

SPECIAL TOWN MEETING

MONDAY, APRIL 4, 2005 AT 6:00 P.M.

Town Clerk Doug Johnstone convened Town Meeting at 6:00 p.m. pursuant to MGL C.39,§14, and opened nominations for election of a Temporary Moderator for the April 4, 2005 Special Town Meeting due to the resignation of the Town Moderator on February 28, 2005.

Burt Wolfman nominated Roslyn Garfield. Gary Reinhart nominated Christopher Snow. Mr. Snow declined to accept the position of Temporary Town Moderator if elected in deference of Ms. Garfield's experience. Alix Ritchie moved to elect Roslyn Garfield for the position of Temporary Town Moderator by acclamation. Roslyn Garfield elected by majority vote to serve as Temporary Town Moderator for the duration of said Special Town Meeting and so sworn by Town Clerk Doug Johnstone.

Temporary Town Moderator Roslyn Garfield introduced a video of [Provincetown Poet Laureate Stanley Kunitz](#) to open Town Meeting with his poem, [Indian Summer At Land's End](#).

(1) Cheryl Andrews moved that the Town vote to waive the reading of the warrant.

Motion Passed.

(2) Cheryl Andrews moved that the Town vote to grant permission to speak at the April 4, 2005 Special Town Meeting to the following persons who are not registered voters of the Town of Provincetown: Dennis Anderson, *Cape End Manor CEO*; Peter Borrelli, *Executive Director, Provincetown Center for Coastal Studies*; Edward Boxer, *PHS Principal*; Dennis Clark, *Recreation Director*; Jane Evans, *Health Agent*; Patricia Fitzpatrick, *Tourism Director*; Elizabeth Freeman, *PHS Student Representative to the School Committee*; Elizabeth Hartsgrove, *Licensing Agent*; Alexandra Heilala, *Town Accountant*; John W. Giorgio, Esq., and other attorneys of the firm of Kopelman & Paige, P.C., *Town Counsel*; Michelle Jarusiewicz, *Acting Assistant Town Manager*; Maxine Notaro, *Permit Coordinator*; Albert Robinson, *Deputy Water Superintendent*; Herbert Taylor and other representatives of the New England Deaconess Association; Anthony Teso, *Principal, Veterans Memorial Elementary School and Director of Student Services*; Eileen Thomas, *Cape End Manor Administrator*; Dr. Colette Traylor, *Superintendent of Schools*.

Motion Passed.

(3) Cheryl Andrews moved that on all matters to come before the April 4, 2005 Special Town Meeting, requiring a two-thirds vote by statute, that a count need not be taken unless the vote so declared is immediately questioned by seven or more registered voters.

Motion Passed.

CAPE END MANOR CARE CAMPUS

Article 1. Article 1. *Conveyance of 2.2-acre Care Campus Site to New England Deaconess Association.* To see if the Town will vote to transfer from the Board of Selectmen for municipal nursing home purposes to the Board of Selectmen for the purpose of conveyance the parcel of approximately 1.1 acres of land with the existing nursing home thereon known as the Cape End Manor, having an address of 100 Alden Street (the CEM Parcel), and will authorize the Board of Selectmen to convey to the New England Deaconess Association (NEDA) the fee ownership interest in the [Cape End Manor Care Campus](#) Site, so-called, having of a total of approximately 2.2 acres as shown on [a plan entitled, "Plan of Cape End Manor and Portion of St. Peter's Cemetery" dated August 4, 2004](#), which plan is on file in the office of the Town Clerk, comprised of a portion of the two parcels of land that, together, are known as the St. Peter's Cemetery, identified on Assessors Map as 08-2-027 and 08-2-024, having an address of 124 Alden Street and 116 Alden Street, respectively, the portion to be conveyed being the parcel of approximately 1.1 acre to be acquired from the Diocese of Fall River as approximately shown on said plan, and comprised also of the CEM Parcel hereinbefore referenced, such parcels to be conveyed subject to a restriction or charitable trust which shall provide that said land shall be used for medical care purposes, which may include a continuing care retirement community consisting of an independent living facility, an assisted living facility and a skilled nursing facility and pursuant to an agreement between the Town and NEDA that shall provide that the payments in lieu of taxes that NEDA has offered to make to the Town in perpetuity shall be paid to and held in trust by the Community Preservation Committee for community housing purposes, or take any other action relative thereto.

