and Town Employee Families passed at the April 2018 ATM and Ballots, first year of implementation will be Sept 2018.

GOAL 9: SUPPORT STRONG FINANCIAL POLICIES AND INTERNAL CONTROLS TO IMPROVE FINANCIAL TRANSPARENCY AND MAINTAIN PROVINCETOWN ON A SECURE STABLE FINANCIAL BASIS.

Task 9A	Assess the financial health of the water and wastewater systems, and take corrective action as needed.
	1. Over the past year, town staff and consultants undertook a comprehensive review. During the fall, town staff presented and the Water & Sewer Board recommend and the Select Board approved a rate adjustment schedule for the next 10 years to stabilize both Enterprise funds for the foreseeable future.

Task 9B	Advocate for the passage and prepare for the anticipated implementation of expanded rooms tax to cover all rental properties in Spring 2018, including but not limited to staffing, collection, allocation and communication.
	1. Legislation pending at the Statehouse, next step reconciliation between the Senate and House enacted bills. Town advocated strongly for passage.

GOAL 10: PROMOTE POLICIES THAT PROPERLY ALLOCATE REVENUES TO EXPENSES AND SUPPORT INCREASING THE YEAR ROUND POPULATION.

Task 10A	Improve bond rating by one rating grade.
	1. Standard and Poors (S&P) conducted an unsolicited review of the Town's bond rating. In their report dated April 10, 2018, S&P Global Ratings raised its long-term rating and underlying rating (SPUR) on the Town's general obligation (GO) debt one notch to AA+ from AA.

Task 10B	By October, staff to present a 10 year Financial Forecast, including operating budget and capital improvements.
	1. A ten year financial forecast including the operating budget and CIP was presented by staff on October 11, 2017

Task 10C	In conjunction with Finance Committee undertake a review of health insurance program costs and options.
	<ol style="list-style-type: none"> 1. The Town Hired Cook & Company in January 2018 to review the Town's health insurance needs and investigate options. Insurance quotes will be obtained from MIIA and the GIC. 2. Scheduled for completion September 2018

Task 10D	Migrate to the MUNIS mainframe for all operations, including payroll, purchase orders, examine other in-housing opportunities.
	<ol style="list-style-type: none"> 1. Implementation of Tyler Forms, Dashboard and General Billing is complete. Tyler Content Manager, Utility Billing, Payroll and PO's are in process. With the exception of Payroll which takes 18 months to complete, we expect to complete implementation by the end of the fiscal year. Additionally four finance department team members will be attending the MUNIS conference in Boston in April 2018.

Task 10E	Undertake a comprehensive review of five budgets, (1) Airport, (2) Parking, (3) Library, (4) Water, (5) Wastewater and (6) PPPC.
	<ol style="list-style-type: none"> 1. A comprehensive review of the five budgets listed was completed and presented with the ten year financial forecast in October, and included as an outside section in the Operating Budget. . 2. Pier Corp is migrating to an online version of QuickBooks with access provided to Assistant Town Manager for Finance and Administration and Town Treasurer and is now using the same auditing firm as the Town.

INFRASTRUCTURE: SUPPORT EFFORTS TO IMPORVE RESIDENTIAL QUALITY OF LIFE AND TOURIST EXPERIENCE

Task 11A	Implement the Shade Tree by-law.
	<ol style="list-style-type: none"> 1. Completed, The Tree Warden has created a tree advisory group which has been working on Provincetown's first tree manual and is slated to be released this spring. The manual outlines how the tree bylaw may require coordination with the Community Development Department, list recommended trees, outline memorial tree procedure, and outlines prohibited activities.

Task 11B	Support implementation of the Outer Cape Bicycle & Pedestrian Master Plan
	<ol style="list-style-type: none"> 1. Ongoing. 2. Bike Climbing lanes on Bradford Street – Spring 2018 3. Crosswalk added to Conwell Street – Spring 2018 4. Repainted crosswalks on Bradford Street to create High visibility– Spring 2018

Task 11C	Implement recommended changes as identified in the Provincetown Parking Pedestrian and Circulation Study of 2015.
	1. Ongoing. Working on getting Shank Painter Road on the State's FY23 Transportation Improvement Program.
Task 11D	Support efforts to implement Harbor Walk along Provincetown Marina Pier
	1. Staff is continuing to support the owner's redevelopment team to review alternative concepts for the harborwalk that could be permitable with Army Corps. The Harbor Plan Amendment provides an update on this project and recommends alternatives to address Army Corp concerns for eelgrass
Task 11E	Investigate opportunities for installing public restrooms in the East End.
	1. Ongoing, Community Development office will need to review and enforce previous EDP and monitor Chapter 91 special condition compliance permits that requires private establishments to provide public restrooms. 2. Other alternatives that have been identified are placing porta-potties at Suzanne's Garden and/or Fire House #5.
Task 11F	Maintain Unaccounted for water (UAC) by one half, and work towards an eventual goal of achieving 10% or less UAC
	1. On-going, the Town reported on its 2017 Annual Statistical Report (ASR) an Unaccounted for Water rate of 9.9%. This is a 7% drop from the previous year.
Task 11G	Undertake staff research and hold BoS Roundtable on the potential expansion of the wastewater system.
	1. Completed, Round table discussion were held at recent Town Forums and a contract with AECOM to further investigate expansion of the wastewater treatment facility has been executed. A report from AECOM is expected in late July as well as the results of our recent online sewer survey.
Task 11H	Work with all Town bodies to support efforts to prepare public spaces, including the Bas Relief and First Pilgrim Park, for the 400th anniversary of the Pilgrim Landing
	1. Bas Relief: The restoration effort of the Bas Relief and surrounding park is underway; the schematic design is in progress with construction to begin the fall of 2018. 2. Collaborate with DPW, other Town Departments on VMCC building improvement plans as relevant 3. Town senior staff are participating in Provincetown 400 Taskforce. 4. Captain Johns Boats will test run multiple daily trips during the 2018 season. This is to determine what schedule could allow for multiple stops and connecting service to the Boston boats.

5. Reconstruction of the seawall, sidewalk and guardrail the Pilgrim Park Rotary by the MassDOT in anticipation of acquisition by the Town; to be completed by Memorial Day, acquisition to be forth coming.

Task 11I Continue to seek and implement solutions to the Ryder St outfall pipe

1. The Town will seek FEMA funding when the next Pre-Disaster Grant Mitigation program is announced. These funding opportunities only become available after a storm disaster which may occur from the March 2018 winter storm.

Task 11J Implement FY17 CIP, including Province Road road work, Police Station design and construction, and Shank Painter road work design efforts

1. Province Road– Construction is scheduled to begin May 2018.
2. Police Station – An OPM has been hired and we anticipate having a design contract execute May 2018.
3. Shank Painter Road – On-going design and public outreach process

ENVIRONMENT: PROMOTE POLICIES AND PROGRAMS THAT PROTECT AND SUSTAIN THE NATURAL ENVIRONMENT, AND OUR COMMUNITY’S WAY OF LIFE.

Task 12A Implement the Hazard Mitigation Plan. Seek grants to increase our resiliency to the impacts of climate change.

1. Town meeting voted and the article passed the ballot to fund \$200,000 for beach nourishment at the Ryder St./Gosnold beach to address the identified inundation pathway. This project includes additional public outreach for a comprehensive management plan for the beaches
2. Discussion regarding the viability of the Library being designated as a warming station if Library get a generator
3. April 2018’s ATM voted to accept the creation of Emergency Management Staff.
4. Submitted a grant proposal on May 11th to Coastal Zone Management’s (CZM) Municipal Vulnerability Preparedness Program (MVP) to help the Town fund resiliency planning efforts.

Task 12B Work with the Open Space Committee to identify potential properties for purchase and protection.

1. Ongoing.

Task 12C	Work with the Conservation Commission to promote awareness and appropriate recreational use of the Town owned and Conservation Trust- owned conservation areas.
1.	Working with our AmeriCorps service member, we have prepared pamphlets and trail maps for each of the Town- and Trust-owned properties. They are under review by the Provincetown Conservation Trust. We will soon post them to the Town website and are seeking funding to have them printed for distribution.

Task 12D	Seek grant funding to improve the Town's energy efficiency.
1.	This past year, the Town, through the Recycling and Renewable Energy Committee, and in conjunction with Truro, Wellfleet, and Eastham, received a Solarize Mass marketing grant to promote the installation of solar PV panels on residential and commercial properties. Provincetown residents and businesses have contracted for the installation of 51 kW of solar energy production. Over the past year, I have worked with Cape Light Compact to update our Green Communities reporting, which made us eligible to apply for a competitive grant towards the cost of the boiler replacement at the fire station. That grant decision is still pending.

Task 12E	Achieve 100% sustainable energy sourcing, and promote bylaws and policies, impacting climate change.
1.	The installation of solar panels at VMCC and Knowles Crossing is moving forward.

Task 12F	Support Harbor Committee effort to update the Harbor Plan.
1.	Draft Harbor Plan Amendment is scheduled for public hearing May 14. Submission to the state for approval will be the next step.
2.	This Plan addresses an inconsistency between the State Chapter 91 requirements and the Towns 1996 Harbor Overlay District.

GOVERNMENT & ADMINISTRATION 1: PURSUE PUBLIC-PUBLIC PARTNERSHIPS WITH STATE AND FEDERAL GOVERNMENT TO ADVANCE TOWN WIDE GOALS.

Task 13A	Meet with Truro Board of Selectmen in the fall and develop a list of joint initiatives.
1.	Provincetown, Truro and, Wellfleet Health and Conservation agents meet monthly to discuss ways the departments can regionalize and share resources. The first project is a program on pesticide use to be held May 2, 2018.
2.	Joint meeting with Truro held March 20, 2018 and a list of priorities were developed.
3.	May 21 st , Truro, Wellfleet, Eastham, Orleans, Chatham and the CCNS Superintended have been invited to a collaboration meeting.

Task 13B	Work with Cape and Western Massachusetts communities to develop and advocate for programs and laws that address the issues of the seasonal community
	<ol style="list-style-type: none"> Ongoing. Town staff coordinated a joint letter of Town Managers to the State advocating for passage of a short term rental tax including recommended provisions.

GOVERNMENT & ADMINISTRATION2: IMPLEMENT POLICIES AND PROGRAMS THAT SUPPORT YEAR ROUND ACTIVITY.

Task 14A	Work with UMass to establish Performance Metrics
	<ol style="list-style-type: none"> Mary Aicardi of the Collins Center worked with administration and staff to develop a performance metrics process. The process was implemented and is in process for FY18.

Task 14AI	UMass Collins Institute on department level performance metrics
	<ol style="list-style-type: none"> A staff meeting was held in July 2017 where Mary Aicardi of the Collins Center conducted a workshop on employee performance and goal development. The department level performance metrics was implemented and is currently in process for FY18.

Task 14AII	UMass Dartmouth on community level metrics & decision making
	<ol style="list-style-type: none"> See Task 1C. FY18 project shifted to Housing Analysis.

Task 14B	Successfully negotiate a Town Manager contract
	<ol style="list-style-type: none"> Completed.

Task 14C	Successfully renew outstanding agreements
	<ol style="list-style-type: none"> Lower Cape Ambulance – near complete; in KP Law hands.

Task 14CIII	Cable Contract
1. Have engaged Town Counsel to assist with the process, which was outlined in a memo from the MIS Director to the Town Manager dated March 5, 2018. At their meeting on March 12, 2018, BOS authorized the Town Manager to serve as agent for negotiations.	

Task 14CIV	Airport Contract
1. Airport Contract – Contract has been extended. CLA has been hired to review all costs of running the municipal airport and apportion under the proposed contract; currently allocating cost and review is in process.	

Task 14D	Review our parking and transportation systems for potential bus, ferry and parking improvements,
1. April 2018 ATM approved funds to upgrade system and additional personnel	
2. Spring 2018 – Kiosks and Booth's credit card processing systems were updated.	

Task 14E	Departmental organization and operations review, including but not limited to human resource functions, procurement and the Pier Corp.
1. HR functions will shift to Payroll/Benefits office once MUNIS payroll implementation is complete. Procurement policies will be reviewed and finalized in conjunction with implementation of the MUNIS PO module. Additionally staff is attending procurement training.	

Task 14F	Develop first draft of the Emergency Management Plan
1. In progress – Police and Health have drafted portions of a comprehensive Emergency Management Plan	
2. Additionally, the Local Emergency Planning Committee has completed many emergency incident related protocols to be incorporated in the comprehensive Emergency Management Plan.	
3. April 2018 ATM, approved the additional of personal to help coordinate Emergency Management for the Town	

GOAL 15: CIVIC ENGAGEMENT: DEVELOP PROGRAMS THAT FOSTER COMMUNITY EDUCATION ON ISSUES OF PUBLIC CONCERN

Task 15A	Share vision and solicit input at every turn.
	<ol style="list-style-type: none"> 1. The regional pesticide forum is a result of questions from the public on property owner's rights and responsibilities regarding the use of pesticides. 2. The Health Department has launched a successful Facebook page sharing information about matters of public and environmental health 3. The Health Department continues to offer programs that foster community education on issues of public concern, and to support our local businesses like Winter Wednesdays, Fats Oils and Grease (FOG), Hidden Hazards in the Arts, Hoarding: On to Recovery 4. Ongoing, active involvement in Regional and Town Age-Friendly planning. 5. Continue to offer wide variety of community education programs at the Senior Center providing information regarding pertinent issues, including wellness and maintaining/improving quality of life. 6. Town hall staff continued the outreach efforts for Town Meeting and public issues, including a Town Issues Forum, Town Meeting forum, and issuing the Town Meeting Times. 7. The Local Comprehensive Plan update process is being designed to provide robust public engagement and education activities throughout all stages of the project.

Task 15B	Foster collaboration between board with overlapping jurisdictions so that they can communicate and share vision.
	<ol style="list-style-type: none"> 1. Board of Health and Water and Sewer Board continue to meet semi-regularly to discuss matters of overlapping jurisdictions. 2. Continue to partner with Truro COA to promote interest and attendance at Senior Centers by co-hosting programs 3. Police, Recreation and the School worked together to host a Bike Rodeo to teach children about bike safety.

Task 15C – 15III	Continue to implement FY16-17 public outreach and improve; Fall Town Forum; Town Meeting Times; Town Meeting Prep Forum and Town Talk.
	<ol style="list-style-type: none"> 1. The Town forum was held in February 2018. Four topics were presented (Marijuana, tiny homes, charter changes and sewer expansion) and a presentation was given by the School Superintendent. 2. Two Town Meeting prep forums were held for the 2018 STM & ATM. One at Town Hall and one at Seashore Point.

	Goals	Town Manager David Panagore Self-Evaluation	IMPT	Rating
1	Increase the Year Round Population			3
2	Promote Policies that Encourage Income and Age Diverse Year Round Housing			4
3	Promote Policies that Encourage the Development of Year Round Business and Jobs While Maintaining Community Character			3
4	Pursue Public-Private Partnerships where ever Possible			3
5	Promote Policies that Promote Housing and Economic Opportunities, while Maintaining Community Charter			4
6	Support Effort to Bring Forward a Local Comprehensive Plan			3
7	Promote Efforts to Improve our Streetscapes and Intersections for Safety and Convenience of Pedestrians, Bicycles, and vehicles.			3
8	Support Efforts to Achieve Educational Excellence and Increase Student Population			3

	Goals	Supportive Details/Comments	IMPT	Rating
9	Support Strong Financial Policies and Internal Controls to Improve Financial Transparency and Maintain Provincetown on a Secure, Stable Financial Basis.			3
10	Promote Policies that Properly Allocate Revenues to Expenses and Support Increasing Year Round Population.			4
11	Support Efforts to Improve Residential Quality of Life and Tourist Experience.			3
12	Promote Policies and Programs that Protect and Sustain the Natural Environment, and Our Community's Way of Life.			3
13	Pursue Public – Public Partnerships with State and Federal Government to Advance Town Wide Goals.			3
14	Implement Policies and Programs that Support Year Round Activity.			3
15	Develop Programs that Foster Community Education on Issues of Public Concern.			3



**Provincetown Select Board
AGENDA ACTION REQUEST
Monday, August 13, 2018**

7A

99-101 COMMERCIAL STREET

Requested by: Chair Louise Venden

Action Sought: Discussion

Proposed Motions

Attached here with please find a memo from KP Law regarding the circumstances surrounding the removal of the deck at 99 Commercial Street.

Additional Information

See attached: Memo from KP Law; Exhibits

Board Action

<i>Motion</i>	<i>Second</i>	<i>In favor</i>	<i>Opposed</i>	<i>Disposition</i>

TO: David Panagore (*By Electronic Mail Only*)
FROM: John Giorgio, Shirin Everett, and Amy Kwesell, KP-Law, Town Counsel
RE: 99 and 100 Commercial Street, Provincetown, Massachusetts
DATE: August 22, 2018

This memorandum reviews and outlines the facts provided regarding 99 and 101 Commercial Street and attempts to piece the history based on available records relative to the circumstances surrounding the removal of the deck at 99 Commercial Street and also includes title research involving the two parcels.

Background Facts

The anecdotal history is as follows. There has been a restaurant on the first floor of the main building at 99 Commercial Street for many years. Apparently, it operated without incident for decades, but had special permit relief for the restaurant use. For decades, the land between 99 and 101 Commercial was owned, controlled, and used by the owner of 99 Commercial Street for two tandem parking spaces. When the restaurant was open, the owner apparently kept the parking spaces clear and the area was used for restaurant patrons who could wait outside in line and enter the restaurant from a side door, as the front door, which opens onto Commercial Street, opens directly into the street with little or no setback.

The original owner of the restaurant died and his widow divided the property at some point after 2010.

- An easement to the front tandem parking space was sold to the owner of 101 Commercial Street, creating a zoning issue as the parking space is not accessory to the lot that it is on.
- The main building, including the restaurant on the first floor and the rental units above, was sold to a trust that is controlled by Ms. Carew. Each of these units, though, is a separate condominium unit. The restaurant and the parking spaces are Unit 7.
- The pier behind 99 Commercial Street had three shacks on it; they were sold as individual condominium units (two of three condominiums were sold to the same couple). The rear pier is accessed over the rear deck that is part of 99 Commercial Street, Unit 7.
- 101 Commercial Street was sold to Mr. Deckelbaum.

During 2015, Ms. Carew, on behalf of the Trust, the new owner/operator of the restaurant, applied to the ZBA for relief relating to an existing special permit for the restaurant and the ZBA granted the relief. An abutter (Mr. Deckelbaum), who owns Unit 101, objected to the relief and appealed (the parties filed cross motions for summary judgment with the Land Court in June, 2018 and a decision is pending).

The most recent application was filed by Ms. Carew in July of 2017 whereby Ms. Carew applied for a building permit to reconstruct the deck, at which time she asserted that someone unlawfully took down the deck. Although the Building Commissioners initially issued a building permit on November 14, 2017, she determined that the permit had lapsed. The property owner was informed on July 3, 2018 that her request to reestablish the permit was denied as the deck was not reconstructed within two years of its removal and therefore zoning relief would be required to re-establish the non-conformity. On Saturday, July 14, the property owner started construction on the deck, which resulted in a Stop Work Order being issued on July 16, 2018. Subsequently, the Town entered into an agreement with Ms. Carew, which allowed Ms. Carew to proceed with the reconstruction of the deck, at her risk, while she seeks zoning relief.

Removal of the Deck

There are questions concerning whether or not Mr. Deckelbaum (the owner of 101 Commercial Street) removed the deck that attached to 99 Commercial in 2015 to facilitate renovation work at 101 Commercial Street.

A review of our files indicate that on December 5, 2014, the Zoning Board of Appeals granted zoning relief for the construction of a new egress stairway at 101 Commercial Street to the Applicant, Don Di Rocco of Hammer Architects, 19 Bishop Allen Drive, Cambridge, Massachusetts. Further, the Applicant was represented by Attorney Lester J. Murphy. (“Decision FY15-28” attached hereto as Exhibit 1). In Decision FY15-28, Description of Property and Proposal, Paragraph 1 states in part:

“1. Currently the structure at 101 Commercial Street contains two dwelling units and an office. A covered deck on the harbor side of the lot has been used by Sal’s Place, a restaurant located in an adjacent lot. Atty. Murphy characterized the structure as being in need of rehabilitation.” (Emphasis added)

Additionally, Paragraph 3 states:

“3. Applicant is proposing to convert this structure into a single family, three bedroom dwelling. The restaurant use of the deck will cease.” (Emphasis added)

Plans accompanying the Decision (Plan A-4, Connors Residence, 101 Commercial Street, Provincetown, MA titled: West and North Elevations Existing, dated November 12, 2014 by Hammer Architects and Plan A-5, Connors Residence, 101 Commercial Street, Provincetown, MA titled: East and South Elevations Existing, dated November 12, 2014 by Hammer

Architects) show a covered deck labeled as “Deck enclosure to be removed” and “Existing wood bulkhead to be removed.”¹

According to a letter from Attorney Alan Lipkind representing Mr. Deckelbaum, dated August 2, 2018 (attached hereto as Exhibit 3), a deck once spanned across 99 and 101 Commercial Street.

Additionally, the August 2, 2018 letter asserts that the deck that once spanned 99 and 101 Commercial Street was cut along the property line and only the decking covering 101 Commercial Street was removed by Mr. Deckelbaum. Undated photos were provided to support this assertion.

By letter dated November 9, 2015 from Lawrence Demers of Cape Cod Docks, Inc. (attached hereto as Exhibit 4), he states that he arrived at 101 Commercial Street on November 4, 2015 and noticed that the deck “between 99 Commercial Street and 101 Commercial Street had been cut on the property line, by others.” Therefore, the removal of the deck referenced in Decision FY 15-28 may refer to only that portion of the decking covering 101 Commercial Street. This letter further indicates that Cape Cod Dock, Inc. removed the deck from the 99 Commercial Street property for safety reasons. The November 9, 2015 letter also confirms that Cape Cod Docks was also concurrently working under a separate, active contract with 99 Commercial Street to replace the wharf. Additionally, in a letter to Ms. Carew, dated January 5, 2016 (attached hereto as Exhibit 5), Cape Cod Docks, Inc. offers to replace the deck.