*[Requested by the Board of Selectmen, the Town Manager,
and the Cape End Manor Board of Directors]*

FINANCE COMMITTEE RECOMMENDS: 9-0-0

BOARD OF SELECTMEN RECOMMENDS: 4-0-1

COMMUNITY PRESERVATION COMMITTEE RECOMMENDS: 7-0-0

CAPE END MANOR BOARD OF DIRECTORS RECOMMENDS: 5-0-0

DISABILITY COMMISSION RECOMMENDS: 4-0-0

Land disposition: 2/3's vote required under MGL C.40

Mary-Jo Avellar moved that the Town vote to approve Article 1 as printed in the warrant.
Motion Passed. (2/3rd's Vote Declared)

Article 2. Article 2. *Care Campus: \$1.9-million in Community Preservation Funds for Community Housing Restriction.* To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase for affordable housing purposes, pursuant to the Community Preservation Program, an affordable housing restriction or restrictions encumbering the [Cape End Manor Care Campus](#) Site, so-called, comprised of a total of approximately 2.2 acres of land with improvements thereon as shown on [a plan entitled, "Plan of Cape End Manor and Portion of St. Peter's Cemetery" dated August 4, 2004](#), which plan

is on file in the office of the Town Clerk, that the affordable housing restriction(s) shall provide in perpetuity or for the longest period permitted by law that at least one unit per \$100,000 payment, restricted to occupancy by persons over 62 years of age, shall be developed and made available to low-income households, with local preference for occupancy of such affordable units to be required in accordance with the Board of Selectmen's policy adopted September 8, 2003, as it may be amended, and further that the affordable housing restriction(s) be accepted by the Town of Provincetown acting by and through its Board of Selectmen under the provisions of [G.L. Chapter 184, §§31-32](#), and that the Board of Selectmen is authorized to apply for and accept gifts and grants for the purpose of this acquisition in order to reduce the amount needing to be borrowed under this article, and that the Board of Selectmen is authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town to effect said purchase and apply for and accept such gifts and grants, and as funding therefor to appropriate by transfer from the Community Preservation Fund and/or borrow the sum of \$1,900,000 pursuant to G.L. c. 44B or any other general or special law for said purchase, and to authorize the Treasurer, with the approval of the Board of Selectmen to borrow a sum of money in anticipation of revenue of \$1,900,000 pursuant to said Chapter 44B and pursuant to G.L. Chapter 44 Section 7 (3) or any other enabling authority, for the cost of said acquisition net of any gifts or grants that are received; or take any other action relative thereto.

[Requested by the Community Preservation Committee, the Board of Selectmen, the Town Manager, the Cape End Manor Board of Directors]

FINANCE COMMITTEE RECOMMENDS: 9-0-0

BOARD OF SELECTMEN RECOMMENDS: 4-0-1

COMMUNITY PRESERVATION COMMITTEE RECOMMENDS: 7-0-1

CAPE END MANOR BOARD OF DIRECTORS RECOMMENDS: 5-0-0

Borrowing: 2/3's vote required under MGL C.44

Michele Couture moved that the Town vote to approve Article 2 as printed in the warrant. Motion Passed. (2/3rd's Vote Declared)