To further support the assertion that the deck was removed by Cape Cod Docks, we have uncovered an email from Lora Papetsas, the former owner of 99 Commercial Street to Anne Howard dated November 8, 2015 (attached hereto as Exhibit 6) whereby Ms. Papetsas indicates that on November 5, 2015 she discovered that her “entire deck and bulkhead on the beach was

¹ Furthermore, in September 2014 and in January 2015, two Orders of Conditions (“OOC”) (DEP File No. SE 058-0530 and DEP File No. SE 058-0533) were issued for 101 Commercial Street. In both Notices of Intent (“NOI”), the applicant stated that disturbed areas will be returned to pre-existing conditions. There was no statement in either NOI regarding the removal of the deck at 99 Commercial Street. DEP File No. SE 058-0530, issued on September 30, 2014 was for the replacement of an existing bulkhead and deck at 101 Commercial Street. The NOI narrative states that a small excavator will be driven on the beach to drive in new sheeting. We were informed that the minutes of the public hearing state: “Beach access will be from an abutting property.” However, the NOI plan does not indicate where that beach access would be. DEP File No. SE 058-0533, issued on January 6, 2015, was for the replacement of an existing dwelling and deck at 101 Commercial Street. The minutes from the January 6, 2015 Conservation Commission meeting (attached hereto as Exhibit 2) states that access to the property will be from Commercial Street on the northeast side of the 101 Commercial Street property. However, 99 Commercial Street abuts 101 Commercial Street to the southwest (the reference to northeast may be a mistake). In any event, the Conservation Commission filings, permits and minutes do not give a clear indication if the removal of the deck on the 99 Commercial Street property was part of the two OOCs for 101 Commercial Street and if so, if the applicant/owner of 101 Commercial Street had permission from the then owner of the 99 Commercial Street property.

destroyed and taken down.”² Ms. Papetsas states that she received information that “Larry from Cape Cod Docks” was responsible for the removal of the deck and bulkhead.³ Ms. Papetsas represented that she spoke with Larry and he stated that he would replace the deck and bulkhead. Additionally, on November 6, 2015, Attorney Donna Robertson, presumably representing Ms. Papetsas, sent an email to Attorney Lester Murphy, presumably representing the owner of 101 Commercial Street (attached hereto as Exhibit 7), indicating that the deck and bulkhead had been removed without Ms. Papetsas’ knowledge or consent. There were no calls to the Provincetown Police regarding the alleged unpermitted removal of the deck at 99 Commercial Street. In fact, police calls to 99 Commercial Street from 2015 to the present (attached hereto as Exhibit 8) indicate that in 2015, only one police call was made in January.

Therefore, from our research, it appears that Cape Cod Docks, Inc. removed the deck covering 99 Commercial Street on or about November 4, 2015. The August 2, 2018 letter states that the removal of the decking covering 99 Commercial Street by Cape Cod Docks was during a contract with Lora Papetsas for the replacement of the pier at 99 Commercial Street and the installation of utilities to the three shacks/cabins on the pier. The letter further implies that Ms. Papetsas knew that the removal of the deck was necessary to complete the work. While Ms. Papetsas’ knowledge regarding the removal of the deck is not verified, the August 2, 2018 letter attaches a portion of a deposition of Siobhan Carew, the current owner of 99 Commercial Street where she states that it is her opinion that Cape Cod Docks removed the decking to install the utilities to the shacks/cabins on the pier. While Ms. Carew stated her opinion, it is not certain that Ms. Carew had knowledge or gave permission for the removal of the deck on November 4, 2015.

The Building Department file for 101 Commercial Street indicates that Permit #BLD-16-000336 was issued on September 30, 2015 for the demolition and rebuild of the rear deck and rear section of the house. The permit set plans accompanying the building permit application, dated August 27, 2015, contain Plan A-1, which notes, “cut existing deck along property line” and “existing adjacent deck to be separated and remain.” Therefore, the removal of the deck at 99 Commercial Street was not permitted under Permit #BLD-16-000336 (Please see a copy of the building permit and plan attached hereto as Exhibit 9).

Title Research

Although we have not conducted a full title search at the Registry of Deeds, our title review indicates that 99 Commercial Street (containing approximately 3,117 square feet, as noted on the Assessors property card) and 101 Commercial Street (containing approximately

² Note that at the time of the email, Ms. Papetsas did not own the property.

³ Please note that the current owner of the 99 Commercial Street property, Siobhan Carew, was cc’d on the November 8, 2015 email.

2,007 square feet, as indicated by the Assessors) were first held in common ownership in August, 1945. At that time, Nicholas Meletopoulos acquired title to the properties by two separate deeds, each with its own legal description. When Nicholas conveyed both parcels by deed recorded in August 1960, Nicholas combined the description of the two parcels into one large lot. Both properties were conveyed to John and Lora Papetsas by deed recorded with the Barnstable Registry in Book 6268, Page 187. In 2010, Lora Papetsas, the then-owner of the large lot, recorded a perimeter plan for 101 Commercial Street that effectively separated the lot into two parcels. Lora Papetsas submitted the property at 99 Commercial Street to the provisions of GL c.183A, the Condominium Act, in 2012, and sold the property at 101 Commercial Street in 2014. 99 Commercial Street and 101 Commercial Street remained in common ownership at least until 2012, when 99 Commercial Street became a condominium and Lora Papetsas started selling units in the condominium. Lora Papetsas conveyed units 4, 5, 6, and 7 on February 25, 2016 to Siobhan M. Carew, Trustee of the 99 Commercial Realty Trust. Additional title research is ongoing.

When the lots were separated in 2010 by the filing of an ANR Perimeter Plan for 101 Commercial Street and subsequently sold between 2012 and 2016, it is unlikely that either lot complied with the minimum zoning requirements at that time. We were unable to locate any records that indicate that zoning relief was sought and obtained in 2010 prior to the filing of the ANR Perimeter Plan. We have received decisions granting a variance and a special permit for 101 Commercial Street from December, 2014. (attached hereto as Exhibit 10). The special permit allowed Mr. Deckelbaum to raise the existing structure to comply with FEMA regulations and install a new two-story addition with dormers along non-conforming setbacks (front and side setbacks). The variance allowed a staircase, which further intruded into the front setback, increasing the existing nonconformity.

The two lots, 99 Commercial and 101 Commercial would have merged for zoning purposes during the common ownership between 1945 and 2012 when 99 Commercial Street was divided into condominiums and sold. As a merged lot, it appears that 99 Commercial Street and 101 Commercial Street together created a conforming lot with 5,090 s.f of lot area (5,000 s.f. is required) and 78.84 ft. of frontage (50 ft. is required). However, the structures existing when the properties merged existed and were nonconforming (as to setbacks). Due to the longstanding nature of the structures on both lots, it would be difficult to determine if they are legally nonconforming or if enforceable zoning violations were created when 99 Commercial Street was transferred to the Condominium Trust in 2012. Bruno v. Zoning Board of Appeals of Tisbury, 93 Mass. App. Ct. 48 (2018).

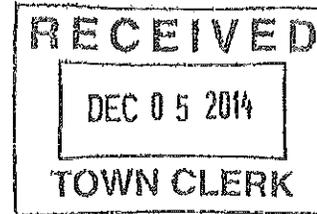
Conclusion

In conclusion, the contractor, Cape Cod Docks, Inc., was undertaking work at both 99 Commercial Street and 101 Commercial Street, under separate contracts, at the same time when

the deck was removed. By letter dated November 9, 2015, Cape Cod Docks, Inc. admits to removing the deck and by subsequent letter to Ms. Carew, dated January 5, 2016; Cape Cod Docks, Inc. offers to replace the deck. Further, the owner of 99 Commercial Street at the time the deck was removed was represented by counsel who had been communicating with counsel for the owner of 101 Commercial Street regarding the alleged unauthorized removal of the deck. Additionally, there is no criminal complaint regarding the removal of the deck. At this time, we believe that the issue of the deck removal is a private matter between Deckelbaum, Papetsas (former owner of 99 Commercial Street), and Carew (current owner). Since the private parties are represented by counsel and there is ongoing litigation between them, our recommendation is that the Town leave the issue of whether the deck was removed without proper permission to the private dispute.

642448v7/Prov/0395

EXHIBIT 1



FY15-28

case number

**Town of Provincetown
Zoning Board of Appeals
Town Hall
Provincetown, MA 02657**

101 Commercial Street
property address

4 DECEMBER 2014

FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

INTRODUCTION:

Attorney Lester J. Murphy and applicant Don Di Rocco of Hammer Architects, 19 Bishop Allen Drive, Cambridge, Mass., appeared before the Zoning Board of Appeals seeking a variance from Article 2, Section 2560 of the By-Laws, to construct a new egress stairway further intruding into a non-conforming front yard setback at the property located at 101 Commercial Street in the RES-3 Zoning District. Also appearing with Mr. Murphy was Mark Hammer of Hammer Architects.

The owner of the property is the Huey Trust, David A. Deckelbaum, Trustee, 3313 O Street NW, Washington, DC. The beneficiary of the Huey Trust is Gregory M. Connors (address not provided).

A companion application under Article 3, Section 3110 of the By-Laws (Case FY15-29) seeking to construct a two story addition with new roof dormers and to elevate the entire structure to comply with FEMA flood zone requirements was also submitted. The Board voted to hear that application under the Goldhirsch vs. McNeer Ruling. Accordingly, there is no written decision. The Board found that the proposed addition, dormers, and elevation along pre-existing, non-conforming setbacks would not be more substantially detrimental to the neighborhood than the existing non-conformities, and consequently awarded the requested special permit.

The remainder of this decision focuses solely on the request for a variance from the Dimensional Schedules in Section 2560 of the By-Laws.

A public hearing was held on the 20th of November, 2014. Zoning Board of Appeals members adjudicating this application were:

Robert Littlefield, Vice Chairman
Jeff Haley
Joe Vasta
Peter Page
Bryan Armstrong

The five members hearing this case exceeded the legal quorum requirement for a super majority vote. The hearing was properly noticed and publicized in accordance with Massachusetts open meeting laws and local Zoning Board of Appeals requirements.

Decision: By a vote of five (5) in favor and none (0) opposed, none (0) abstaining, the Zoning Board of Appeals APPROVED the petition for a variance as requested in the application

DESCRIPTION OF PROPERTY AND PROPOSAL

1. This circa 1850 historic property (Assessor's Map 6-2 Parcel 3A, Barnstable County Registry of Deeds Book xxx, page xxx) is located in a quiet west end neighborhood of fine homes and a scattering of businesses. Currently the structure at 101 Commercial Street contains two dwelling units and an office. A covered deck on the harbor side of the lot has been used by Sal's Place, a restaurant located in an adjacent lot. Atty. Murphy characterized the structure as being in need of rehabilitation.
2. The lot is non-conforming as to front and side-yard setbacks. These non-conformancies play a role discussed subsequently in the need for a variance.
3. Applicant is proposing to convert this structure into a single family, three-bedroom dwelling. The restaurant use of the deck will cease.
4. At question here is applicant's proposal to elevate the structure. The Board found that this structure is in a Velocity Zone. FEMA requirements are that structures in a flood zone which undergo renovation costing more than fifty percent of the value or replace more than fifty percent of the linear dimension of the foundation must comply with all FEMA flood zone building codes. In this case, applicant's desire to rehabilitate the entire structure resulted in an expense of more than fifty percent of the value. Also, applicant desires to provide a more solid foundation for the entire house. This proposed rebuilding effort triggered the FEMA code requirements, including elevating the structure four and a half feet so that the first floor will be a certain minimum distance above the mean flood water mark.
5. Attorney Murphy informed the Board that the owner of the house has no say in whether or not to elevate the structure. It is simply a FEMA building code which home owners are required to follow when certain conditions are present.
6. The elevation of the structure by four and a half feet in turn presented a problem for the homeowner regarding the front doorway. A stairway from Commercial Street will be required due to the increased elevation of the first floor. Because of the lack of clearance in side yard setbacks, it will not be possible to build a stairway on either side of the house or in the back of the house. Also, Atty. Murphy informed the Board that due to the historic nature of the house and its siting in the Historic District, the HDC has required the home owner to retain the front entryway.
7. The issue before the Board is that a new stairway in the front of the house will further intrude into the non-conforming front yard setback, which is currently 5.7 feet. The new setback with the stairway will be 2.4 feet. The non-conformity will be intensified. Hence, a variance from the Dimensional Schedules is required.

Important: Any appeal from the decision of the Zoning Board of Appeals can be made only to the Court and must be made pursuant to MGL Chapter 40A, Section 17, as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

8. Attorney Murphy explained to the Board how this application meets all of the complex and demanding requirements for a variance.
9. Atty. Murphy told the Board that the resulting structure will maintain its historic appearance, will be fully rehabilitated, and will add to the charm and character of the neighborhood as well as improving its valuation. Mr. Murphy also reminded the Board that many of the neighboring dwellings have even less front yard setbacks than what is proposed for this dwelling.
10. To support the application, the following documentation was included in addition to the neighborhood plot plan:
 - a. A certified plot plan prepared by William N. Rogers of Provincetown, Mass., dated September, 2015; and,
 - b. Detailed before and after floor plans and elevations prepared by Hammer Architects, Cambridge, Mass dated November 12, 2014

APPLICABLE LAW AND DECISION CRITERIA:

The local By-Laws used by the Board to adjudicate this application are those laws in effect as of May 7, 2012.

1. Massachusetts General Laws Chapter 40A, Section 10 as it pertains to variances from zoning by-laws
2. Section 2560 of the Zoning By-Laws (Dimensional Schedules)
3. Section 5222 of the Zoning By-Laws

To hear and decide appeals or petitions for variances from the terms of this By-Law, including variances for use, with respect [to] particular land or structures. Such variance shall be granted only in cases where the Board of Appeals finds all of the following:

- a. *A literal enforcement of the provisions of this By-Law would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.*
- b. *The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.*
- c. *Desirable relief may be granted without either:*
 - 1). *Substantial detriment to the public good; or*
 - 2). *Nullifying or substantially derogating from the intent or purpose of this By-Law*

4. Section 5330 of the Zoning By-Laws (Special Permits)

Important: Any appeal from the decision of the Zoning Board of Appeals can be made only to the Court and must be made pursuant to MGL Chapter 40A, Section 17, as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

Special Permits (other than those specified in Section 3420 [outside displays]) shall be granted by the Special Permit Granting Authority only upon its written determination that the social, economic or other benefits of the proposal for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.

SPECIFIC FINDINGS:

1. The Board took note that no one appeared in person to speak against the application nor were there any letters in the file in opposition. One letter was in the file supporting the application
2. The Board found that a literal enforcement of the Dimensional Schedule in Section 2560 of the By-Laws would create a substantial hardship for the property owners, in that it would be impossible to use the property without a door. The Board was also mindful of the Historic District Commissions finding that the homeowner should leave the front door where it is.
3. The Board further found that the hardship is a direct result of the nature of this property, that unlike many properties in the RES 3 Zoning District, it sits in a FEMA Flood Zone. Also, the Board found that because of the topography of the lot at harborside, this property is located in a Velocity Zone.
4. The Board found there would be no detriment to the public good in providing relief for applicant. Specifically, the Board made a finding that there would be no detriment to the neighborhood due to the construction of a front stairwell on Commercial Street, especially given that neighboring dwellings have doors and stairwells set even closer to the street.
5. The Board further found that granting variance relief would not nullify or derogate from the intent of Section 2560 of the By-Laws.
6. Based on these findings, the Board found that the petitioner has met all of the requirements to be granted variance relief as required under Section 5222 of the By-Laws. Based on all of the findings, the Board approved the request for Variance relief without conditions.

Important: Any appeal from the decision of the Zoning Board of Appeals can be made only to the Court and must be made pursuant to MGL Chapter 40A, Section 17, as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

SIGNED BY:

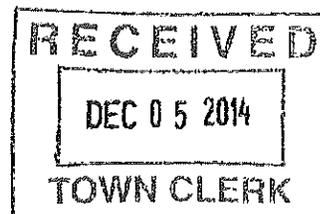
Robert Littlefield
ROBERT LITTLEFIELD, VICE CHAIRMAN

12.5.2014
DATE

DATE OF FILING:

DATE

A copy of this application, bearing the stamp of this Board, the signatures of the sitting members, and the date of this decision, will be on file in the Provincetown Department of Community Development. The applicant is hereby put on notice that any deviation from the above referenced application shall invalidate this Special Permit and shall require further review by this Board. Furthermore, the Special Permit Issued hereunder shall not be valid until recorded at the Registry of Deeds in Barnstable as provided in MGL c.40A.



Important: Any appeal from the decision of the Zoning Board of Appeals can be made only to the Court and must be made pursuant to MGL Chapter 40A, Section 17, as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

101 Commercial Street
Property address



FY15-28
case number

Town of Provincetown Zoning Board of Appeals

Town Hall - 260 Commercial Street, Provincetown, MA 02657 508-487-7020
Fax: 508-487-0032

The Special Permit/Variance issued hereunder shall not be valid until it is properly recorded at the Registry of Deeds in Barnstable as provided in M.G.L. c40A Section II. The applicant shall furnish proof of said filing prior to obtaining a building permit.

A motion was made to Approve Deny Allow to withdraw without prejudice

The Zoning Board of Appeals application/decision for case # FY15-28, by a

Vote of 5 in favor, 0 against and 0 abstained.

Board Members Sitting	In Favor	In Opposition	Abstained
<i>Robert Littlefield</i>	X		
<i>Joe Vasta</i>	X		
<i>Jeff Hulsey</i>	X		
<i>Peter Page</i>	X		
<i>Bryan Armstrong</i>	X		

Board Members

Certified By

Robert Littlefield

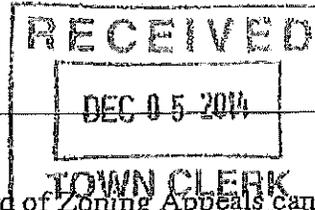
Robert Littlefield 12.5.2014
Chair Date

Jeff Hulsey

Peter W. Page

Bryan Armstrong

Clerk



Date

IMPORTANT: Any appeal from the decision of the Board of Zoning Appeals can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (G.L.) as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

FY15-29
FILE #



101 Commercial Street
PROPERTY ADDRESS OF SPECIAL PERMIT REQUESTED

ZONING BOARD OF APPEALS
TOWN HALL
PROVINCETOWN, MA 02657

Robert Sealford
Vice Chairman
12.5.2014

Date: 12.5.2014

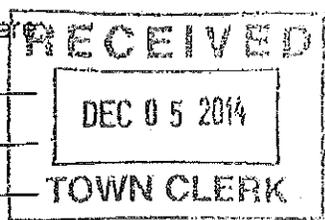
Decision of the Board of Appeals on the appeal and petition of David Deckerbaum, Trustee of the Huey Trust for a Special Permit under Article 3, Section 3110, Paragraph 1 of the Zoning By-law for a single/two family residence located at 101 Commercial Street, Provincetown, MA class Res 3 Residential/Commercial Zone.

After the required advertising, notification of parties in interest and posting of notice, a Public Hearing was held on November 20, 2014.

The applicant requested a ruling under the provisions of the Goldhirsch v. McNear decision for alterations/change of use to a structure. The applicant wishes to: raise structure to comply with FEMA Velocity Zone building codes, and install a new addition w/ dormers along non-conforming setbacks

After discussion, the Board determined that the existing non-conformancies are:

- Front and side yard setbacks
- _____
- _____



The Board, after discussion, found that the proposal would increase or intensify the existing non-conformancy and/or create a new non-conformancy. The nature of the intensification and/or new non-conformancy is: new structure/addition up and along side yard setbacks

The Board found that this would not be substantially more detrimental to the Town or neighborhood. Accordingly, the Board finds that a Special Permit may be granted to the applicant.

In granting this Special Permit, the Board relied on plans drawn by William N Rogers (packets of plans), dated Sept 2014, which plans are incorporated hereto by reference. A copy of these plans bearing the stamp of the Board, and signed by the sitting members and the date of the decision will be placed on file with the Town Clerk. The applicant is put on notice that any deviation from the above referenced plans shall invalidate this Special Permit and shall require further review by this Board.

IMPORTANT: Any appeal from the decision of the Board of Zoning Appeals can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (G.L.) as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

EXHIBIT 2

**PROVINCETOWN
CONSERVATION COMMISSION
TOWN HALL AUDITORIUM
January 6, 2015
6:30 P.M.**

Members Present: Dennis Minsky, David Hale, Barbara Prato and Mark Irving.

Members Absent: Lynne Martin (excused).

Others Present: Austin Brandt (Conservation Agent) and Ellen C. Battaglini (Recording Secretary).

Chair Dennis Minsky called the Public Hearing to order at 6:30 P.M. Dennis announced that under 'New Business', the Notice of Intent will be heard before the Enforcement Orders.

PUBLIC STATEMENTS:

None.

NEW BUSINESS:

Notice of Intent

Application by Gregg Connors, represented by Mark Burgess, for a Notice of Intent under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12. The scope of work will include the proposed reconstruction of an existing dwelling and deck at the property located 101 Commercial Street in Provincetown.

Presentation: Mark Burgess, of Shorefront Consulting, on behalf of Roy Okurowski, of Land and Sea Engineering, appeared to present the application. The existing dwelling and deteriorated deck will be replaced in-kind and re-built in compliance with the new FEMA V Zone regulations. This will require both the dwelling and the deck to be raised by 4.5'. The elevation of the underlying structural member will be 15.8'. The dwelling will be demolished and all piles and timber will be removed and disposed of at an approved facility. Piles or sonotubes for the dwelling and the deck will be installed with an excavator. The piles are helical and will be driven into place. This will be the only disturbance to the land. Access to the property will be from Commercial Street on the northeast side of the premises. All disturbed areas around the site and to the access area will be returned to pre-existing conditions. A performance standards narrative and construction protocol was submitted with the application. The project has a DEP file number.

Public Comment: None.

Commission Discussion: The Commission questioned Mr. Burgess. The Commission was interested in whether any equipment would be on the beach. Mr. Burgess said that that issue would be discussed at the proposed pre-construction meeting with the contractor.

David Hale moved to approve the Notice of Intent under the Massachusetts Wetlands Protection Act, M.G.L. c. 131, §40, and the Provincetown Wetlands By-Law, Chapter 12 for work to include the proposed reconstruction of an existing dwelling and deck at the property located 101 Commercial Street with the Standard Order of Conditions and with the Special Conditions that no vehicles are on the beach outside of the designated limit of work as shown

on the site plan, that during the de-construction phase of the project all materials are moved off-site at the end of each day, that fencing or other barriers are erected to prevent debris from entering the water and that it is policed on a daily basis, Dennis Minsky seconded.
The Commission briefly discussed the motion.
The motion was so voted, 4-0.

Enforcement Orders for F/V Tom Slaughter, F/V Aimee Marie, F/V Sea Fox and F/V Sentinel:

Attorney Gregg Corbo, Town Counsel, explained that the Commission was conducting a Public Hearing to determine whether Enforcement Orders should be issued to the F/V Tom Slaughter, the F/V Aimee Marie, the F/V Sea Fox and the F/V Sentinel, and their owners, based on violations of the State Wetlands Protection Act and the regulations of the Department of Environmental Protection, as well as the Town's Wetland By-Law and the regulations of the Conservation Commission.

Dennis requested that any owner, or representative, of the four fishing vessels that are the subject of the Enforcement Orders identify themselves. Seth Wahlstrom, owner/captain of the F/V Sentinel, Attorney Stephen Ouellette, representing the F/V Sentinel, and Nate Davis, Captain of the F/V Tom Slaughter did so.

Attorney Corbo stated that allegations that the fishing vessels in question were conducting hydraulic dredging activities within a resource area subject to the jurisdiction of the Commission would be discussed. He then defined the jurisdiction of the Commission. He added that pursuant to the Town's Wetland By-Law, no person can conduct hydraulic dredging within the Commission's jurisdiction without making a proper filing with the Commission. In addition, under the Commonwealth's Wetlands Protection Act and 310 CMR 10.02, no person can conduct dredging activities in a resource area without making a proper filing and having the approval of the Commission. There are additional requirements for activities occurring within lands under the water, under the ocean and in the near-shore areas that set certain performance standards for this type of work. It is his contention that those performance standards had not been met by any of the fishing vessels in question.

Attorney Corbo introduced Harbormaster Rex McKinsey who will provide background information about the effect of hydraulic dredging on the resource areas and give evidence of violations by each of the four fishing vessels. Subsequently, representatives or owners of the four vessels would be given the chance to present evidence in their defense and public comment would be taken.

Mr. McKinsey presented additional evidence in his continuing investigation of hydraulic dredging activity off Herring Cove Beach. He had presented evidence at the December 16th Conservation Commission meeting, when the Commission was considering an Enforcement Order against the F/V Tom Slaughter. He displayed a chart of the Herring Cove Beach/Long Point areas that showed a colored line representing a trip he took with Mark Borelli, of the Center for Coastal Studies, through this area using a side-scan sonar on December 23rd. He showed a diagram of the parts of a hydraulic dredge and explained how it worked. Mr. Borelli, who runs the sea floor mapping program at CCS, explained how a side-scan sonar system works

EXHIBIT 3



Alan E. Lipkind
Partner
allpkind@burnslev.com
617.345.3547

August 2, 2018

VIA EMAIL (ahoward@provincetown-ma.gov)
AND REGULAR MAIL

Anne Howard, Building Commissioner
Town of Provincetown (Town Hall)
260 Commercial Street
Provincetown, MA 02657

Re: 99 Commercial Street (Sal's Place)

Dear Commissioner Howard:

As you may recall, I represent David Deckelbaum, Trustee of the Huey Trust, owner of 101 Commercial Street. I write at this time to try to set the record straight on two matters on which there has been much said and written to you in recent weeks—the circumstances of removal of the deck at 99 Commercial Street, and the alleged impact of litigation between my client and the owner of 99 Commercial Street, an issue addressed by Attorney Anthony Panebianco, counsel for 99 Commercial Street Realty Trust, in his letter to you dated July 13, 2018.

Circumstances of Deck Removal

In the past there was one continuous deck that ran behind 99 and 101 Commercial Street. In 2012, the properties were divided. In the fall of 2015 Cape Cod Docks, Inc. was hired by the owners of 3 pier units at 99 Commercial Street as well as Ms. Papetsas (whose name appears on the Notice of Intent for that work) to rebuild the portion of the pier supporting their units. Separately, Cape Cod Docks, Inc. was hired by the owner of 101 Commercial Street to perform work in connection with the redevelopment of that property, essentially the sinking of piles for the deck and house, and the construction of a platform to place the house on top of. The work on the house itself was primarily done by a different entity--Cape Associates, Inc. The photo attached hereto as **Exhibit A** shows work well under way at 101 Commercial Street, with the deck formerly at 101 Commercial Street removed, but the deck at 99 Commercial Street still in place, though in what appears to be poor condition. There was no need to remove the deck at 99 Commercial Street in order to do the necessary work at 101 Commercial Street, and my client had no role in the removal of the deck at 99 Commercial Street. On or about November 4, 2015, Cape Cod Docks removed the then remaining portion of the deck on the 99 Commercial Street property out of a concern for the safety of its work force. **See Exhibit B** hereto, a November 9, 2015 statement from Lawrence Demers of Cape Cod Docks, Inc., and the photo attached hereto as **Exhibit C**.

In his statement of November 9, 2015, 2015, Mr. Demers states that one of the reasons that he was at the site was that he had “. . . an active contract with 99 Commercial Street Proposal #630395” for the removal, disposal and replacement of the pier at 99 Commercial Street. A copy of that proposal is attached hereto as **Exhibit D**. At the deposition of Lora Papetsas, the predecessor in title to Ms. Carew with respect to Sal’s Restaurant and Unit 7 of the 99 Commercial Street property in which it is located, the 99 Commercial Street proposal was identified as Exhibit 20. At her deposition, Ms. Papetsas testified that: (1) under her separate purchase and sales agreement relating to her sale of the 3 pier units she was required to undertake the work Cape Cod Docks was to do on the pier (which resulted in the removal of the deck at issue), (2) she paid a portion of the cost of that work, and (3) she knew when she agreed to pay for that work that utilities work might have to be done. Lora Papetsas Deposition, pp. 54-58 (**Exhibit E**). The deck was actually removed in order to complete work under an agreement with Ms. Papetsas.

In January 2016, Cape Cod Docks, Inc. offered to both Ms. Papetsas and Ms. Carew (who did not yet own an interest in 99 Commercial Street) to rebuild the deck on 99 Commercial Street at no charge. See **Exhibit F** hereto. On February 25, 2016, Siobhan Carew, Trustee of 99 Commercial Street Realty Trust, closed on the purchase of 99 Commercial Street Unit 7 (home of Sal’s Place Restaurant) and the 3 residential units above Unit 7.

Much misinformation has been disseminated regarding how and why the portion of the deck on 99 Commercial Street property was removed. It doesn’t really matter at this point, but my client wants to be sure that the misinformation is not further perpetuated. Ms. Carew has in fact testified that the deck at 99 Commercial Street was ripped up so that utilities could be run to the pier units. See **Exhibit G**.

Delay in Deck Replacement Not Caused by Litigation Between My Client and Carew.

Although Cape Cod Docks, Inc. offered to rebuild the deck in January 2016, it was not rebuilt until July 14th, 2018. In a July 13, 2018 letter to you, Attorney Anthony Panebianco, counsel for the 99 Commercial Street Realty Trust, asserts that a Motion for Temporary Restraining Order and Preliminary Injunction filed by my client in July of 2017 in a pending Land Court action seeks “. . . to prevent and enjoin the Trust...from utilizing the space wherein the construction under the building permit [for the deck] was to take place.” Attached as **Exhibit H** is a copy of the motion at issue. The Motion seeks only an order barring Ms. Carew and her customers from trespassing onto 101 Commercial Street (which Ms. Carew does not own) and from parking service vehicles for Sal’s Place Restaurant in the 7 x 16 Parking Easement for the benefit of 101 Commercial Street, which is located within the 99 Commercial Street alleyway. The injunction motion has nothing to do with the deck, and does not even mention the deck either directly or indirectly.

In his letter, Attorney Panebianco also states that in April 2018, my client again filed for an injunction, “seeking to enjoin the Trust from various other activities on the Property.” Attached hereto as **Exhibit I** is a copy of Deckelbaum’s April 2018 Motion for Preliminary Injunction.

Anne Howard
August 2, 2018
Page 3

Once again it has nothing whatsoever to do with the construction of a deck—it seeks only to enforce a deed restriction barring the sale of alcohol, other than beer or wine, at 99 Commercial Street. Notwithstanding what Mr. Panebianco wrote to you, Deckelbaum's requests for injunctive relief—to keep Carew off his property and out of his parking easement, and to enforce a deed restriction on the sale of alcohol other than beer and wine at 99 Commercial Street--have nothing to do with the construction of a deck.

The false nature of these assertions to you that pending motions for injunctions precluded or delayed the construction of the deck is demonstrated by the fact that these motions have not yet been ruled upon, yet the deck has been built. Mr. Panebianco's assertions that "...the destruction of the deck is central to the Deckelbaum lawsuit" and that the reconstruction or prevention of reconstruction of the deck is an aim of that lawsuit are similarly belied by the fact that notwithstanding the pendency of the litigation, Carew built the deck.

In summary, the litigation simply has nothing to do with the construction of the deck—it is an appeal of a special permit previously issued by the ZBA that does not pertain in any way to the construction of the deck. It further seeks declaratory judgments solely with respect to the Plaintiff's parking easement and deed restriction on service of alcohol, and seeks various other rulings regarding trespass claims.

I hope that this letter clarifies these issues for you. Feel free to contact me if you have any further questions or requests.

Very truly yours,


Alan E. Lipkind

AEL/lpp
Enclosures

cc: Ilana M. Quirk, Esq. (by email only)

Exhibit A



Exhibit B

Cape Cod Docks, Inc.

23 Bay Road
West Yarmouth, MA 02673-1426

DATE: 11/9/15

<http://www.capecoddocks.com>

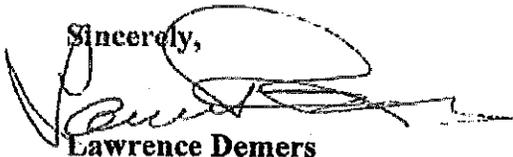
Phone 508 778-4711

Fax 508-790-1915

Email: Service@capecoddocks.com

On November 4th, 2015, Cape Cod Docks Inc., arrived at 101 Commercial Street to execute a contract, Proposal #630638B. The deck between 99 Commercial Street and 101 Commercial Street had been cut on the property line, by others. Cape Cod Docks Inc. also has an active contract with 99 Commercial Street, Proposal #630395, for the removal, disposal, and replacement of the offshore portion of the structure at 99 Commercial Street. Both of these contracts were designed with methodology to be done at the same time consecutively, or simultaneously, having access between both properties. After viewing the structural members of the deck at 99 Commercial Street, it was obvious from a safety prospective, that there was a serious concern for safety. The vertical supports were inconsistent, and in most places not there at all. The horizontal supports that did exist had no structural integrity left. Pictures were taken, and the order was given by me, Lawrence Demers President of Cape Cod Docks Inc., to make the jobsite safe by removing the portion of the deck that brought the most safety issues, in the middle of the access area. The deck was then removed in a manner that a new deck, horizontal stringers, vertical supports & decking could be installed without affecting any other portion of the existing structure. Cape Cod Docks Inc. will provide Laura Papetsas a work order identifying the replacement of the failed deck removed by Cape Cod Docks Inc. (for obvious safety reasons) to protect all parties surrounding these projects (101 Commercial Street and 99 Commercial Street) as well as protect Cape Cod Docks Inc. liability through both of these projects.

Sincerely,



Lawrence Demers



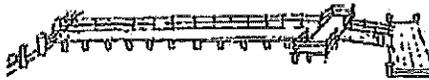
Exhibit C



Exhibit D

Cape Cod Docks, Inc.

23 Bog Road
West Yarmouth, MA 02673-1426
Phone 508-778-4711
Fax 508-790-1915



Email: service@capcoddocks.com
www.capcoddocks.com

Proposal: 630395
Date: Revised 6/17/14

Name: C/O Roy Okurowski
Street:
City/St/Zip:
Telephone: Roy Cell: 508-776-0956
Royokurowski@gmail.com

Street: 99 Commercial Street
City/St/Zip: Provincetown, Ma. 02657
Engineer: Land & Sea Engineering
Date of Plans: 9/10/13

We hereby propose to furnish all the materials and perform all the labor necessary for the completion of:

This proposal is for the removal and disposal of 79 linear feet of existing pier and pilings, and the construction and installation of 79 linear feet of new pier, including timber beach access stairway, historical ramp, the purchasing and installation of the trunk waste line only, and the removal and re-installation of three existing dwellings according to the plan supplied by Land & Sea Engineering. This proposal also includes one application for a Building Permit, based on the plans and details provided.

Construction will include the installation of thirty-eight, 12" diameter CCA 2.5 vertical support pilings installed 10' on center (outside of the pier stringers), and left approximately 6 to 7 feet above the decking, 4" x 12" split caps, 3" x 12" stringers, 3" x 8" cross bracing, 2" x 6" decking, having no handrail system. Construction will also include the installation of 8 helical anchors, with extensions & walkway brackets, transitioning to a 12" timber piling and 6" x 14" beam. All lumber will be pressure treated. All through bolt fasteners will be hot-dipped galvanized.

The total cost for the above mentioned construction is \$169,188.00.

Please note, all three existing dwellings must be empty of all loose items, furniture and appliances.

This proposal does not include the disconnecting of any utilities, or any rough or finish utility work, such as plumbing, gas, or electricity.

Please also note, we can not predetermine the condition of the existing sill plates, siding, trim and dwelling framework at the point of connection to the new pier. These items may need replacement prior to re-installation of the dwellings, and will be an additional cost.

All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of \$ 169,188.00.

With payments to me made as follows:

1st payment due at the signing of this proposal; \$ 56,396.00.

2nd payment due at the start of construction; \$ 56,396.00.

Final payment due at completion of work, plus any unknown extras; \$ 56,396.00.

Any alteration or deviation from above specifications involving extra costs becomes an extra charge over and above the estimate.

This proposal assumes normal waterfront conditions. Should any conditions +

be encountered that were not possible or reasonable to anticipate and that result in extra labor or materials, there will be extra charges. Examples would be rocks or roots interfering with pile placement, Where possible and reasonable these extra charges will be estimated before the extra work is performed. Placement of new construction will be per approved engineering drawings.

Cape Cod Docks, Inc. assumes no responsibility for the accuracy or suitability of drawings provided by the customer or his agent with respect to safety, structural integrity or location. This also applies to location stakes placed by surveyors or engineering firms hired by the customer.

This proposal may be withdrawn by us if not accepted within 15 days.

Respectfully submitted:

Larry Demers

Acceptance of Proposal

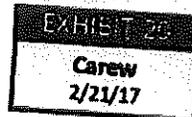
The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. The purchaser agrees to pay any and all costs of collections to include reasonable attorney fees and any applied monthly interest.

Accepted: _____

Date: _____

Signature: _____

Signature: _____



Reported by:
Susan A. Romano, CSR, RMR, CRA

Carew Supp. 497

Exhibit E

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS. LAND COURT DEPARTMENT

DAVID A. DECKELBAUM, Trustee
of the Huey Trust,
Plaintiff,

vs. CASE NO.: 16-MISC-000014

JEFFREY HALEY, DAVID
NICOLAU, AMY GERMAIN, ROBERT
LITTLEFIELD, JOSEPH VASTA,
JEFFREY GOULD, ROB ANDERSON
AND BRYAN ARMSTRONG, As They
are Members of the Zoning
Board of Appeals of the Town
of Provincetown, and SIOBHAN
CAREW, Individually and as
Trustee of The 99 Commercial
Street Realty Trust,
Defendants.

~~~~~

DEPOSITION OF LORA A. PAPETSAS

FEBRUARY 22, 2017

10:20 A.M.

BURNS & LEVINSON  
125 SUMMER STREET  
BOSTON, MASSACHUSETTS

Dawn Mack-Boaden,  
Registered Professional Reporter



[www.blacklabellegalservices.com](http://www.blacklabellegalservices.com) | 617-646-8100

1 Appeals. It says FY 13-29 on it.

2 Is that the special permit that was granted  
3 following the meeting of February 21, 2013?

4 A. It appears to be that.

5 Q. I put before you what's been marked as  
6 Exhibit 20. It's on the -- it says Cape Cod Docks  
7 in the upper left -- Cape Cod Docks, Inc. in the  
8 upper left-hand corner. It appears to be a proposal  
9 dated September 10, 2013. It says revised June 17,  
10 2014. Do you recall seeing this --

11 A. Yes.

12 Q. -- before?

13 A. Yes.

14 Q. When do you -- do you recall when you first  
15 saw it?

16 A. No.

17 Q. What do you recall about receiving this  
18 document?

19 A. I would be contributing a portion of  
20 this -- the --

21 Q. A portion of funds?

22 A. The sum, yes.

23 Q. Is that what ultimately happened? Did you  
24 end up paying a portion of this cost?



1 A. I did.

2 Q. Just for work on the pier?

3 A. Correct.

4 Q. Who paid the rest of the cost?

5 A. The project was undertaken by the pier  
6 owners.

7 Q. Was this a condo cost or was it agreed to  
8 outside the condo?

9 A. It was part of a purchase and sale  
10 agreement with the pier owners originally.

11 Q. When did this property become condo; if you  
12 recall?

13 A. I do not remember the exact date. My  
14 attorney, Donna Robertson, handled that.

15 Q. Okay. So did the pier unit owners buy  
16 knowing that this work had to be done?

17 A. We had a mutual agreement for the work to  
18 be done.

19 Q. I'm just trying to figure out time-wise.  
20 Was it before they purchased they knew about this  
21 work?

22 A. Yes.

23 Q. If you go to the fourth -- fifth paragraph  
24 down, it says, This proposal does not include the



1 disconnecting of any utilities or any rough or  
2 finish utility work such as plumbing, gas, or  
3 electricity. Do you see that?

4 A. Yes.

5 Q. What utilities -- plumbing, gas,  
6 electricity -- service the houses on the -- what do  
7 you call the structures out on the pier?

8 A. Cabins.

9 Q. Cabins. What utilities service the cabins  
10 on the pier?

11 A. Water, gas, and electricity.

12 Q. And how did they get out to the pier? What  
13 path did they take from the street?

14 A. I do not know.

15 Q. So you don't know if they run down the  
16 alley between 99 and 101?

17 A. I don't know exactly how any of that is  
18 configured.

19 Q. Do you know -- so aside from not knowing  
20 exactly, do you know generally?

21 A. No, I do not.

22 Q. Even as you sit here today, you do not know  
23 it?

24 A. There -- I do not know how the lines run



1 exactly, no. You'd have to dig up everything to

2 see --

3 Q. So --

4 A. -- where the plumbing goes from the

5 street --

6 Q. So for all --

7 A. Where it's tied into the sewer system.

8 Q. For all you know, it could run right under

9 the restaurant?

10 MR. PANEBIANCO: Objection.

11 MR. DUPUY: Objection.

12 THE WITNESS: I do not know.

13 BY MR. LIPKIND:

14 Q. So you don't know as you sit here today

15 whether it runs down the space between 99 and 101

16 Commercial?

17 MR. PANEBIANCO: Objection.

18 MR. DUPUY: Objection.

19 THE WITNESS: I do not know where the

20 lines run exactly.

21 BY MR. LIPKIND:

22 Q. So when you agreed -- did you agree to this

23 proposal to pay a portion of it?

24 A. I agreed to pay a portion of it.



1 Q. Okay. And when you agreed to that, you  
2 knew that there was -- there might have to be some  
3 utilities work, didn't you?

4 A. Yes.

5 Q. Do you know why there's a date in September  
6 of 2013 and then there's another one in June of  
7 2014?

8 A. Referring to what?

9 Q. The document we're looking at, in the upper  
10 right-hand corner, it says -- after the e-mail and  
11 the web address and the proposal number, it says  
12 date revised, June 17, 2014, and then four lines  
13 under that, it says September 10, 2013.

14 A. I do not know why.

15 Q. Okay. Do you know --

16 A. I do not recall.

17 Q. Do you know whose signature it is on the  
18 bottom right-hand corner?

19 A. No, I do not.

20 Q. Did you ever sign this document?

21 A. I don't remember signing this document.

22 Q. Do you have this document amongst your file  
23 of papers?

24 A. I don't remember. I believe so.



# Exhibit F

**Cape Cod Docks, Inc.**

23 Bog Road  
West Yarmouth, MA 02673-1426

DATE: 1/5/16

<http://www.capecoddocks.com>

Phone 508 778-4711

Fax 508-790-1915

Email: [Service@capecoddocks.com](mailto:Service@capecoddocks.com)

Lora Papetsas  
Siobhan Carew  
99 Commercial Street  
Provincetown, Ma. 02657

Dear Lora & Siobhan,

Cape Cod Docks will replace the deck extending across to the restaurant building, and vertical retaining wall, within the exact same footprint and elevation as what existed, and assume all costs for construction of the new deck and vertical retaining wall. The new deck will be constructed out of pressure treated materials. The new vertical retaining wall will be pressure treated, tongue and groove, 3" x 10" timbers. In addition to the deck replacement, Cape Cod Docks, will repair the existing timber stairway to the upper units, and duplicate the simple cross buck style handrail, as previously existing, at no charge to you.

Upon notification of the timing for the water to be turned on, Cape Cod Docks will inspect and repair any damage to the pipes in the access area between 101 and 99 Commercial Street.

All work will be completed as soon as possible. Pending approval to proceed with construction prior to January 8<sup>th</sup>, 2016, all new construction will be completed by April 15<sup>th</sup>, 2016, and all debris will be removed daily.



**Upon approval to proceed with construction we will begin the demolition of the 99 Commercial Street pier, which allows us access to the underside of the restaurant portion of the pier. Cape Cod Docks, Inc. will then begin replacing the disturbed/removed area of the deck and underside restaurant portion of the pier.**

**If you would like Cape Cod Docks, Inc. to scale back the existing lockers, we will require additional detailed information, but are more than willing to satisfy your needs.**

**In regards to grease tank, we will ensure that it is fully functional for the Spring of 2016.**

**Sincerely,**

A handwritten signature in black ink, appearing to read "Lawrence Demers", with a long, sweeping horizontal flourish extending to the right.

**Lawrence Demers  
President**

# Exhibit G

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS. LAND COURT DEPARTMENT

DAVID A. DECKELBAUM, Trustee  
of the Huey Trust,  
Plaintiff,

vs.

CASE NO.: 16-MISC-000014

JEFFREY HALEY, DAVID  
NICOLAU, AMY GERMAIN, ROBERT  
LITTLEFIELD, JOSEPH VASTA,  
JEFFREY GOULD, ROB ANDERSON  
AND BRYAN ARMSTRONG, As They  
are Members of the Zoning  
Board of Appeals of the Town  
of Provincetown, and SIOBHAN  
CAREW, Individually and as  
Trustee of The 99 Commercial  
Street Realty Trust,  
Defendants.

~~~~~

DEPOSITION OF SIOBHAN CAREW

FEBRUARY 21, 2017

10:24 A.M.

BURNS & LEVINSON
125 SUMMER STREET
BOSTON, MASSACHUSETTS

Susan Romano,
RMR, CRR, CSR #119393



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1 APPEARANCES:

2 ON BEHALF OF THE PLAINTIFF:

3 ALAN E. LIPKIND, ESQUIRE

4 Burns & Levinson LLP

5 125 Summer Street

6 Boston, Massachusetts 02110-1624

7 617.345.3000

8 alipkind@burnslev.com

9

10 ON BEHALF OF SIOBHAN CAREW, INDIVIDUALLY AND AS

11 TRUSTEE OF THE 99 COMMERCIAL STREET REALTY TRUST:

12 ANTHONY T. PANEBIANCO, ESQUIRE

13 Newman & Newman, P.C.

14 One McKinley Square

15 Boston, Massachusetts 02109

16 617.227.3361

17 apanebianco@newmanlegal.com

18

19

20

21

22

23

24



1 Q. -- if he didn't tell you?

2 A. -- they couldn't have gotten the heavy
3 equipment to where they had it if the deck was
4 there.

5 Q. Did he tell you that's why he took it
6 down?

7 A. No, but I think we can provide the photos
8 to show that.

9 Q. Other than photos, do you have an
10 explanation by Larry of why he took it down?

11 A. Again, I would say that he wouldn't have
12 been able to do his work without taking down the
13 deck, and they wouldn't have been able to put all
14 the new pipes down the driveway that they put in
15 without the deck being down.

16 Q. What pipes were those?

17 A. The pipes that went out to the pier
18 units.

19 Q. Is that for water? Or is that --

20 A. No.

21 Q. What sort of pipes were those?

22 A. I think maybe new water and sewer pipes.
23 I'm not sure.

24 Q. Has the deck ever gone back?



1 A. No.

2 Q. Do you know why not? Because you have an
3 agreement here saying they're going to put it back.

4 A. Yes.

5 Q. It's not back yet.

6 A. Correct.

7 Q. Do you know why not?

8 MR. PANEBIANCO: I would object only
9 to this point that there are conversations between
10 us and Cape Cod -- us and Ms. Carew, but she can
11 answer if she knows other than --

12 A. I don't know.

13 MR. PANEBIANCO: -- conversations
14 that --

15 BY MR. LIPKIND:

16 Q. You would agree that Cape Cod Docks
17 offered to put it back.

18 A. (Deponent gestured.)

19 Q. I'll move on. I'll get the letter.

20 Do you recall ever an occasion where Cape
21 Cod Docks came to reinstall the decking and you
22 called the police and told them they were
23 trespassing and told them they couldn't do any more
24 work?



Exhibit H

COMMONWEALTH OF MASSACHUSETTS
LAND COURT DEPARTMENT
OF THE TRIAL COURT

BARNSTABLE ss,

Misc. Case No. 16-MISC-000014

DAVID A. DECKELBAUM, Trustee of the
Huey Trust

Plaintiff,

v.

JEFFREY HALEY, DAVID NICOLAU,
AMY GERMAIN, ROBERT LITTLEFIELD,
JOSEPH VASTA, JEFFREY GOULD, ROB
ANDERSON AND BRYAN ARMSTRONG,
As They Are Members of the Zoning Board of
Appeals of the Town of Provincetown, and
SIOBHAN CAREW, Individually and as
Trustee of The 99 Commercial Street Realty
Trust

Defendants.

**PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Plaintiff David A. Deckelbaum, Trustee of the Huey Trust ("Deckelbaum"), moves this Court for a Temporary Restraining Order and Preliminary Injunction against Defendant Siobhan Carew, Individually, and as Trustee of the 99 Commercial Street Realty Trust, precluding her, her guests, employees and invitees from (a) entering the premises at 101 Commercial Street, Provincetown which is owned by Deckelbaum, and (b) utilizing the 7' x 16' Parking Easement for the benefit of Deckelbaum at 99 Commercial Street for the purpose of parking vehicles, as Deckelbaum has the sole right to use that area for that purpose.

Carew is the owner of units 4-7 of the Nathaniel Hopkins Condominium at Union Wharf, which is located at 99 Commercial Street. Unit 7 is being used as a restaurant known as Sal's Place. Sal's Place was closed for the winter. In June of 2017, Carew began operations again at Sal's Place. As part of those operations she now seats her customers under an elevated first floor deck at 101 Commercial Street (101 Commercial Street is constructed upon piles to comply with FEMA regulations), despite repeated notice to Carew that she is seating her patrons on land of Deckelbaum. Additionally, bicycles of persons going to Sal's Place are regularly parked on the land of 101 Commercial Street.

Further, Ms. Carew and her guests have been regularly using the harbor front portion of 101 Commercial Street, i.e., the land lying between the first floor harbor facing deck and the mean high water line, both as an extension of her restaurant (she set up an oyster bar and served her guests there for a wedding function on June 3rd) and for other purposes. As with setting up chairs beneath the deck at 101 Commercial Street, the use of the beach portion of 101 Commercial Street continues despite repeated notice to counsel for Carew.

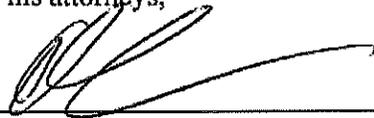
Additionally Carew is using Deckelbaum's 7' x 16' parking easement at 99 Commercial as an area for service vehicles for her restaurant to park. Plainly, this is inconsistent with Deckelbaum's rights under the Parking Easement.

It is Deckelbaum's position that he has the right to exclude Carew and her invitees from the land at 101 Commercial Street, which he owns. Carew is apparently of the belief that she has a right to use land owned by Deckelbaum for her personal and restaurant purposes. It is Deckelbaum's position that he has the benefit of the Parking Easement at issue, not Carew. Carew apparently is of the belief that she holds the Parking Easement. Deckelbaum is being

irreparably harmed, and has a reasonable likelihood of success on the merits. Filed herewith and incorporated herein by reference are the Affidavit of Gregory Connors in Support of Motion for Temporary Restraining Order and Preliminary Injunction, Affidavit of Alan Lipkind, Esq. in Support of Plaintiff's Motion for Injunction; and a Memorandum in Support of Plaintiff's Motions for Temporary Restraining Order and Preliminary Injunction against Defendant Siobhan Carew, Individually and as Trustee of the 99 Commercial Street Realty Trust.

Respectfully submitted,

DAVID A. DECKELBAUM, TRUSTEE
By his attorneys,



Alan E. Lipkind (BBO #547938)
alipkind@burnslev.com
Laura Lee Mittelman (BBO # 689752)
lmittelman@burnslev.com
BURNS & LEVINSON LLP
125 Summer Street
Boston, MA 02110-1624
617-345-3000

Dated: July 12, 2017

was served upon each party, appearing, and the
attorney of record of each other party by mail/hand on

July 12 2017



Alan E. Lipkind, Esq.
Burns & Levinson, LLP
125 Summer Street
Boston, MA 02110-1626
(617) 345-3000

Exhibit I

COMMONWEALTH OF MASSACHUSETTS
LAND COURT DEPARTMENT
OF THE TRIAL COURT

BARNSTABLE ss,

Misc. Case No. 16-MISC-000014

DAVID A. DECKELBAUM, Trustee of the
Huey Trust

Plaintiff,

v.

JEFFREY HALEY, DAVID NICOLAU,
AMY GERMAIN, ROBERT LITTLEFIELD,
JOSEPH VASTA, JEFFREY GOULD, ROB
ANDERSON AND BRYAN ARMSTRONG,
As They Are Members of the Zoning Board of
Appeals of the Town of Provincetown, and
SIOBHAN CAREW, Individually and as
Trustee of The 99 Commercial Street Realty
Trust

Defendants.

PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION

Plaintiff, David A. Deckelbaum, Trustee of the Huey Trust ("Deckelbaum"), hereby moves this Court to issue a preliminary injunction that enjoins Defendant, Siobhan M. Carew, as Trustee of The 99 Commercial Street Realty Trust ("Carew"), her agents, associates, employees and all others with notice of such injunction from selling alcohol, other than beer and wine, at units 4, 5, 6 and 7 of 99 Commercial Street, Provincetown.

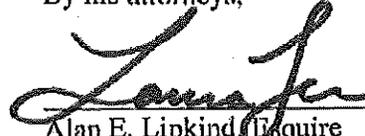
As grounds for this Motion, Deckelbaum states that (i) he has a likelihood of success on the merits of his claims; (ii) he has a substantial risk of suffering irreparable harm if the requested injunctive relief is not issued; and (iii) the balance of harms weighs heavily in favor of entering an injunction. In support of this Motion, Deckelbaum relies on the accompanying

Memorandum of Law, Statement of Material Facts in Support of Plaintiff's Partial Motion for Summary Judgment and Motion for Preliminary Injunction, the Affidavit of Alan Lipkind in support thereof, and the Appendix of Documents in support thereof.

WHEREFORE, Plaintiff prays that this Court:

- A. Allow this Motion;
- B. Enjoin Defendant, Siobhan M. Carew, as Trustee of The 99 Commercial Street Realty Trust, her agents, associates, employees and all others with notice of such injunction from selling alcohol, other than beer and wine, at units 4, 5, 6 and 7 of 99 Commercial Street, Provincetown; and
- C. Grant Plaintiff such other and further relief as justice may require.

Respectfully submitted,
DAVID A. DECKELBAUM, TRUSTEE
By his attorneys,



Alan E. Lipkind, Esquire
BBO #547938
Laura Lee Mittelman, Esquire
BBO #689752
Burns & Levinson LLP
125 Summer Street
Boston, MA 02110-1624
Tel.: 617-345-3000
Fax: 617-345-3299
E-Mail: alipkind@burnslev.com
E-Mail: lmittelman@burnslev.com

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail hand on 4.10.18
LMM

EXHIBIT 4

Cape Cod Docks, Inc.

23 Neg Road
West Yarmouth, MA 02673-1426

DATE: 11/9/15

<http://www.capecoddocks.com>

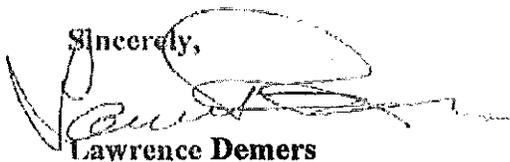
Phone 508 778-4711

Fax 508-790-1915

Email: Service@capecoddocks.com

On November 4th, 2015, Cape Cod Docks Inc., arrived at 101 Commercial Street to execute a contract, Proposal #630638B. The deck between 99 Commercial Street and 101 Commercial Street had been cut on the property line, by others. Cape Cod Docks Inc. also has an active contract with 99 Commercial Street, Proposal #630395, for the removal, disposal, and replacement of the offshore portion of the structure at 99 Commercial Street. Both of these contracts were designed with methodology to be done at the same time consecutively, or simultaneously, having access between both properties. After viewing the structural members of the deck at 99 Commercial Street, it was obvious from a safety prospective, that there was a serious concern for safety. The vertical supports were inconsistent, and in most places not there at all. The horizontal supports that did exist had no structural integrity left. Pictures were taken, and the order was given by me, Lawrence Demers President of Cape Cod Docks Inc., to make the jobsite safe by removing the portion of the deck that brought the most safety issues, in the middle of the access area. The deck was then removed in a manner that a new deck, horizontal stringers, vertical supports & decking could be installed without affecting any other portion of the existing structure. Cape Cod Docks Inc. will provide Laura Papetsas a work order identifying the replacement of the failed deck removed by Cape Cod Docks Inc. (for obvious safety reasons) to protect all parties surrounding these projects (101 Commercial Street and 99 Commercial Street) as well as protect Cape Cod Docks Inc. liability through both of these projects.

Sincerely,



Lawrence Demers



EXHIBIT 5

Cape Cod Docks, Inc.

**23 Bay Road
West Yarmouth, MA 02673-1426**

DATE: 1/5/16

<http://www.capecoddocks.com>

Phone 508 778-4711

Fax 508-790-1915

Email: Service@capecoddocks.com

**Lora Papetsas
Siobhan Carew
99 Commercial Street
Provincetown, Ma. 02657**

Dear Lora & Siobhan,

Cape Cod Docks will replace the deck extending across to the restaurant building, and vertical retaining wall, within the exact same footprint and elevation as what existed, and assume all costs for construction of the new deck and vertical retaining wall. The new deck will be constructed out of pressure treated materials. The new vertical retaining wall will be pressure treated, tongue and groove, 3" x 10" timbers. In addition to the deck replacement, Cape Cod Docks, will repair the existing timber stairway to the upper units, and duplicate the simple cross buck style handrail, as previously existing, at no charge to you.

Upon notification of the timing for the water to be turned on, Cape Cod Docks will inspect and repair any damage to the pipes in the access area between 101 and 99 Commercial Street.

All work will be completed as soon as possible. Pending approval to proceed with construction prior to January 8th, 2016, all new construction will be completed by April 15th, 2016, and all debris will be removed daily.



Upon approval to proceed with construction we will begin the demolition of the 99 Commercial Street pier, which allows us access to the underside of the restaurant portion of the pier. Cape Cod Docks, Inc. will then begin replacing the disturbed/removed area of the deck and underside restaurant portion of the pier.

If you would like Cape Cod Docks, Inc. to scale back the existing lockers, we will require additional detailed information, but are more than willing to satisfy your needs.

In regards to grease tank, we will ensure that it is fully functional for the Spring of 2016.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lawrence Demers', with a long, sweeping horizontal stroke extending to the right.

Lawrence Demers
President

EXHIBIT 6

From: [Lora Papetsas](#)
To: [Anne Howard](#)
Cc: [Alex Papetsas](#); [David Panagore](#); [dgardner](#); [Gloria McPherson](#); [Aaron Hobart](#); [dpber](#); [Mark Walsh](#); [Bryan Rafanelli](#); [Donna Robertson](#); [marc@lacasselaw.com](#); [Marshall Newman](#); [Siobhan Carew](#); [rjoyce@newmanlegal.com](#)
Subject: 99 Commercial Street
Date: Sunday, November 08, 2015 9:42:33 AM

Hi Annie,

It has been brought to my attention that you were at my property on Saturday and have seen the destruction to my property first hand and that you are going to issue a cease and desist order to Cape Cod Docks first thing tomorrow- Monday the 9th of October.

Annie---- I cannot quite express my total and complete state of shock of what has happened to my property.

After the hearing on Thursday evening, October 5th, my son, Alexander and I, along with Siobhan Carew- who will be the new owner of the property and Sal's Place- and her Attorney Richard Joyce went to the property to take a look at the space between the buildings, as it was brought up by Greg Connors' Attorney---- Jay Murphy--- that the space between the granted easement and walkway was narrow. That space is actually 30 inches at its Commercial Street end, and I still need to review all of this with you as I understood my special permit to use that side pathway and side entrance to exist as a grandfathered use which carries with the property----- unless there is a change- and there is not going to be a change of use for either that path or the building which will remain a restaurant. I will set up an appointment with you this week to discuss this.

In any case, the issue at hand with regard to my property is that on Thursday night we all discovered 2 huge pieces of equipment placed on my private land and a porta-potty. This must all be removed immediately. I never gave authorization for the placement of any equipment or porta-potty on my property to Cape Cod Docks, to Cape Associates, to Greg Connors or his Attorney Jay Murphy. Furthermore, and more importantly, we discovered that my entire deck and bulkhead on the beach was destroyed and taken down. None of us could believe this level of destruction and I was in a state of total shock, and frankly still am.

I immediately notified my Attorney who then notified Jay Murphy. I

coordinated with Siobhan Carew to meet on site at the property on Friday, so that we could actually view everything in daylight and to try and ascertain who was responsible for this destruction of my property before taking the next steps. I was told by the carpenter for Cape Associates (Aaron Hayes) that it was "Larry" from Cape Cod Docks who "made a decision" to remove my private property and to tear it down.

I first called Jon Ziperman, the site supervisor for Cape Associates- with whom I have been in communication throughout this process, both with an in-person meeting on site prior to construction, and by email. He told me that there was to be **nothing** done to my deck and that Cape Associates was not responsible for this act. He also told me that Larry from Cape Cod Docks made this decision.

I then called Larry and he told me that my deck was not in good condition. I told him that it was not up to him to make any decisions about my existing deck and bulkhead or to illegally remove my entire deck and bulkhead. He told me that he'd replace everything "better than before" and to have my Attorney "draw something up" and he'd sign it. Later that afternoon his secretary provided me an email for my Attorney to use. I asked him if he realized that he had absolutely no approval from me to place his heavy equipment on my land or his porta-potty and further no approval from me to destroy my private property, and he had no answer-- - except to say : "sorry".

Annie- the last thing that I am interested in is a legal engagement with Cape Cod Docks or with the owner of 101 Commercial Street. However, I am the majority shareholder for The Nathaniel Hopkins Condominium at Union Wharf at 99 Commercial Street (I have copied the other owners at 99 Commercial Street in this email: David Berarducci, Mark Walsh and Bryan Rafanelli). I have a responsibility to maintain the integrity of our complex along with providing access to their units on the pier- which does not exist now due to this destruction. Right now, the entire east facing length of the building is exposed to wind, tide surge, weather and potential impact from storms, along with all of the piping beneath.

Cape Cod Docks must be held completely and entirely responsible for the reconstruction of the deck and bulkhead to the satisfaction of all parties involved---- my pier owners of units #1,2 and #3----- and Siobhan Carew, as the new owner of units, #4,5,6 and #7. The entire building ----now exposed---- must be reinforced from underneath, as it has not been

exposed to tide and surge in this manner for decades. My Attorney will develop and comprehensive list that must be fully addressed by Cape Cod Docks and they must comply with Siobhan Carew and my pier owners for any residual issues that surface in the spring when the water is turned back on along with the other utilities on site of gas lines and electric lines.

Siobhan Carew, along with the pier owners must be completely satisfied with the end result of the reconstruction and will need to engage a third party inspection of all elements affected or potentially affected, to be brought back to full working order, as **everything** was in full working order prior to this destruction. Our Association just had a brand new electric box and fire box installed on the property, as one example, and this, along with all other elements, must be in full working order.

I will be coming to the office tomorrow to sit down with you and would greatly appreciate if you can tell me what time will work for you, so that we can review everything together.

I know that my Attorney is expecting to hear from Jay Murphy prior to noon tomorrow.

Thank you,
Sincerely,
Lora

Lora Papetsas
LORAMERS PRODUCTIONS, LTD.
508-237-7951

EXHIBIT 7

From: [Mark Kinnane](#)
To: [Anne Howard \(ahoward@provincetown-ma.gov\)](mailto:ahoward@provincetown-ma.gov)
Subject: FW: 99 Commercial Street
Date: Tuesday, November 10, 2015 7:57:24 AM

Hi Anne

I'll be calling you in a few minutes to talk this over with you.

Thanks Mark

From: GMC [mailto:gmconnors@aol.com]
Sent: Friday, November 06, 2015 5:54 PM
To: Mark Kinnane; Jon Ziperman
Cc: Don Dirocco
Subject: Fwd: 99 Commercial Street

Begin forwarded message:

From: "Lester J Murphy Jr" <ljmurphylaw@verizon.net>
Date: November 6, 2015 at 4:14:38 PM EST
To: "GMC" <gmconnors@aol.com>
Subject: Fw: 99 Commercial Street

Lester J. Murphy Jr.
Attorney At Law
1380 Route 134
PO BOX 1388
East Dennis, MA. 02641
TEL: (508) 385-8313
FAX: (508) 385-7033
Email: ljmurphylaw@verizon.net

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strictly prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.

From: Donna Robertson
Sent: Friday, November 06, 2015 3:59 PM
To: Lester J. Murphy Jr.
Cc: lapapetsas@gmail.com ; richbostond@yahoo.com
Subject: 99 Commercial Street

Dear Attorney Murphy,

After the meeting last night , and with all parties very much wanting to find a way to resolve the Parking Easement issue, Lora, Siobhan and Attorney Joyce went to the property and were shocked to see that Lora's deck and bulkhead had been removed, that a porta potty was set up on her property , a piece of heavy equipment was parked over the grease traps in the easement area, and her electrical wires had been disturbed. This was all done without my client's knowledge or consent by Mr Connors' contractors, and with his knowledge.

The easement issue can easily be resolved to the town's satisfaction if your client would relinquish back to my client 9 to 10 inches off the width of his easement.

According

to Chet Lay, he has 40 inches from the side of his house to the easement, so that he could easily do this and still have the same parking area. this would also give the restaurant

a 36 inch walkway from the street into the restaurant.

If Mr Connors can agree to this minor decrease in the width of his parking easement, and we can also reach an agreement that will make my client's property whole and protected

from the recent and ongoing construction at your client's property , I think we will be able move forward in everyone's best interests.

I will need to hear back from you by Monday morning November 9, 2015 with regard to your client's position on this, or my client will need to take steps to protect her interests. She has always supported your client's goals concerning his property , and this recent turn of events has been disheartening to say the least.

Regards,

Donna M. Robertson, Esq.
Ardito, Sweeney, Stusse, Robertson & Dupuy, P.C.
25 Mid-Tech Drive, Suite C

West Yarmouth, MA 02673
Phone: (508) 775-3433
Fax: (508) 790-4778
Email: drobertson@capecodlawyers.com

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EXHIBIT 8

Amy E. Kwesell

From: Amy E. Kwesell
Sent: Thursday, August 09, 2018 3:57 PM
To: Amy E. Kwesell
Subject: FW: Police reports from Sal's place

From: Jim Golden
Sent: Friday, August 03, 2018 2:30 PM
To: Myers, K.C
Subject: RE: Police reports from Sal's place

KC,

Welcome back!

Are we talking about owners of adjoining properties at 101 and 99 Commercial St. I believe they are involved a civil law suit regarding alleged encroachment issues on each other's property, and several other matters....

This ongoing conflict has resulted in 3 trespass orders issued by notice via their private attorney. I have included whatever notices I received with regard to the property addresses going back to 2015.

I do believe in 2016 one of the property owners requested a private-duty police officer by assigned to stand-by to assist with traffic (for unloading) and to keep the general peace. But this was for a day or so (I would have to physically look up past detail records to be sure).

I reviewed police calls for service from 2015 to present and here are the results.

99 Commercial Street

**01/26/2015 - Monday
15-1217 0831 Phone - HAZARD CONCERN**

**06/04/2016 - Saturday
16-9509 2142 Initiated - BAR CHECK**

**06/29/2016 - Wednesday
16-11128 2214 Walk-In - TRESPASS ORDER**

08/09/2016 - Tuesday
16-14286 0736 Initiated - SERVICE CALL

08/19/2016 - Friday
16-15082 0850 Initiated - TRESPASS ORDER

09/22/2016 - Thursday
16-17409 1518 Phone - TRESPASS COMPLAINT

12/12/2016 - Monday
16-21932 1933 Phone - BURST WATER PIPE

101 Commercial Street

03/14/2017 - Tuesday
17-3855 1405 Phone - TRESPASS

06/05/2017 - Monday
17-8197 1003 Walk-In - VANDALISM (report 17-218-OF)

08/29/2017 - Tuesday
17-14446 1721 Walk-In - ASSIST CITIZEN

08/31/2017 - Thursday
17-14587 1446 Phone - TRESPASS COMPLAINT

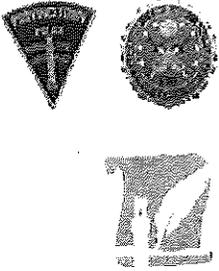
06/30/2018 - Saturday
18-11019 1819 Initiated - FOLLOW UP

07/06/2018 - Friday
18-11596 0811 Initiated - FOLLOW UP (report 18-265-OF)

Thank you!

Jim Golden
Chief of Police
Provincetown Police Department
26 Shankpainter Road
Provincetown, MA 02657
(508) 487-1212 (Business Line)
(508) 487-4488 (Administrative Fax)

jgolden@provincetown-ma.gov



PROVINCETOWN 400
1620-2020

Provincetown 400 commemorates the 400th anniversary of the first landing of the Mayflower Pilgrims in Provincetown in 1620. Here they signed the historic Mayflower Compact, the first agreement to establish a government by the people in the 'new world,' which became the cornerstone of American democracy. They explored the Cape for five weeks before sailing on to Plymouth.

SIGN UP FOR OUR EMERGENCY ALERT SYSTEM



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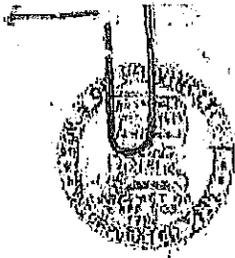
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When responding, please be advised that Counsel for the Town of Provincetown and the Office of the Secretary of State has determined that email could be considered a public record.

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EXHIBIT 9



TOWN OF

Department
(508) 487-7020

BUILDING PERMIT

JOB WEATHER CARD

PERMIT NO BLD-16-000336
 ISSUE DATE 09/30/2015
 APPLICANT MARK KINNANE

PERMIT TO Alteration

AT (LOCATION)	101 COMMERCIAL ST, Provincetown, MA		ZONING DISTRICT	Bldg. Type:	Residential
SUBDIVISION MAP BLOCK LOT	G-2-3-A	BUILDING IS TO BE:	CONST TYPE	USE GROUP	
LOT SIZE	2,003.76				
REMARKS	Demolish rear deck and rear section of house. Install piles, list remaining structure; and rebuild rear section and deck. Greg Connors acts as owner as beneficiary of Huey Trust. Contractor phone: 508-255-1770				CONTRACTOR LICENSE CS-026665 Construction Supervisor MARK P KINNANE MARK KINNANE N EASTHAM, MA 02651
AREA(SQ FT)	2,003.76	EST COST (\$)	240000	PERMIT FEE (\$)	3,672.00
OWNER	HUEY TRUST		BUILDING DEPT BY		
ADDRESS	DAVID A DECKELBAUM TTEE, PO BOX 651 WASHINGTON DC 20007		PHONE		

CONDITIONS:

THE WATER DEPARTMENT RENDERS *CONDITIONAL APPROVAL – Cody J. Salisbury, Water Superintendent

*Service is to be shut-off, and meter removed during the demolition. Meter is to be located in the new structure at an approved location. If converting to condominiums, each unit will require a separate meter.

Contractor/applicant shall return completed construction affidavit with Table 302.1 wall design, in order to close permit.

Completed Elevation Certificate required to close permit.
 PE to provide certified approval of foundation and framing work prior to Dept. inspections
 Certified foundation as-built required.
 Floor plans approved for 2 bedroom design.
 All work shall comply with ZEA FY15-29 and HDC FY15-37 approvals.

APPROVED PLANS MUST BE RETAINED ON JOB AND THIS CARD KEPT POSTED UNTIL FINAL INSPECTION HAS BEEN MADE. WHERE A CRITICAL SAFETY CONCERN IS IDENTIFIED, SUCH BUILDING SHALL NOT BE OCCUPIED UNTIL FINAL CORRECTIVE ACTION HAS BEEN MADE.

WHERE APPLICABLE SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL PLUMBING/GAS AND MECHANICAL INSTALLATIONS.
POST THIS CARD SO IT IS VISIBLE FROM STREET

BUILDING INSPECTIONS APPROVALS

Foundation Inspector _____ Date _____ <input checked="" type="checkbox"/>	Electrical Service Inspector <u>[Signature]</u> Date <u>6-16-16</u> <input checked="" type="checkbox"/>	Rough Plumbing Inspector <u>[Signature]</u> Date <u>5-12-16</u> <input checked="" type="checkbox"/>	Health Dept. Inspector _____ Date _____ <input checked="" type="checkbox"/>
Certified Foundation Plan Inspector _____ Date _____ <input checked="" type="checkbox"/>	Rough Wiring Inspector <u>[Signature]</u> Date <u>6-16-16</u> <input checked="" type="checkbox"/>	Finish Plumbing Inspector _____ Date _____ <input checked="" type="checkbox"/>	Other Inspector _____ Date _____ <input checked="" type="checkbox"/>
Rough Framing Inspector <u>[Signature]</u> Date <u>7/1/16</u> <input checked="" type="checkbox"/>	Final Wiring Inspector _____ Date _____ <input checked="" type="checkbox"/>	Gas Inspector _____ Date _____ <input checked="" type="checkbox"/>	Final Building Inspector <u>[Signature]</u> Date <u>6 April 2017</u> <input checked="" type="checkbox"/>
Insulation Inspector <u>[Signature]</u> Date <u>11/1/16</u> <input checked="" type="checkbox"/>	Smoke/ Fire Alarms Inspector _____ Date _____ <input checked="" type="checkbox"/>	Water Dept. Inspector _____ Date _____ <input checked="" type="checkbox"/>	Certificate of Occupancy Inspector <u>[Signature]</u> Date <u>12 April 2017</u> <input checked="" type="checkbox"/>

WORK SHALL NOT PROCEED UNTIL THE INSPECTOR HAS APPROVED THE VARIOUS STAGES OF CONSTRUCTION

PERMIT WILL BECOME NULL AND VOID IF CONSTRUCTION WORK IS NOT COMPLETED WITHIN SIX MONTHS OF DATE THE PERMIT IS ISSUED AS NOTED ABOVE

INSPECTIONS INDICATED ON THIS CARD CAN BE ARRANGED FOR BY WRITTEN NOTIFICATION.

Connors Residence 101 Commercial Street Provincetown, MA

FILE COPY

Owners

Greg Connors
3311 O Street NW
Washington, DC

Architects

Hammer Architects
21 Bishop Allen Drive
Cambridge, MA 02139
617.876.5121

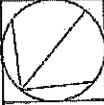
Structural Engineers

Webb Structural Services
670 Main Street
Reading, MA 021867
781.779.1330

Permit Set
08.27.15

REVIEWED FOR CODE COMPLIANCE

Shall not be construed to be a permit for,
or an approval of, any violation
or any provision of this code of any
other ordinance of the jurisdiction.



Hammer Architects
19 Bishop Allen Drive
Cambridge, MA 02139
617.876.6121

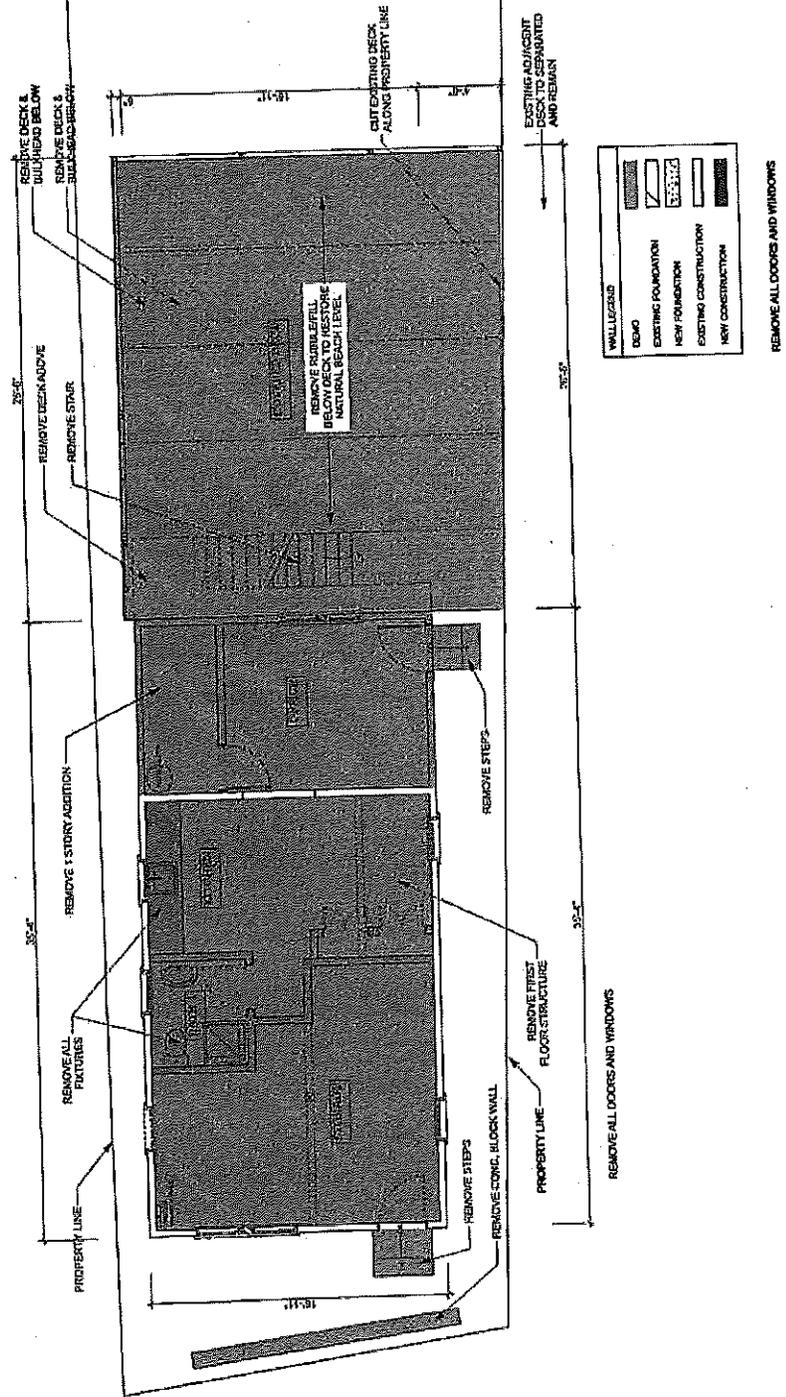
Title: FIRST FLOOR DEMO
Scale: As Noted
Date: 08.27.16

Connors Residence
101 Commercial Street
Provincetown, MA

A-1

FILE COPY

REVIEWED FOR CODE COMPLIANCE
Shall not be construed to be a permit for, or an approval of, any violation or any provision of this code of any other ordinance of the jurisdiction.



1 FIRST FLOOR DEMO
SCALE: 1/8" = 1'-0"

EXHIBIT 10

FY15-29
FILE #



101 Commercial Street
PROPERTY ADDRESS OF SPECIAL PERMIT REQUESTED

ZONING BOARD OF APPEALS
TOWN HALL
PROVINCETOWN, MA 02657

Robert Lovell
Vice Chairman
12.5.2014

Date: 12.5.2014

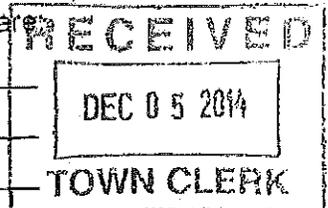
Decision of the Board of Appeals on the appeal and petition of David Deckelbaum, Trustee of the Huey Trust for a Special Permit under Article 3, Section 3110, Paragraph 1 of the Zoning By-law for a single/two family residence located at 101 Commercial Street, Provincetown, MA class Res 3 Residential/Commercial Zone.

After the required advertising, notification of parties in interest and posting of notice, a Public Hearing was held on November 20, 2014.

The applicant requested a ruling under the provisions of the Goldhirsch v. McNear decision for alterations/change of use to a structure. The applicant wishes to: raise structure to comply with FEMA Velocity Zone building codes, and install a new addition w/ dormers along non-conforming setbacks

After discussion, the Board determined that the existing non-conformancies are:

- Front and side yard setbacks
- _____
- _____



The Board, after discussion, found that the proposal would increase or intensify the existing non-conformancy and/or create a new non-conformancy. The nature of the intensification and/or new non-conformancy is: new structure/addition up and along side yard setbacks

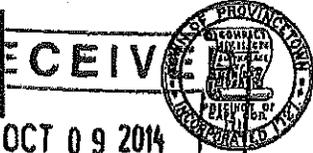
The Board found that this would not be substantially more detrimental to the Town or neighborhood. Accordingly, the Board finds that a Special Permit may be granted to the applicant.

In granting this Special Permit, the Board relied on plans drawn by William N Rogers (package of plans), dated Sept 2014, which plans are incorporated hereto by reference. A copy of these plans bearing the stamp of the Board, and signed by the sitting members and the date of the decision will be placed on file with the Town Clerk. The applicant is put on notice that any deviation from the above referenced plans shall invalidate this Special Permit and shall require further review by this Board.

IMPORTANT: Any appeal from the decision of the Board of Zoning Appeals can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (G.L.) as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

FILE# 15-29

Town of Provincetown
ZONING BOARD OF APPEALS



OCT 09 2014
TOWN CLERK

APPLICATION FOR A HEARING

TO THE TOWN CLERK, PROVINCETOWN, MASSACHUSETTS: (Applicant: Complete 1,2, and 3 below; please print)

1. Property located at: 101 Commercial Street Assessors Map & Parcel 6-2 3A Zoning District Res 3

Present use of premises Single Family Proposed use of premises Single Family

2. The undersigned hereby files with specific grounds for this application (check one of the following):

APPLICATION FOR SPECIAL PERMIT CHECK HERE IF FOR A RENEWAL

Applicant seeks a Special Permit under Article(s) 3 Section(s) 3110 of the Provincetown Zoning By-law concerning (describe): The construction of a two story Addition and roof dormers at the rear of the house that extend into the side and harbor set backs. Elevation of the existing structure to confirm with FEMA code requirements. The new construction is within the existing nonconforming setbacks, and does not increase the existing nonconforming dimensions of the building.

If application is being filed under Article 3, Section 3110 and is a one or two family home, check if you wish decision to be rendered as a *Goldhirsch* decision. If box is not checked, decisions shall be rendered and processed according to standard procedure.

PETITION FOR VARIANCE

_____ as set forth in
Article(s) _____ Section (s) _____ (Note: state the specific by-law you are requesting
a variance from; do not simply reference Article 2 Section 2339).

NOTICE OF APPEAL

- a. Applicant is aggrieved by his inability to obtain enforcement action from the Building Commissioner on (date) _____
- b. Applicant is aggrieved by order or decision of the Building Commissioner on (date) _____ which applicant believes to be a violation of the Provincetown Zoning By- law or the Massachusetts Zoning Act.

3. Applicant (full name) Don Di Rocco/ Hammer Architects

19 Bishop Allen Drive, Cambridge MA 02139
(legal mailing address including zip code)

617-876-5121
(telephone number)

Applicant is: (check one) Owner Tenant Licensee Prospective Buyer Other Interested Party

Owner (if other than applicant) David A. Deckelbaum, Trustee of the Huey Trust 3313 O Street NW, Washington DC 20007
(full name) (legal mailing address including zip code)

NONCONFORMING SITUATION CHECKLIST

1. Property Identification.

Address: 101 Commercial Street

Zoning District: Res 3

Applicant(s): Don DiRocco / Hammer Architects

Owner(s): David A. Deckelbaum, Trustee of the Huey Trust

2. Is this a pre-existing nonconforming single or two-family situation? Y N
 If so, use G.L. c.40A, §6, ¶1, sentence one, second except clause.
 If not, use G.L. c.40A, §6, ¶1 and ZBL §3100

3. Is this a multi-family or commercial accommodation use? Y N
 If so, also use ZBL §4100 to determine nonconformancy issues.

2. Dimensional Issues: Area Ftg F.Yrd S.Yrd R.Yrd Lot Coverage
 (See ZBL §2560)

District Requires: 5,000 50 20 6 10 40%

Property Has: 1,973 22.17 5.74 1.75 11.9 60%

Conforms?: Y N Y N Y N

Dimensional Issues Units(Has) Area Area(Req'd) Units(New) Area (Req'd)
 (ZBL §4100)

Multi-Family _____

Commercial Accommodations: _____

Conforms? Y/N Y/N Y/N Y/N Y/N

3. Use Issues

Property Use(s):
 District Allows?: Y N

4. Relief Sought:

The construction of a two story Addition and roof dormers at the rear of the house that extend into the side and harbor set backs. Elevation of the existing structure to conform with FEMA code requirements. All new construction is within the existing non-conforming setbacks.

Complete the following tables if the application involves a new structure, or an addition, alteration or change to an existing structure.

Lot Coverage and Density Summary				
1	Lot Area (sq. ft.)		1,973	
2	Total number of buildings on the lot	existing	principal	1
			accessory	0
		proposed	principal	1
			accessory	0
3	Total number of dwelling units on the lot	existing	2	
		proposed	1	
4	Total number of commercial accommodation units	existing	0	
		proposed	0	
5	Total building footprint area (sq. ft.)	Existing 602+583 Deck	1,185	
		Proposed 767+393 Deck + 25 stair	1,185	
6	Percentage lot coverage (#5 / #1) x 100	existing	60%	
		proposed	60%	
7	Total landscaped area (sq. ft.)	existing	788	
		proposed	788	
8	Percentage green space (#7 / #1) x 100	existing	40%	
		proposed	40%	

The figures in items #1 – 5 shall come directly from the cover sheet of the Scale Calculation sheet provided by the Assessor's Office.

Discrepancies in figures between those on the Assessor's form and on the table to the right shall be cause to consider this application incomplete.

Building Scale Summary (all figures in cubic feet)	
1. Neighborhood Average Scale	19,214 cubic ft
2. Allowable Neighborhood Scale w/o Special Permit	22,096 cubic ft
3. New or Existing Structure Scale	15,495 cubic ft
4. Proposed Addition Scale	2,840 cubic ft
5. Total Proposed Scale	18,335 cubic ft
6. Percentage structure scale increase [(#5/#3) x 100] - 100	18.3%

Signing this application declares that the statements and information on the foregoing application are true and accurate, to the best of your knowledge and belief. Signing this application also signifies that you have read and fully understand the attached instructions and general information.

Don DiRocco / Hammer Architects

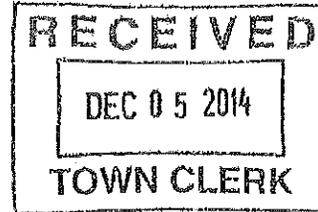


10/30/14

name

signature

date



FY15-28

case number

**Town of Provincetown
Zoning Board of Appeals
Town Hall
Provincetown, MA 02657**

101 Commercial Street
property address

4 DECEMBER 2014

FINDINGS AND DECISION OF THE ZONING BOARD OF APPEALS

INTRODUCTION:

Attorney Lester J. Murphy and applicant Don Di Rocco of Hammer Architects, 19 Bishop Allen Drive, Cambridge, Mass., appeared before the Zoning Board of Appeals seeking a variance from Article 2, Section 2560 of the By-Laws, to construct a new egress stairway further intruding into a non-conforming front yard setback at the property located at 101 Commercial Street in the RES-3 Zoning District. Also appearing with Mr. Murphy was Mark Hammer of Hammer Architects.

The owner of the property is the Huey Trust, David A. Deckelbaum, Trustee, 3313 O Street NW, Washington, DC. The beneficiary of the Huey Trust is Gregory M. Connors (address not provided).

A companion application under Article 3, Section 3110 of the By-Laws (Case FY15-29) seeking to construct a two story addition with new roof dormers and to elevate the entire structure to comply with FEMA flood zone requirements was also submitted. The Board voted to hear that application under the Goldhirsch vs. McNeer Ruling. Accordingly, there is no written decision. The Board found that the proposed addition, dormers, and elevation along pre-existing, non-conforming setbacks would not be more substantially detrimental to the neighborhood than the existing non-conformities, and consequently awarded the requested special permit.

The remainder of this decision focuses solely on the request for a variance from the Dimensional Schedules in Section 2560 of the By-Laws.

A public hearing was held on the 20th of November, 2014. Zoning Board of Appeals members adjudicating this application were:

Robert Littlefield, Vice Chairman
Jeff Haley
Joe Vasta
Peter Page
Bryan Armstrong

The five members hearing this case exceeded the legal quorum requirement for a super majority vote. The hearing was properly noticed and publicized in accordance with Massachusetts open meeting laws and local Zoning Board of Appeals requirements.

Decision: By a vote of five (5) in favor and none (0) opposed, none (0) abstaining, the Zoning Board of Appeals APPROVED the petition for a variance as requested in the application

DESCRIPTION OF PROPERTY AND PROPOSAL

1. This circa 1850 historic property (Assessor's Map 6-2 Parcel 3A, Barnstable County Registry of Deeds Book xxx, page xxx) is located in a quiet west end neighborhood of fine homes and a scattering of businesses. Currently the structure at 101 Commercial Street contains two dwelling units and an office. A covered deck on the harbor side of the lot has been used by Sal's Place, a restaurant located in an adjacent lot. Atty. Murphy characterized the structure as being in need of rehabilitation.
2. The lot is non-conforming as to front and side-yard setbacks. These non-conformancies play a role discussed subsequently in the need for a variance.
3. Applicant is proposing to convert this structure into a single family, three-bedroom dwelling. The restaurant use of the deck will cease.
4. At question here is applicant's proposal to elevate the structure. The Board found that this structure is in a Velocity Zone. FEMA requirements are that structures in a flood zone which undergo renovation costing more than fifty percent of the value or replace more than fifty percent of the linear dimension of the foundation must comply with all FEMA flood zone building codes. In this case, applicant's desire to rehabilitate the entire structure resulted in an expense of more than fifty percent of the value. Also, applicant desires to provide a more solid foundation for the entire house. This proposed rebuilding effort triggered the FEMA code requirements, including elevating the structure four and a half feet so that the first floor will be a certain minimum distance above the mean flood water mark.
5. Attorney Murphy informed the Board that the owner of the house has no say in whether or not to elevate the structure. It is simply a FEMA building code which home owners are required to follow when certain conditions are present.
6. The elevation of the structure by four and a half feet in turn presented a problem for the homeowner regarding the front doorway. A stairway from Commercial Street will be required due to the increased elevation of the first floor. Because of the lack of clearance in side yard setbacks, it will not be possible to build a stairway on either side of the house or in the back of the house. Also, Atty. Murphy informed the Board that due to the historic nature of the house and its siting in the Historic District, the HDC has required the home owner to retain the front entryway.
7. The issue before the Board is that a new stairway in the front of the house will further intrude into the non-conforming front yard setback, which is currently 5.7 feet. The new setback with the stairway will be 2.4 feet. The non-conformity will be intensified. Hence, a variance from the Dimensional Schedules is required.

Important: Any appeal from the decision of the Zoning Board of Appeals can be made only to the Court and must be made pursuant to MGL Chapter 40A, Section 17, as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

8. Attorney Murphy explained to the Board how this application meets all of the complex and demanding requirements for a variance.
9. Atty. Murphy told the Board that the resulting structure will maintain its historic appearance, will be fully rehabilitated, and will add to the charm and character of the neighborhood as well as improving its valuation. Mr. Murphy also reminded the Board that many of the neighboring dwellings have even less front yard setbacks than what is proposed for this dwelling.
10. To support the application, the following documentation was included in addition to the neighborhood plot plan:
 - a. A certified plot plan prepared by William N. Rogers of Provincetown, Mass., dated September, 2015; and,
 - b. Detailed before and after floor plans and elevations prepared by Hammer Architects, Cambridge, Mass dated November 12, 2014

APPLICABLE LAW AND DECISION CRITERIA:

The local By-Laws used by the Board to adjudicate this application are those laws in effect as of May 7, 2012.

1. Massachusetts General Laws Chapter 40A, Section 10 as it pertains to variances from zoning by-laws
2. Section 2560 of the Zoning By-Laws (Dimensional Schedules)
3. Section 5222 of the Zoning By-Laws

To hear and decide appeals or petitions for variances from the terms of this By-Law, including variances for use, with respect [to] particular land or structures. Such variance shall be granted only in cases where the Board of Appeals finds all of the following:

- a. *A literal enforcement of the provisions of this By-Law would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.*
- b. *The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.*
- c. *Desirable relief may be granted without either:*
 - 1). *Substantial detriment to the public good; or*
 - 2). *Nullifying or substantially derogating from the intent or purpose of this By-Law*

4. Section 5330 of the Zoning By-Laws (Special Permits)

Important: Any appeal from the decision of the Zoning Board of Appeals can be made only to the Court and must be made pursuant to MGL Chapter 40A, Section 17, as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

Special Permits (other than those specified in Section 3420 [outside displays]) shall be granted by the Special Permit Granting Authority only upon its written determination that the social, economic or other benefits of the proposal for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.

SPECIFIC FINDINGS:

1. The Board took note that no one appeared in person to speak against the application nor were there any letters in the file in opposition. One letter was in the file supporting the application
2. The Board found that a literal enforcement of the Dimensional Schedule in Section 2560 of the By-Laws would create a substantial hardship for the property owners, in that it would be impossible to use the property without a door. The Board was also mindful of the Historic District Commissions finding that the homeowner should leave the front door where it is.
3. The Board further found that the hardship is a direct result of the nature of this property, that unlike many properties in the RES 3 Zoning District, it sits in a FEMA Flood Zone. Also, the Board found that because of the topography of the lot at harborside, this property is located in a Velocity Zone.
4. The Board found there would be no detriment to the public good in providing relief for applicant. Specifically, the Board made a finding that there would be no detriment to the neighborhood due to the construction of a front stairwell on Commercial Street, especially given that neighboring dwellings have doors and stairwells set even closer to the street.
5. The Board further found that granting variance relief would not nullify or derogate from the intent of Section 2560 of the By-Laws.
6. Based on these findings, the Board found that the petitioner has met all of the requirements to be granted variance relief as required under Section 5222 of the By-Laws. Based on all of the findings, the Board approved the request for Variance relief without conditions.

Important: Any appeal from the decision of the Zoning Board of Appeals can be made only to the Court and must be made pursuant to MGL Chapter 40A, Section 17, as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

SIGNED BY:

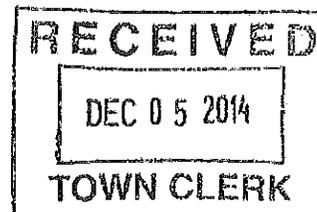
Robert Littlefield
ROBERT LITTLEFIELD, VICE CHAIRMAN

12.5.2014
DATE

DATE OF FILING:

DATE

A copy of this application, bearing the stamp of this Board, the signatures of the sitting members, and the date of this decision, will be on file in the Provincetown Department of Community Development. The applicant is hereby put on notice that any deviation from the above referenced application shall invalidate this Special Permit and shall require further review by this Board. Furthermore, the Special Permit issued hereunder shall not be valid until recorded at the Registry of Deeds in Barnstable as provided in MGL c.40A.



Important: Any appeal from the decision of the Zoning Board of Appeals can be made only to the Court and must be made pursuant to MGL Chapter 40A, Section 17, as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.

101 Commercial Street
Property address



FY15-28
case number

Town of Provincetown Zoning Board of Appeals

Town Hall - 260 Commercial Street, Provincetown, MA 02657

508-487-7020

Fax: 508-487-0032

The Special Permit/Variance issued hereunder shall not be valid until it is properly recorded at the Registry of Deeds in Barnstable as provided in M.G.L. c40A Section II. The applicant shall furnish proof of said filing prior to obtaining a building permit.

A motion was made to Approve Deny Allow to withdraw without prejudice

The Zoning Board of Appeals application/decision for case # FY15-28, by a

Vote of 5 in favor, 0 against and 0 abstained.

Board Members Sitting	In Favor	In Opposition	Abstained
<u>Robert Littlefield</u>	X		
<u>Joe Vasta</u>	X		
<u>Jeff Huley</u>	X		
<u>Peter Page</u>	X		
<u>Bryan Armstrong</u>	X		

Board Members

Certified By

Robert Littlefield

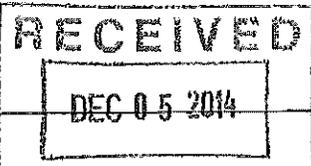
Robert Littlefield 12.5.2014
Chair Date

[Signature]

Peter W. Page

[Signature]

Clerk



Date

IMPORTANT: Any appeal from the decision of the Board of Zoning Appeals can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (G.L.) as amended, and must be filed within twenty (20) days after the date of filing of the decision with the Town Clerk.



**Provincetown Select Board
AGENDA ACTION REQUEST
Monday, August 13, 2018**

7B

TOWN MANAGER'S REPORT

Administrative Updates

Requested by: Town Manager David Panagore

Action Sought: Discussion

Proposed Motion(s)

Discussion dependent – votes may be taken.

Additional Information

Please See attached document:

- Staff Bi-Weekly Report
- OPEB Valuation Comparison
- FEMA Authorization Wave Attenuator Update
- Calendar August through December

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>

Memo

To: Board of Selectmen
From: David B. Panagore, Town Manager
CC: Senior Staff
Date: August 23, 2018
Re: Bi-weekly Departmental Update

Contracts Executed:

- 264-268 Bradford Street Rear Portion of Parcel Offer to Purchase- \$1,000,000.00
- Department of Energy Resource FY19 Green Communities Competitive Grant Documents for Fire Station Boiler Replacement Project- \$34,779.00
- Engineering Services with Jacobs Engineering Group for Purchase of Snow Removal Equipment- \$17,300.00
- Eversource Energy Access and Indemnity Agreement for potential on-site location of energy storage battery
- Memorandum of Agreement with Cape & Vineyard Electric Cooperative, Inc. for FY20 Round One Operational Administrative Adder

Meetings and Conferences Town Manager Attended:

- Cape Cod Managers Luncheon on 8/9/18
- Harbor Hill Bankruptcy Hearing on 8/14/18
- All Cape Selectmen & Councilor's Meeting on 8/17/18
- Provincetown 400 Task Force Meeting on 8/23/18

Finance and Administration

Finance

- FY19 Budget to Actual Results: FY2018 was closed in Munis last week. FY19 budget to actual results are now available in OpenGov and will be updated weekly with the posting of the warrant.

- Financial Forecast: The FY20-FY24 Forecast is in process using OpenGov; a draft will be presented to the Select Board in September.
- FY20 Budget Process: OpenGov will be training staff on the new budget process on Tuesday 9/4.

MIS

- MUNIS MIS continues to prepare the Town's MUNIS environment for the payroll module. This involves meeting regularly with representatives from Tyler Technologies to ensure that data is migrated efficiently from Harper's, our existing payroll vendor.
- OpenGov MIS is helping to prepare OpenGov for budget season. Specifically, we are preparing the Budget Builder module so that it can be used by department heads to submit their FY19 budgets. We are also preparing Accela so that performance metrics can be shared with OpenGov.
- Website We recently met with our CivicPlus project manager as part of the kickoff off our website redesign. During this meeting expectations were set for both parties. We have some deliverables that need to be submitted in early September, after which we'll receive an initial consultation regarding the content on our existing site. We'll also be receiving a project timeline with important dates. All in all, it is expected to be a six month project.

Town Clerk

- Town Board Resignations: Lori DaLomba resigned from the Recreation Commission on 8/21/18.
- 2018 State Primary: Absentee Voting for the 9/4/18 Primary is available until 8/31/18 at 5:00 pm. The Clerk's Office will be open.
- Public Records Management Software: Herbert Myers of Foia Direct will conduct a live demonstration for management staff on 9/18/18.

Community Development

Building Department

- 8D Commercial Street, Unit B: 8D Commercial Street is a single family dwelling adversely affected by the 1/4/18 flooding event. The owners have chosen mitigation by elevation to protect the structure from future flooding events. This structure is located in the A Zone according to the FIRM Maps and is on the north side of Commercial Street. The owners have a building permit for the property to be elevated 3'7" to be FEMA compliant.
- 137 Bradford St (former Tedeschi site): The property has been sold and the new owners have installed construction fencing around the front perimeter. They will be removing the plastic barricades from the property, but will maintain the fencing for insurance liability reasons while they outfit the building for their needs. No building permits have been requested to date.

Community Housing Office

- Harbor Hill: The bankruptcy court hearing was held on 8/14/18 allowing the Town to move forward with the acquisition and a closing potentially on 8/30/18. Information sessions were conducted on 8/7/18 at 5:30 pm and 8/11/18 at 10am. Tenant applications are due no later than 9/27/18. Approximately 100 applications have been distributed and they are available at the Town's website. 3 applications have been received to date. The Housing Specialist has had many meetings and conversations with potential applicants. The contract for management services is under negotiation. Invitations for Bid documents for the renovations have been advertised with filed sub-bids due 8/30/18 and general bids due 9/11/18.
- Self-Sufficiency Local Voucher Program: Another resident was approved and is moving forward bringing current total to seven.

Planning

- OneCape Conference: The Planner attended the Cape Cod Commission OneCape Conference on Friday, 8/17. He learned about the Regional Policy Plan update, online tools to provide information to permittees and Cape-wide transportation initiatives.
- Local Comprehensive Plan (LCP) Committee: The Local Comprehensive Plan Committee met on Tuesday, 8/21 and finalized an outline for the LCP. Drafting is underway and a first draft is expected by late September or early October. A second round of public engagement will commence at that time.
- Harbor Hill: The Planner is continuing to work with staff and the architect on permitting for Harbor Hill. A permitting path has been established, and he is providing feedback to the architects on submittal requirements and review criteria.

Town Infrastructure

Harbormaster

- High Water Patrols: During the periods of extreme high tides, we have stationed an assistant harbormaster at the lowest dip in the dike (far end) to advise, instruct and in some cases, remove people from the rocks to get across the rushing waters. We are having additional signage made specifically regarding the dike and the hazards at high tide.
- Meeting with Coast Guard and Swim for Life: the Harbormaster and staff met with Community Compact members and Sector Southeast Coast Guard personnel, National Seashore Rangers and lifeguards to review the Incident Action Plan for the Swim. This was the first time Sector Command has wanted to participate directly in planning. They were impressed with the thorough planning and had only a couple of additional thoughts from the experiences they have at Narragansett's swim events. We are looking into implementing their request for a standby large capacity vessel in

case of evacuation. The second request to work closely with Marine Fisheries scientists already happens.

- Vacation: Rex McKinsey will be on vacation the last week of August. Deputy John DeMatteis and Administrative Assistant Jarrod Koskey will be covering supervisory duties as needed.

Public Works

- Highway Department: Highway Department crews continue to be in maintenance mode. Recent heavy rain events have led to several areas of wash-out which has the crews busy restoring. In the intermittent times, crews will continue to sweep the streets, maintain beach mats, touch up some line painting, clean litter from highways, etcetera. Staff performed remarkably cleaning up post Carnival.
- Water Department: Water Department staff will be performing a water service renewal at 16 Cudworth Street, as well as 18 Bangs Street, both as part of renovation projects at the respective properties. Additionally, water treatment staff will be conducting second round monthly bacteria testing, and quarterly water sampling as required by MassDEP. Treatment staff will also be conducting grounds maintenance at the well sites
- Buildings & Grounds: Activity for the Department over the next two weeks will consist primarily of general seasonal maintenance of trash pickup, mowing, maintenance of planting areas and containers throughout town, and repairs to our facilities as needed. In the long range, the delivery of the doors for the utility room at the Harbormaster's office and the service window at the Tourism building are pending and will be installed when they come in. Application has been made to the Historic District Commission for approval to demolish the chimney and install the new kitchen fan. Contractors have been selected for both activities pending the approval. The selection of an HVAC contractor to service our mechanical service requirements is being finalized as the building walkthroughs have been completed. This will consolidate repairs and maintenance to our HVAC systems under one vendor. The Veterans Memorial Community Center roof coating bid documents are also being worked on.
- New Police Station: The Building Committee, along with staff, met again on Thursday, 8/23 to review cost estimates and hear value engineering input from our Owner's Project Manager, as well as the design Architect. It is anticipated that the project cost will still be considerably higher than originally estimated and additional appropriation will be required.

Community Services & Public Engagement

Council on Aging

- Registry of Motor Vehicle (RMV) Trips: We will add the RMV in South Yarmouth to our twice/monthly Hyannis trips starting in September. With the recent changes in driver's license/identification options, this will enable people to comply with in-person application requirements.
- Support Groups: We are adding two new support groups at the Center. The Alzheimer's Family Support Center of Cape Cod and Elder Services of Cape Cod and the Islands will offer a Savvy Caregiver Program later this month. In the fall, we will add an additional support group through Elder Services, also for caregivers. In addition, we provided space for a bereavement support group through Helping Our Women this month.
- Assistive Listening System: We have received the assistive listening devices through the discount program at MA Council on Aging. Our Program Coordinator is currently training staff on how to use them and we hope to incorporate them into programming in September. In addition to the one-on-one conversation devices, the portable system will allow participants to personalize audio reception either through headphones or earbuds, which will be especially helpful at the weekly movie, classes and presentations.

Library

- Winding down from Summer: The Library is busy with some housecleaning and organizing tasks as we move away from the summer season. HBO Studio store has donated craft and organizing items that we are putting to good use. Our annual teen volunteer is tackling our daunting shelf-reading project in the children's area. We are reviewing our summer programs and thinking about next year.
- Board of Trustee Meeting Postponed: The August Board of Library Trustee meeting has been rescheduled from 8/22 to 8/29 at 6pm in the Bowsprit Room.
- Book Festival: Third Annual Book Festival will be held 9/14-16. Marge Piercy will be the Rose Dorothea Award recipient this year. Eight authors have been selected for our curated reading that is held al fresco. Please see our website: provincetownbookfestival.org for more information.

Recreation

- Youth Fall Afterschool Activities: Every Labor Day marks a bittersweet moment for the Recreation Department when all 60-70 children head back to school and our attention shifts to the Afterschool Programs. This fall we will have the Afterschool Program from 3-5pm Monday through Friday, which gives parents the option of an additional two hours after the school day to finish out their work day. The program offers supervised activities each day, homework help, a snack and maybe some computer time. This is all part of our initiative to always be able to provide child care when school is not in session. The second week of September also marks the start of our Youth Soccer Program, where we ask volunteer coaches to guide these young athletes through an eight week season. The emphasis is on skill-

building, with not as much focus on winning and losing. As part of that, our town will face the other seven Lower Cape towns, traveling as far as Harwich or Chatham. Half of the games are played here in Provincetown at Motta Field on Saturday mornings; all of the others are away games.

- Summer Program Update: Teams in the Summer Program have completed their nine week Survivor Challenge, which was based on team-building and improving attitudes. The final week was a combination of all of the team-building exercises incorporated into one last obstacle course. I am happy to report all finished the tough course in less than 20 minutes. The winners of the entire season-long challenge will choose a field trip as an award during the last week of Rec. This challenge encouraged the children to work on teamwork and being polite to each other, because the overall goal is to win for their team. Like I have said in the past, it is not possible to teach this without the Recreation staff buying into the theme. The counselors again and again lead by example and the children see these young adults acting as role models for them.

Tourism

- International Overdose Awareness Day: On Friday, 8/31, Town Hall will be lit with the color purple for the Purple Lighting Awareness Campaign for International Overdose Awareness Day on behalf of Heroin is Killing Our Town, Inc. This is part of a statewide awareness initiative.
- WCOD: The Tourism Office arranged and organized a WCOD remote broadcast from Provincetown on Carnival Parade Day. The radio team arrived with us at 5am to set up. The live broadcast was the "Dan and Stephanie" morning show from 6 to 10am and from 10am to 2pm was Kevin Mathews. WCOD began highlighting events through the New Year First Light on 8/8/18 and will continue to highlight our events on the morning show. The personalities interviewed local business owners who stopped by.
- Photography: We placed legal ads in the Banner inviting local photographers to submit their favorite photos for the Tourism Department to use in advertising and marketing Provincetown. Photos will be accepted from all photographers interested in submitting images of events throughout the year, nature, seasonal activities, arts, LGBTQ, people having fun, scenic views and more. Photographers will be compensated.

OPFB VALUATION - BARNSTABLE COUNTY AS OF JUNE 30, 2017

Town/District Name	Members	OPFB Liability	Trust Balance	Net Liability	"Funded" Percent	Discount Rate
Town of Wellfleet	168	\$ 8,372,459.00	\$ 1,172,586.00	\$ 7,199,873.00	14.01%	7.00%
Town of Yarmouth	364	\$ 20,214,868.00	\$ 2,603,626.00	\$ 17,611,242.00	12.88%	7.00%
Town of Provincetown	349	\$ 20,650,325.00	\$ 2,419,151.00	\$ 18,231,174.00	11.71%	7.25%
Town of Brewster	321	\$ 21,915,046.00	\$ 1,574,088.00	\$ 20,340,958.00	7.18%	3.78%
Town of Orleans	256	\$ 21,609,632.00	\$ 851,271.00	\$ 20,758,361.00	3.94%	3.96%
Town of Chatham	331	\$ 17,842,696.00	\$ 593,743.00	\$ 17,248,953.00	3.33%	5.81%
Cape Cod Regional Technical School District	234	\$ 19,310,617.00	\$ 559,298.00	\$ 18,751,319.00	2.90%	3.58%
Town of Dennis	321	\$ 31,183,403.00	\$ 647,710.00	\$ 30,535,693.00	2.08%	3.58%
Town of Barnstable	1676	\$ 194,342,279.00	\$ 3,287,096.00	\$ 191,055,183.00	1.69%	3.58%
Town of Harwich	515	\$ 41,198,362.00	\$ 667,252.00	\$ 40,531,110.00	1.62%	5.08%
Upper Cape Regional Technical School	186	\$ 26,197,271.00	\$ 280,930.00	\$ 25,916,341.00	1.07%	3.58%
Town of Bourne	895	\$ 115,123,697.00	\$ 1,064,336.00	\$ 114,059,361.00	0.92%	3.58%
Monomoy Regional School District	350	\$ 37,597,711.00	\$ 245,246.00	\$ 37,352,465.00	0.65%	3.58%
Town of Mashpee	597	\$ 62,046,126.00	\$ 338,890.00	\$ 61,707,236.00	0.55%	3.58%
Town of Falmouth	1460	\$ 126,702,181.00	\$ 466,474.00	\$ 126,235,707.00	0.37%	3.58%
Town of Eastham	234	\$ 29,953,899.00	\$ 86,025.00	\$ 29,867,874.00	0.29%	3.58%
Dennis Yarmouth Regional School District	928	\$ 70,564,198.00	\$ 202,001.00	\$ 70,362,197.00	0.29%	3.58%
Town of Sandwich	878	\$ 93,219,223.00	\$ 218,204.00	\$ 93,001,019.00	0.23%	3.58%
Nauset Regional School District	431	\$ 28,189,032.00	\$ 41,471.00	\$ 28,147,561.00	0.15%	3.58%
Barnstable County (General)	334	\$ 29,966,985.00	\$ -	\$ 29,966,985.00	0.00%	3.58%
Town of Turo	147	\$ 12,611,683.00	\$ -	\$ 12,611,683.00	0.00%	3.58%

August 2018

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
			1	2	3	4
5	6	7	8	9	10	11
12	13 BOS Meeting Public Hearing on Goals	14 Finance Director submits 5 year budget to Town Manager	15 DRAFT STM Articles Finalized	16	17	18
19	20 Special BOS Meeting 5 pm Round Table?	21	22 Submit DRAFT warrant for 8/27 BOS Packet	23	24	25
26	27 BOS Meeting Tax Rate Classification Hearing/Refer bylaws	28	29 Warrant Opens (60 days or earlier)	30	31	

September 2018

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
						1
2	3 LABOR DAY – TOWN HALL CLOSED	4 STATE PRIMARIES	5 Final Articles & 5 year budget submitted for BOS packet	6 Start submitting public hearing notices	7	8
9	10 BOS Meeting Insert articles/Review 5 year budget Liz returns to work	11	12 Department Heads submit CIP to Finance Director	13 Public Hearing Notices in Banner/ Submit public hearing notices	14	15
16	17 Special BOS Mtg 5 pm Round Table?	18	19	20 Public Hearing Notices in Banner	21	22
23	24 BOS Meeting	25	26	27	28 Special BOS Mtg Warrant Closes (30 days)/Approve warrant for publication	29
30						

October 2018

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
	1 Staff review of CIP Town Manager submits 5 year plan to BOS	2 Post warrant online & format for Banner	3	4 Submit warrant to the Banner	5	6
7	8 HOLIDAY – TOWN HALL CLOSED	9 BOS Meeting Joint Meeting with FinCom to review 5 year budget	10	11 Warrant is published (at least 14 days prior to STM)	12	13
14	15 Special BOS Mtg 5 pm Round Table?	16 Books printed	17 Books printed	18 Books printed	19 Books ready for pick-up	20
21	22 BOS Meeting CIP submitted to BOS STM Finance Report Due	23	24 Moderators Meeting	25	26	27
28	29 Special Town Meeting	30	31 HALLOWEEN			

November 2018

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1 Departments & Boards submit budgets to Finance Dir	2	3
4	5	6 STATE ELECTIONS	7	8	9	10
11	12 VETERANS DAY RECOGNIZED – TOWN HALL CLOSED	13 BOS Meeting Review CIP	14	15	16	17 LCP Open House
18	19 Special BOS Mtg Traffic Hearing	20 Town Manager & Fin Dir start to review budgets with Depts	21	22 THANKSGIVING – TOWN HALL CLOSED	23 DAY AFTER THANKSGIVING – TOWN HALL CLOSED	24
25	26 BOS Meeting	27	28	29	30	

December 2018

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
						1
2	3 Town Manager working on Budget Message	4	5	6 Town Manager & Fin Dir finish reviewing budgets with Depts	7	8
9	10 BOS Meeting	11	12	13	14	15
16	17 Special BOS Meeting 5 pm Round Table?	18	19	20	21	22
23	24 DAY BEFORE CHRISTMAS- TOWN HALL CLOSING AT 12	25 CHRISTMAS- TOWN HALL CLOSED	26	27	28	29
30	31					



**Provincetown Select Board
AGENDA ACTION REQUEST
Monday, August 27, 2018**

8

MINUTES OF THE SELECT BOARD'S MEETINGS

Requested by: Select Board

Action Sought: Approval

Proposed Motion(s)

Move that the Select Board approve the minutes of:

- July 23, 2018 6:00 pm (Regular) as printed with changes so noted
- August 13, 2018 4:30 pm (Special) as printed with changes so noted
- August 13, 2018 6:00 pm (Regular) as printed with changes so noted

Additional Information

See attached minutes.

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>

TOWN OF PROVINCETOWN – SELECT BOARD
MEETING MINUTES – REGULAR MEETING
MONDAY, July 23, 2018 6:00 PM
TOWN HALL – JUDGE WELSH ROOM

Chair Venden convened the open meeting at 6:01 pm noting the following:

Select Board Members attending: Chair Louise Venden, Vice Chair Donegan, Select Members Robert Anthony, Cheryl Andrews and Lise King

Excused:

Other attendees: Town Manager David B. Panagore, Assistant Town Manager David Gardner, Assistant Tourism Director Nina McCormack, Temporary On-Call Secretary Linda Fiorella

Recorder: Linda Fiorella

Consent Agenda – Approval without objection required for the following items:

- A. Approve the closure of the Marijuana Wellness Gift Fund and transfer the entire balance to the general fund as revenue as required by the Commonwealth of Massachusetts Department of Revenue.*
- B. Treasurer's Transfer - Approve the use of Captain Joseph Oliver Scholarship Fund gifted funds for a scholarship payment to Brendan Kaeslau in the amount of \$2,000.00.*
- C. Approve the reappointment of Barbara Murphy to the Animal Welfare Committee to an additional three-year term to expire on May 31, 2021.*

Without objection Chair Venden waived the reading of the consent agenda and without objection it was approved unanimously by the Select Board

A. Public Hearings:

A. Special Traffic Hearing - Safe Operation of Bicycles, Motorized Bicycles, and Scooters

Vice Chair Donegan read the public hearing notice.

Exhibits/Documents: Public Hearing notice, article 8-8-4

Assistant Town Manager Gardner described the proposed change in the traffic regulations. In the regulations pedal bikes with helper motors are currently exempted from regulations that do not allow other motorized bicycles from traveling both ways on Commercial Street. The proposal is to remove pedal assist and therefore prohibit all motorized bicycles and scooters from two way traffic on Commercial Street.

Police Chief Golden was asked his recommendation by Vice Chair Donegan and he stated that the Police Department was not opposed to the proposed change in regulations. Further discussion involved Chief Golden noting that all of the users of the road play a part and need to be vigilant in their safe use of roadways whether in bikes, as pedestrians, motor vehicles etc

Select Board Input

- Tom Donegan
- Lise King – nothing to add
- Cheryl Andrews – the only change is just this one sentence. This is outside the scope of the hearing but since we're talking outside of the scope I'll mention it while you're here Chief. The language confuses me. Bike racks bikes can use them and unlicensed unregistered vehicles. The word vehicle is getting used.. Confused about mini-bikes and Segways. I'll need help with definitions.

Chief Golden- Off the top of my head to give you some information, the difference between a scooter, moped and an electric assisted bike etc. has to do with horsepower.

CA -- Do they use horsepower when they're electric?

CG – No. The technology has gone faster.

- Robert Anthony – nothing at this time but will later on during the Chief's presentation.
- Louise Venden- recent articles in the Boston Globe of communities facing these issues, especially college students are using them. I know, David, you're going to be keeping track and maybe the state will be taking up definitional issues as well.

Public Input- none

Vice Chair Donegan MOVE that the Select Board vote to approve the proposed amendment to the Provincetown Traffic and Parking Regulations relating to the safe flow of bicycle, and motorized bicycle traffic on Commercial Street.

Select Member Anthony seconded the motion

Select Member Andrews stated she would probably vote no due to this including bike racks based on the last vote which she had voted against.

VOTED

In Favor: 4
Opposed: 1(ca)
Abstain: 0

2. Public Statements:

- Martha Havener of the Cape Cod Commission invited the Select Board to an event on August 16 and 17.

3. Select Board Member Statements:

- Tom Donegan – On Harbor Hill --on the 14th we'll be in Boston for the preliminary hearing and the final one around the 30th looks like good news. What sometimes gets lost in this is some 1100 people who love to vacation in Provincetown who lost their homes in this. They're the real victims. Its unfortunate they lost their time share deeds. And I hope they get some compensation. Hopefully, All matters will be brought to justice. Fine Arts Work Center celebrated 50th anniversary. Masha Green gave a keynote and a great insight into lots of stuff.
- Lise King – I want to thank everyone who has reached out to share feedback on my performance so far in my new role as a Select Board Member. I've gotten a mix of kudos, constructive criticism, and not so construction criticism. At my previous meeting, I missed this last meeting because I was in San Diego with my son, at the 11th hour when we were all tired, Mr. Anthony and I got into a debate about my proposal for a Human Rights Commission for our town and when I got home I posted about it on social media. I have expressed my regret and apologized to Mr. Anthony for any appearance of disrespect which was absolutely not intended. My proposal of a Human Rights Commission was never meant to diminish the work that has been done in the past by Mr. Anthony, other members of our law enforcement community including Chief Golden, nor other members of our community. We can come together in cooperation. These are difficult political times nationwide and all feeling it. If we don't like the tone of the conversation it is up to us to change it. I'd like to thank all of the voters for their support. I will do my best and correct course when necessary. Something unexpected happened today one of my neighbors overdosed on heroin. I coproduced a film on heroin addiction and it's a very diff experience from going to work and to having it happen right across from me. I want to acknowledge our neighbor who saved a life today. He screamed for someone to call 911 and get narcan. He went right back in and performed CPR and a law enforcement officer showed up and administrated narcan and saved his life. It was extraordinary our fire department and rescue that showed up and transported him and I was watching and the amount of care and compassion was stunning.
- Cheryl Andrews – I'm glad your neighbor is alive. I keep hearing that the stuff on the street is laced. Why people cut this stuff with fentanyl is being me. Not surprised to hear our first responders behaved the way they did they're tops. My stuff is a little more mundane. Want to update my colleagues on Provincetown 400 the task force is now meeting monthly until the commission concludes things will be moving fast so I want to make sure the communication happens laterally. Last time I brought up to you folks a request for one in April two ribbon cuttings and then fireworks in the fall. In terms of April I would ask you to imagine what you would like your part be in terms of planning. We could ask for a staff working group with 2 Selectmen or a staff working group and just post it. It's an international historic event so I'd be thrilled if all five of us did it but we'd need it on the agenda more often or have more 530 meetings. If the April event happens, I'm anticipating we will want to have other cosponsors and we didn't decide how to organize those decisions. Fireworks I pushed my vision for the day after thanksgiving and there's been considerable disagreement in town about that some say on November 11 when the Mayflower arrived in Provincetown, since that's the historical part that's been missing from the story. That does make a lot of sense. None is in concrete. We have to figure out how we want to proceed. The structure in terms of sponsorships the fundraising the

website the Facebook page etc is gelling quite a bit more than it was a month ago.

Vice Chair Donegan – Important that if we want to do it on the 11th we have to be really careful because its Veterans Day.

- Robert Anthony – Lise, I appreciate your words. All five of us have been elected to serve this community to the best of our knowledge and best of our vision. There will be times we agree and disagree but I think it's important that we realize were all one for Provincetown. I appreciate your words, I really do the men and women of the Provincetown Police Department they go to work every day and every day things just happen. To serve and protect in regards to civil rights issues, hate crimes, and so on-- that's what they're there for. When Mr. Panagore said Provincetown PD is getting recognized for community police. Community policing is what they do every day. It's looking out for all those issues I just mentioned. We have a great nucleus of the Provincetown Police Department; they work very hard for this town. I think we'll all be a lot better for if we just move on once the disagreement or agreement is over with.
- Louise Venden – I think we are doing a very good job of coming together. Were five different people with different bodies of knowledge and expertise and I think we're learning how to communicate with each other better and come to consensus. I want to comment about Provincetown 400. I agree with Cheryl there has to be a structure on our part. I know Lise has ideas on how we could be involved and differentiate ourselves from Plymouth. I'd like to know more about the overarching themes the 400 group is talking about and if the sponsorships they're getting are for events overall or specific events. We need to put it on the agenda and move through how you think we could be most helpful to the group itself. The events that happened starting Monday that resolved on Thursday that had to do with the owners of Sal's restaurant and town officials and a great deal of information and disputed facts and a robust campaign on social media. There are disputed facts and I'm asking the town manager to put together a report on what permits were pulled and what town officials know about the matter of the deck and how it was taken down and when the permits were issued for reconstruction and I hope that can be put together by the time we meet on August 13. Town officials and the town in general doesn't want to get involved in the litigation that's been going on for a long time between the owners. That was never our matter or an influence here. The influence was building codes and bylaws. Those are the rules and procedures and I wish there had been better communication and that this could have been resolved sooner and I believe that it could have been. Quote something from the late Senator Daniel Patrick Moynihan – Everyone is entitled to their opinion but not to their facts. We need to respect rules that have been adopted here and suspend our judgment until all the facts are known. That's why I'm asking for this report. Never received a copy of the petition that was supposed to be addressed to the Select Board.

4. Joint meeting/Presentations:

A. Presentation by Tourism Director: FY 2020 Tourism Promotional Grant Program FY2020 Continued

Exhibits/Document – Memos from the Tourism Director, Proposed Grant Application,

Reimbursement Report Form, Grant Evaluation Matrix

Tourism Director Anthony Fuccillo was not feeling well so Assistant Director McCormack presented new processes for grant applications and grant application processes. She noted the differences between the original process and the new process and described which of the Select Board suggestions were addressed and incorporated and that the Visitor Services Board chose not to move forward with a process of rolling applications at their meeting on July 16, 2018. Assistant Director McCormack described the way the success of events are measured and the simplicity of the applications. She presented revised grant applications including a red line version for ease comparison. The reimbursement report is also simplified. Assistant Director McCormack presented the event grant matrix, as well as a list of for-profit entities that have received grants that the Select Board had requested to see. The Visitor Services Board authorized previously presented changes and Select Board suggestions such as moving to an online process.

Discussion included concerns about the for-profit grant recipients and whether that needed to be discussed more and the concept of keeping some sort of a reserve amount for new ideas that fall after the regular deadline. The Board discussed keeping the focus on the purpose of the grants, the criteria for repeat applicants, and training for grantees.

5. **Appointments:** none

6. **Requests:**

A. Quarterly Police Operational Report - Presented by Police Chief Jim Golden

Provincetown Police Department Chief Golden presented the quarterly report and went through the numbers by page and category including bike stops and safety, noise complaints, motor vehicle accidents, etc. and how they compare to previous years and periods of time.

Discussion covered topics including bike enforcement, bike safety, two way bike traffic on Commercial Street and potential solutions to issues arising from increased bike and pedestrian traffic during the summer, and concerns about some motor vehicle drivers ignoring a stop sign at Howland and Bradford streets.

Select Member Anthony- In the 70s we were struggling with enforcement of going against the one way. It's probably 50 fold how many bicycles we really are impacted with now. Just a thought. If we could pull back on the exemptions for the busiest times July and August to allow bikes to go up commercial and down Bradford and not two way traffic. We can make it a lot easier for enforcement and a lot safer if we relax the exemption during those two months.

Chief Golden – It's a wonderful thought, with culture now and it would take years to do it. I'd be happy if we could start a dialogue with everybody right now about being more aware of each other whether riding driving walking. Considering the amount of users we have statistically very few incidents.

Vice Chair Donegan –I'm hearing about the exponential growth of bicycles that the racks are all full and people are chaining bikes to all the wrong places and annoying homeowners and businesses. We need to discuss with the Bike committee and the business community about where we're going to put bikes. We've added new racks and they're now full. As it get closer to the fall I'd like to schedule an executive session on safety issues on Commercial Street a risk assessment from the Police Department around a whole host of issues.

Chair Venden-- I remember there have been traffic studies where they ranked different intersections there has to be part of that information that is done. When CVS was being discussed that issue came up about that intersection and how dangerous it is. There have to be other rankings and traffic studies on the risks. All of that would feed into and support what you're talking about.

Vice Chair Donegan-- The corner of Howland and Bradford I've heard and then saw myself while having coffee on a bench there and vehicles run that intersection. That intersection may need to be rethought. I have a series of comments from people in the area about both cars and bikes that it's a difficult intersection where cars are ignoring the stops sign and bikes are too.

Chief Golden-- This is an intersection that has only been controlled by a stop sign for about 7 years so it's still in its assessment frame. Only have X amount of police officers. Generally only one police officer assigned to the East District. As of today, in 11 weeks, 22 vehicle stops were made. I have flagged it for additional patrols.

Select Member Andrews – Are there larger stop signs? There is a lot of visual distraction at that intersection.

Chair Venden -- Or those that have lights. I don't know that putting more police officers there is the only solution. Putting a blinking light of some kind, I might suggest a camera too.

Select Member King – based on the numbers looking at the motor vehicle stops that if you double the current number for the first six months we're up. Is that because you think there are more infractions or more police officers out there?

JG we have joined forces with Truro, Wellfleet, and Eastham for the traffic enforcement for distracted driving so that every enforcement period where we get together and put more officers out potentially that's 10 - 12 stops per evolution alone. Also, we had an influx of new officers within the last year and one of things they teach them very well in the academy is traffic stops. New police officers plateau out on those eventually as they get better at others

B. Preschool Progress Update - Presented by Superintendent Beth Singer and Chair of School Committee Ngina Lythcott

Superintendent Singer read into the record Article 7 and went on to report that the \$88,000 the article appropriated for wee care covers the existing cost prior to July 1 of wee care. It covers The salary of a lead teacher and an assistant teacher and about 5k for supplies and substitute teachers. She discussed the stringent regulations which complicates the process of educating very young children. Her report explained that the different numbers, age, and mobility levels of children affects the

number of staff required according to the regulations and therefore the numerous changes that can happen day to day in attendance complicates their need for staff. She stated that they are currently full in wee care and need another person. Superintended Singer stated that there is no waiting list currently and explained the process of getting on a waiting list.

Discussion covered the current situation with free care, who pays tuition, which portions of the Articles passed at Annual Town Meeting related to care for children before kindergarten were universal and which were not, the role square footage may play in the future to determine need to expand the program cost.

C. Housing Choice Initiative - CIP Grant

Housing Specialist Michelle Jarusiewicz asked for approval to submit a grant application under the Housing Choice Initiative Program for a capital improvement project to create two new accessible units at Harbor Hill. Currently, none of the existing units at Harbor Hill are accessible. Design is done for the two accessible units. In addition there will be handicapped parking spaces right next to them. She noted that the application was due at the end of the week.

Select Member Andrews MOVED that the Select Board vote to approve submission of a Housing Choice Initiative Capital Improvements Program grant application for up to \$250,000 for the creation of two new accessible units at Harbor Hill through the Massachusetts Department of Housing and Community Development.

Select Member Lise King seconded the motion

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

D. Ways to Avoid an Open Meeting Law Violation on Facebook – Discussion

Vice Chair Donegan introduced the agenda item stating his concerns that the Board has requested guidance from the Attorney General on social media pages and groups specifically Facebook in regards to Board Members' participation on them. He stated that he didn't feel there was clear direction and proposed the Board offer and discuss potential solutions. Discussion involved what entails deliberation and issues around what constitutes the general public.

Select Member King – What's helped me, is to learn the differentiation between intended audience of the message. My understanding is the difference between when we're communicating to constituents and not amongst ourselves. What was clarified to me was that when we were recounting what had taken place in the meeting, that was okay, even when we were all commenting on the thread; what's not okay is talking to each other. Is that a difficult needle to thread? I don't think so, but it could be interpreted the wrong way which is something Tom has brought up before, it's not just whether it's the right thing or the wrong thing according to the law, it's how it can be interpreted, which Cheryl has also brought up to me.

Select Member Andrews I think Town Counsel has done a pretty good job explaining that they will not tell you what's okay or not. They'll teach you how to stay away from the cliff. It's what actions will we take even to avoid the perception. For me, if I see a thread and two others have posted I stay away from it. It makes it easier for me so I do that. What became an interesting one for Tom and I was when Harbor Hill got cooking and a lot of people had questions and Selectmen wanted to show interest. I said to Tom, 'This is yours and Erik's.' That's what works for me. If another big project comes up I hope two of us will say well take it and the others back off. But if two are on a thread I'm going to stay back.

Select Member Donegan – My concern is that you can only find out you broke the law by breaking the law. One of the solutions is what I did when we ran up against the subcommittee problem is I blocked another member of the Select Board to avoid seeing any more on a post that was about an action I was about to take. For a public post though anyone I've blocked can still read my comments if they log out of Facebook. My worry is that we are expected to respond.

Select Member Andrews – Just because someone asks me doesn't mean I have to respond.

Select Member Anthony – I disagree that if someone asks any one of us a question on Facebook that you're required to respond. No, you're not. If you think it's going to be a problem, don't do it.

Chair Venden – There is a conflict here between our need to communicate to the public through this mechanism of social media. I try to refrain from stating an opinion. I try to share information. I don't try to put forward arguments, if you will, anymore. There is an expectation during the normal course that we provide information that we know, because we happen to have more information than the general public. I think that's an important function. Whether we try to elicit support for something for an idea, I'm not sure I want to do that.

E. Social Media Policy – Discussion

Discussion revolved around definitions of employee in the personnel manual, its revision, and the various groups of within the manual, as well as how the new charter affects the manual and the social media policy, the potential of social media archiving, and a process to come to a collective decision among the community.

Vice Chair Donegan MOVE the town manager include the definition of personnel in the revision of the charter.

Select Member King seconded the motion

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

Vice Chair Donegan MOVE the Select Board ask the Town Manager to appropriately revise

and recommend revisions to the personnel policy

Select Member Andrews seconded the motion

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

F. Annual Performance Evaluation- Town Manager David B. Panagore

Discussion involved approval of the Evaluation Form and this that year's goals set for the town as being the evaluation criteria. The new form will be even better the following year when the weighting of evaluation criteria can be incorporated. The possibility of one on one discussions between individual Select Board Members and The Town Manager for part of the process was discussed and whether they were recorded, as well as which parts of the evaluation and its process were public record.

7. Town Manager / Assistant Town Manager:

A. Town Manager's Report – Administrative Updates.

Town Manager Panagore – I'll start by complimenting Officers Willis and D'Andrea for their actions when responding to the overdose.

Harbor Hill: This is the end of the beginning as I think Winston Churchill said. Hopefully, by Labor Day we should have closing on the property. First, a hearing in mid-august and the bankruptcy trustee has authorized we're allowed on the property and made their filings in bankruptcy court. We got one bid in on property management, seems like that's on track and that should be on board before we close well be out to bid on the construction and target occupancy later this year. Have to discuss later services that are provided by the town. Will now be posting the three bullet memo on the town managers page. In the packet you have the calendar through October. Please take a look at it. It will be in the next packet as well if you have comments.

Vice Chair Donegan-- our budget hearing process is in January now, right?

Town Manager Panagore-- I'm going to try to target submission to you all a week earlier. The new charter talks about communication with staff. I'm going to interpret that to mean Town manager means town manager's office. Includes David Gardner and Josee Young and the project administrator.

Select Member Anthony – The boat that was on the rocks, is there a follow up?

Town Manager Panagore - the Artemis. On the 20th last week the approach we took was to leverage the fine and ask the court part of the court's order was either fix it or pay the fine. We used the court proceeding to have a conversation with the owner and the judge.

Select Member Anthony do we have money into it.

Town Manager Panagore -- we do. our options are few but were going to be pursuing that. In a week or two it will be taken care of.

8. Minutes: Approve minutes of previous meetings.

The Board discussed the necessity of some attachments to the minutes and there were a few other minor corrections.

Vice Chair Donegan moved that the Select Board approve the minutes of: June 11, 2018 6:00 pm (Regular) as amended

Cheryl Andrews seconded the motion.

VOTED

In Favor:	5
Opposed:	0
Abstain:	0

9. Closing Statements/Administrative Updates:

Discussion covered the Town and the Select Board's involvement in the Provincetown 400 events and the suggestion for further discussion and inclusion on an upcoming agenda. Discussion also covered getting more tall ships in the harbor for some of the events, how Provincetown's celebration will differ from Plymouth's and the process for turning ideas into events.

- **Tom Donegan** --already had it
- **Lise King**- I'd like to again express gratitude for what I experienced today. Perhaps it's time to look at how we're managing addiction in our community and our community response . Kudos to first responders. This is an area where I have some expertise and I'm happy to take a look at is there something else we could be doing.
- **Cheryl Andrews**- we had talked about some of our appointed officials that serve on grant making bodies and concerns we had about conflict of interest and I don't recall what if any next step where we're going to take. Did you have a next step in mind?

Chair Venden - There is a future agenda item that has to do with our role in overseeing and our authority and what the scope of our role is. It's on the list, it's a matter of figuring out when it's on the agenda.

Cheryl Andrews – Provincetown 400 approached Tim-Scapes for a new t shirt and they're talking about having a presence in the Carnival Parade. Might be a nice opportunity to march in the parade with them and wear the shirts. Thank staff for yellow crosswalks.

- **Robert Anthony** – nothing
- **Louise Venden** – thank you for a productive meeting

Without objection the meeting was adjourned at 10:08 pm

Minutes transcribed by: Linda Fiorella

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN
MEETING MINUTES – JOINT MEETING BOARD OF HEALTH AND WATER&SEWER BOARD
MONDAY, AUGUST 13, 2018 4:30 PM
TOWN HALL – JUDGE WELSH ROOM

Chair Venden convened the open meeting at 4:30 pm noting the following:

Board of Selectmen attending: Chair Louise Venden, Vice Chair Tom Donegan, Members Cheryl Andrews, Robert Anthony, and Lise King

Excused:

Other attendees: Town Manager David Panagore, Assistant Town Manager David Gardner and Temporary Secretary Linda Fiorella, DPW Director Richard Waldo, Department of Health and Environment Director Morgan Clark.

Recorder: Linda Fiorella

Board of Health: Regular members; Stephen Katsurinis, Kalliope Egloff, Janet Whelan, Elise Cozzi, Mark Phillips (chair) and Alternatives; Elisabeth Williams, Irv Morgan

Water & Sewer Board: Mark Collins, Robert O'Malley (Vice Chair), Jonathan Sinaiko (Chair)

Board of Health Chair Mark Phillips, called the Board of Health to order

Water & Sewer Board Chair Jonathan Sinaiko called the Water & Sewer Board to order

Project engineer and wastewater facilitator

1. Joint Meeting with the Board of Health and the Water & Sewer Board

Rich Waldo began with introductions of Project Engineer Rob Adams and Wastewater Facilitator John Goodrich. Rich Waldo gave a presentation on the peak flow storage tank project overview, its history, their recommendations, financing options including a USDA Grant and low interest loans, and next steps. He included information on previous town votes on the issue, benefits of the project, recommendations on potential allocations of sewer capacity, and betterment rates.

Board of Health Alternate Irv Morgan Joined the meeting at 4:36 pm

Select Member Robert Anthony joined at 4:37 pm

Vice Chair Donegan joined at 4:42 pm

Rich Waldo concluded his presentation at 5:05

Select Member King – This was a very thorough report. One thing I keep bringing up that I realize this project is not meant to deal with is storm abatement, climate change and flooding on Commercial Street.

Town Manager Panagore - This would not preclude us from expanding further due to climate issues.

Select Member Andrews – I will agree with my colleague that you are giving us more detailed presentations. This board has set a policy that we want to not make it impossible for the working class middle class upper middle class can live here. Rising costs makes flag go up. When it comes to public health I'm on board. But

affordability has to be a concern.

Select Member Anthony –It was a great presentation and I understand where you’re going.

Vice Chair Donegan –This project provides a lot policy options in the future.

Chair Venden –I’m very much in favor of moving forward to understand it better. Will the wastewater trust fund part of the occupancy tax impact the financing for this project?

Mark Phillips –The Board of Health is in favor of the proposal as drafted

Vice Chair Donegan MOVE that the Select Board direct the Town Manager to prepare and submit an application to the USDA on or about Sept. 30th 2018 for grant and low-interest loan funding in the amount of \$6 million and to to draft with town counsel, a Warrant Article for the Oct. 29th, 2018 Special Town Meeting for the borrowing authorization required for the loan portion of this USDA application.

Select Member Anthony second

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

Without objection the meeting was adjourned at 554 pm
Minutes transcribed by: Linda Fiorella

Other boards adjourned

TOWN OF PROVINCETOWN – SELECT BOARD
MEETING MINUTES – REGULAR MEETING
MONDAY, JUNE 11, 2018 6:00 PM
TOWN HALL – JUDGE WELSH ROOM

Chair Venden convened the open meeting at 6:00 pm noting the following:

Select Board Members attending: Chair Louise Venden, Vice Chair Donegan, Members Robert Anthony, Cheryl Andrews and Lise King

Excused:

Other attendees: Town Manager David B. Panagore, Assistant Town Manager David Gardner, Assistant Town Manager Josee Young Temporary, On-Call Secretary Linda Fiorella,

Recorder: Linda Fiorella

Recognition: Presentation of a Community Policing Award (in the category of under 15,000 population) to the Provincetown Police Department Award from New England Association of Chiefs of Police

Chair Venden introduced Yarmouth Police Department Chief of Police Fredrickson who presented Chief Golden and the Provincetown Police Department with an award from the New England Association of Chiefs of Police for Community Policing (in the category of under 15,000 population).

Chief Golden - It's a privilege to represent this community. It represents a sense of healing. It's the community who has come together, that's what makes this a wonderful place to live.

Consent Agenda – Approval without objection required for the following items:

- A. *Cape and Vineyard Electric Cooperative Renewal of the FY2020 Round 1 Adder.*
- B. *Approve Licensing Board fee for Bicycles, Motorized Bicycle and Scooter Rental Businesses.*
- C. *Accept Green Communities Competitive Grant in the amount of \$34,779 for the Fire Station Boiler Replacement Project.*
- D. *Accept FY2019 Coastal Resilience Grant in the amount \$149,153 for the Gosnold and Ryder Street Dune Enhancement Projects.*
- E. *Economic Development Committee – Trevor McCarthy, from Alternate to Regular*
- F. *Treasurer's Transfer – Library Gift Fund—Approve use of gifted funds for \$473.12 to Joshua Weiner for book festival travel reimbursement.*
- G. *Treasurer's Transfer – Library Gift Fund – Approve use of gifted funds for \$138.00 to Sarah Schulman for book festival travel reimbursement.*
- H. *Outer Cape Chorale – Balcony Closure and Future Credit*

Without objection Chair Venden waived the reading of the consent agenda and without objection it was approved unanimously by the Select Board

**Vice Chair Donegan moved to table Agenda Item 6E, Town Manager's evaluation
Chair Venden seconded**

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

1. Public Hearings:

- A. Curb Cut - Application by Clifford Shorer, requesting approval to install a Curb Cut at 4 Commercial Street (Assessor's Map 5-1, Parcel 5G) and 6 Commercial Street (Assessor's Map 5-1, Parcel 5H), Provincetown, MA.**

Vice Chair Donegan read the public hearing notice.

Exhibits/Documents: Public Hearing notice, application dated July 16, 2018, Memorandum of Understanding (MOU), and staff comments

Cliff Shorer – This is a curb cut that follows on a plan submitted in 2008 showing lots that would be created on the Murchison property.

Public Input -

Select Board Input –

Discussion involved the lack of plans and the reasons for it, the history of the property, future plans, and potential conditions.

- Vice Chair Donegan – I'm concerned that we've always in the past required signed plans for curb cut. I'm concerned about breaking that precedent
- Select Member King – I read the town planner's notes – due to flooding concerns the paving material should be permeable or have other storm water management and I would like to see that be a condition.
- Chair Venden – I'm supportive of this. The only way someone is going to build up there is if they have access to off street parking. But in the past we've always had plans.
- Select Member Andrews – I'd like to continue until staff can write out the conditions they would like to see.

Vice Chair Donegan MOVE to Continue until the August 27th public hearing

Select Member Andrews second the motion

Chair Venden noted we will leave public comments open until we hear this again on August 27th.

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

B. Annual Town-wide Policy Goals Process for FY2019 – to receive comments from the public to give input on the upcoming Fiscal Year 2019 Goals

Vice Chair Donegan read the public hearing notice.

Exhibits/Document – Public hearing notice, FY2019 Goals suggestions

Town Manager Panagore stated that the FY 2019 Town Wide Goals includes 6 town wide goals with corresponding objectives and strategies to achieve those goals.

Public Input –

- Paul De Ruyter – I’m a strong advocate of public private partnerships to help leverage and address priorities of the community. The missing piece if private capitol wants to come to the town with an idea there is not an organized reception place. My suggestions is the town form that capability.

Select Board Input –

- Select Member Andrews – I’d congratulate our staff. In the past it tended to be a check off list of things we needed to do. What I see here is more of a vision statement but it was a collaborative discussion about what kind of town are we hoping to see and are our policies promoting that.
- Select Member King – I’d like to address Mr de Ruyter’s comment – public private partnerships is in there not in the top goals but it is one of the mandates for our town manager to promote that. I’d like to commend the work that was done.
- Vice Chair Donegan – I’d like to thank The Town Manager and Nina McCormack. The reality is we’re going to adopt these goals and shame on us if we don’t read them until next year. Signal to the town they are important and treat we use them to guide our policies.
- Chair Venden - We took some bold steps. I’ve requested Mr. Panagore report to use quarterly on these goals. We need to make this a living set of goals and pay attention to what we’re doing.

Vice Chair Donegan MOVED ...to adopt the town wide policy goals for FY2019 as published.

Select Member King seconded the motion.

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

2. Public Statements:

- Mike Miller – owner of ptownie.com. Not here to ask for anything in particular but you do what

you can to help and support us and retain local talent. Help us to be an economic driver.

- Paul de Ruyter – on Agenda Item 6D, select board members’ participation in town talk. I just think it is an extremely unique and important place to connect between Selectmen and residents.

3. Select Member’s Statements:

- Lise King –Augustitis is setting in. I’d like to thank everyone for hard work not just Town employees but all working in the town taking care of the tens of thousands of visitors.
- Cheryl Andrews –Phil Roderick passed. If I ever think of ma and pa ptown, I remember when we lost his wife and we talked about her at Town Meeting. We should take a second to think about Phil. For decades it was families like his that were the backbone of the town. Mr. Panagore sent us a link to an article about how to respond to social media pressure it addressed the Facebook campaign over the stop work order at Sal’s Place. The article was fascinating. I want to acknowledge our staff’s response-- they have risen to the occasion to see the way people communicate now is different that it was. Our staff put daily chores aside for a while to put the facts out to the public and helping the town come to the next step rather quickly. It should be acknowledged. I’d like to address a question that came from the public about public private partnerships you reach out to the Town Manager or the Select Board chair. The title on 6D was changed from what I asked for and I was never given a deadline so I didn’t submit my packet material.
- Robert Anthony – I want to concur with Cheryl in regards to Phil Roderick. His wife was also on the rescue and a nurse and they were both dedicated to Provincetown. In regards to the ceremony tonight it was rewarding that the Provincetown Police Department got the commendation. They work hard being public servants.

Select Member Anthony MOVE that we send The Provincetown Police Department a letter of appreciation for their hard work and for the award that they just received.

Select Member King seconded the motion

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

- Tom Donegan – Looking forward to tomorrow’s hearing on Harbor Hill. Met with two of our regulatory boards, I want to thank those folks who deal with those issues, those who serve on those boards. Commit to our boards how much we support them. I would love to have an agenda item coming up to explain about how we opt in if we get money on the room tax wastewater bill. We’re going to have to take some action and lay out a compelling case for the action we want to take. Lise handed me a note that we also lost Pat de Groot an amazing artist, a character and a presence. The Provincetown Police Department has earned all that they’ve received. I encourage my colleagues to go on a ride-along and do it at night. I’m proud of Chief Golden and equally all the men and women on the force who do it day in and day out.

- Louise Venden –There is a report being prepared on the whole issue of Sal’s Place and the permitting. My interest in this is based on what the facts are. We need to pay attention to facts and ensure that everyone is treated equally, and that rules and bylaws are conformed with. I hope we don’t face one of these efforts again because it’s disrespectful to the process. The other thing I wanted to say is not only are the police amazing her but we also have rescue crews and the fire department. They barely get paid and are up in the middle of the night at a moment’s notice. We are fortunate that we have these people in place.

4. Joint meeting/Presentations:

A. Presentation FY2017 Annual Financial Audit, GAO and Uniform Guidance reports & CliftonLarsonAllen LLP Governance Letter with Matt Hunt, CPA

Exhibits/Document – Town of Provincetown FY17 Governance Letter, Town of Provincetown FY17 Financial Statements, and Town of Provincetown FY17 GAO and UG Reports

Matthew Hunt principal auditor with CliftonLarsonAllen presented a summary of the FY17 reports with special emphasis on a few areas. He noted that the auditor’s opinion on the town’s audit is the best that can be given on an audit. Mr. Hunt focused on some categories, ratios, and statements stating that the town is doing well in several areas compared with other municipalities on Cape Cod.

Discussion included OPEB, the importance of reviewing policies, bond ratings, and the Town’s overall financial stability.

B. Charter Revision Review with John Giorgio, KP Law

Exhibits/Document – Memo from KP Law

Town Manager Panagore noted that on the Agenda for the Select Board meeting on August 27th the Board will be reviewing the first draft of the warrant for the Fall Special Town Meeting.

John Giorgio presented the Articles in order giving a brief overview of the changes and their implications. Discussion included alterations to the format to make it easier for the public to easily identify the changes and which ones were new and which were a reversion to the previous charter.

After reviewing the Articles, one was deleted from the warrant and Mr. Giorgio stated he would make the agreed upon revisions in time for the next Select Board meeting.

5. Appointments:

A. Community Housing Council - T. Dimitri Papetsas Jr.

T. Dimitri Papetsas, Jr. – Year round housing is an ongoing issue here and I’m interested in that so I figure why not volunteer for it. I’m local - born and raised here and I own and operate a business here

Select Member King – You work in housing and construction so it makes sense to me.

Select Member Andrews – The main issue facing you on any board will be conflict of interest. If I were to entertain appointing you to a board I'd be hesitant to put you on historic due to conflict. The moderator does the appointment for FinCom. So, of the three this is the easiest one to appoint you to.

Select Member Anthony - just glad to see a young person wants to get his feet wet.

Vice Chair Donegan - Thank you for applying and being willing to serve.

Chair Venden - We really appreciate you're volunteering

Select Member King Moved that the Select Board vote to approve the appointment of T. Dimitri Papetsas Jr., to the Community Housing Council expiring on June 30, 2021.

Select Member Anthony seconded

VOTED

In Favor: 5

Opposed: 0

Abstain:0

B. Provincetown Public Pier Corporation – Francesca D. Cerutti and Richard C. Holland

Ms. Cerutti –I want to serve the community. I have a degree in business communications. I also want to bring the perspective of a business owner to the pier corp. The Pier is underutilized for making money with special events or better managing of dockage fees etc

Mr. Holland – thanks for having me here. I spent a number of years on the Finance Committee. I've been here since 1974. I have a long experience in town as a former business owner. I rented a slip on the pier so I have a user perspective as well.

Select Member King -- This is a difficult decision. You both bring a different kind of perspective.

Vice Chair Donegan – My sense is we have a hard, hard choice. The tie breaker for me is this is Francesca's second application. That shows dedication.

Chair Venden read into the record a later arriving email from the Chair of the Provincetown Public Pier Corporation recommending Richard Holland.

CA – I'm weighing the two as well. Wouldn't it be nice having someone with all that finance working with them. I think you'll both be on the committee. I think the finance experience that rick has..

Select Member Anthony – I could go for either.

Vice Chair Donegan Moved that the Select Board vote to approve the appointment of Francesca Cerutti to the Provincetown Public Pier Corp with a term to expire on July 29, 2023.

Motion not seconded; motion withdrawn.

Select Member Andrews moved that the Select Board vote to approve the appointment of Richard Holland to the Provincetown Public Pier Corp with a term to expire on July 29, 2023.

Select Member Anthony seconded the motion

Town Manager Panagore left the meeting at 9:49 pm and returned at 9:50 pm.

VOTED

**In Favor: 5
Opposed: 0
Abstain: 0**

The Board recessed for a short break at 9:50.

At 9:55 the meeting reconvened.

6. Requests:

A. FY2019 Tourism Grants Additional Round Approval

Tourism Director Anthony Fuccillo and Assistant Tourism Director Nina McCormack presented to the Additional Round of FY2019 Tourism Grants.

Ms. McCormack noted a correction to the number of Visitor's Service Board Members present at the vote. Discussion involved Select Member King's concern with PBG grants not itemizing partnerships and would prefer more details going forward, Select Member Andrews's questions about fundraisers and non-profit versus for-profit status of grantees as well as Select Member Andrews's request for a cover sheet and staff recommendations on each application brought before the Select Board. Further discussion involved Vice Chair Donegan's concern that the grant to Pride was high considering it takes place after Memorial Day, and whether or not it should be changed to a matching grant instead.

Select Member Andrews Moved that the Select Board vote to approve funding from the Tourism Fund, for the following FY 2019 Tourism Promotional and Enhancement Grants – Round 2, as recommended by the Visitor Services Board:

No	Project Name	Recommended FY '19
1	Fantasia Fair	\$3,000

2	Holly Folly	\$6,500
3	First Light	\$7,425.01
4	Broto	\$4,000
5	Pride	\$12,500
6	Provincetown 10k	\$500
7	Winter Weekends	\$5,000
8	"Open" Ptownie	\$1,500

Select Member Anthony seconded the motion

VOTED

In Favor: 4
Opposed: 1(td)
Abstain: 0

B. Select Board Involvement in Provincetown 400

Select Member Andrews discussed bringing the Provincetown 400 and town sponsorships/co-sponsorships before the board on a regular basis.

C. Suicide Prevention Awareness Week Proclamation

Select Member Andrews Move that the Select Board vote to proclaim the week of September 9-15, 2018 as Suicide Prevention Awareness Week

Select Member Anthony seconded

VOTED

In Favor: 5
Opposed: 0
Abstain: 0

D. Select Board Participation on Town Talk

Select Member Andrews expressed concern about Select Board Members blocking town voters on Town Talk. Chair Venden tabled the discussion until a later meeting.

E. Town Manager's Evaluation --TABLED

7. Town Manager / Assistant Town Manager:

A. Interlocal Agreements

- **Robert Anthony –**
- **Vice Chair Tom Donegan –**
- **Chair Louise Venden –**

Without objection the meeting was adjourned at 11:03 pm

Minutes transcribed by: Linda Fiorella

DRAFT



Provincetown Select Board
AGENDA ACTION REQUEST
Monday, August 27, 2018

9

CLOSING SELECT MEMBERS' STATEMENTS

Requested by: Select Board

Action Sought: Approval

Proposed Motion(s)

Motions may be made and votes may be taken.

- Cheryl Andrews
- Robert Anthony
- Tom Donegan
- Lise King
- Louise Venden

Additional Information

Board Action

<i>Motion</i>	<i>Second</i>	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Disposition</i>

Pending Items List

As of August 21, 2018

Agenda Topics

September & September or October

1. Executive Session – litigation update with John Giorgio (September)
2. Healthy Community/Aging in Place – Update from Chris Hottle (Sept/Oct)
3. 2020 Report – September
4. Cape Light Compact 3-year-plan (late Sept/October)
5. Cable Contract Meeting – September

November

6. For Fall Traffic Hearing – Commercial Trucks Loading and Unloading time/location
7. Executive Session- Risk Assessment and Safety (Before Fall Traffic Hearing in November)
8. Legislation update – Sarah Peake and Julian Cyr (November-post Election)
9. Tourism Dept. Role in Market Research (November during Review 5 Year Plan VSB)
10. Grants: Non-profit vs For-profit (November during Review 5 Year Plan VSB)

Undated

11. Code of Conduct
12. Bike Master Plan
13. VFW site report
14. Town role in Ecotourism/Clean Marine Environment
15. Review Emergency Management Plan and Communications
16. Six Town Regional Meeting
17. Opt-in vs Opt-out room tax/wastewater

Work Sessions

1. Housing Round Table
2. New Funding Sources
 - a. Medical Marijuana
 - b. Recreational Marijuana
 - c. Short Term Rental Tax
3. Communications
 - a. Code of Conduct for appointed and elected officials
4. Appointed and Elected Officials
 - a. Criteria for appointment
 - b. Enforcement actions/Define Good Cause
 - c. What is the scope of authority of the Select Board towards other boards and committees under their purview?
 - d. Select Boards obligations on enforcement
 - e. Additional Training
 - f. Conflict of Interest
5. Public Safety (include Police Chief and Lt.)
 - a. Motorized Scoters
 - b. Bike Traffic Speed
 - c. Enforcement
 - d. Parking

e. Lights

Joint Meeting

1. Truro – Matrix served services