Article 3. Article 3. Cape End Manor Care Campus Land Exchange
Expenses: To see if the Town will vote to appropriate and borrow the sum of \$150,000 to be expended under the direction of the Town Manager and the Board of Selectmen to carry out the provisions of the [land exchange and development agreement between the Town of Provincetown and the Roman Catholic Bishop of Fall River dated August 11, 2004](#), and costs related thereto, including the demolishing of the cinderblock storage building currently located on the Diocese Exchange Parcel, and construction of a new building, with utilities, at another location on the remaining Cemetery Property approved by the Diocese; or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 8-1-0

BOARD OF SELECTMEN RECOMMENDS: 4-0-1

CAPE END MANOR BOARD OF DIRECTORS RECOMMENDS: 5-0-0

Borrowing: 2/3's vote required under MGL C.44

Sarah Peake moved that the Town vote to appropriate and borrow the sum of \$140,000 to be expended under the direction of the Town Manager and the Board of Selectmen to carry out the provisions of the land exchange and development agreement between the Town of Provincetown and the Roman Catholic Bishop of Fall River dated August 11, 2004, and for the payment of all other costs incidental and related thereto; and that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is hereby authorized to borrow said amount under and pursuant to Chapter 44, Section 7(3) of the General Laws, and to issue bonds or notes of the Town therefor.

Motion Passed. (2/3rd's Vote Declared)

Article 4. Article 4. *Stabilization Fund Appropriation.* To see if the Town will vote to raise and appropriate a sum of money to establish a Stabilization Fund pursuant to MGL C.40, §5B, or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 8-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

2/3's vote required under MGL C.40, §5B

Cheryl Andrews moved that the Town vote to raise and appropriate the sum of \$418,000 to establish a Stabilization Fund pursuant to MGL C.40, §5B.

Motion Passed. (2/3rd's Vote Declared)

Article 5. TOWN PROPERTY Article 5. *Acquire Peters Subdivision in Truro for Wellhead Protection.* To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase for water supply protection purposes, pursuant to the Community Preservation Program, the fee simple interest in 4.23 acres, more or less, of land, with improvements thereon, in the Town of Truro located off Route 6, consisting of the land shown as Parcel A, containing 2.66 acres and including the land known as Clarks Road, and the land shown as Parcel B, containing 0.81 acres, on the plan entitled "Subdivision Plan of Land in Truro Owned By Flora N. Peters," dated May 1956, recorded with the Barnstable County Registry of Deeds in Plan Book 129, Page 43 and being Parcel IV and Parcel V in the deed to Mark N. Peters dated May 13, 1993, recorded with said Deeds in Book 8582, Page 294, and also including the land with improvements shown as Parcel C, containing 0.76 acres, on said plan being described in the deed to Mark N. Peters and Jane H. Peters recorded with said Deeds in Book 9055, Page 113, and further that the deed of said land be accepted by the Town of Provincetown acting by and through its Water and Sewer Board under the provisions of G.L. Chapter G.L. c.40, §39B, and that the Board of Selectmen and the Water and Sewer Board are authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town to effect said purchase, and as funding therefor to borrow the sum of \$1,110,500 pursuant to General Laws Chapter 44B, General Laws Chapter 44, Section 8(3), or any other general or special law for said purchase, and to authorize the Treasurer, with the approval of the Board of Selectmen to borrow said sum in anticipation that the debt service on \$750,000 of said amount shall be paid from Community Preservation Fund revenues, and that the debt service on \$365,000 of said amount shall be paid from Water Enterprise Fund Revenues, and further, that the Board of Selectmen is authorized to convey a permanent conservation restriction meeting the requirements of Massachusetts General Laws [Chapter 184, Sections 31-32](#), as required

by Massachusetts General Laws, Chapter 44B, Section 12, limiting the use of said land to the purpose for which it is to be acquired; or take any other action thereon.

[Requested by the Community Preservation Committee, the Board of Selectmen, the Town Manager, and the Water & Sewer Board]

COMMUNITY PRESERVATION COMMITTEE RECOMMENDS: 8-0-0

FINANCE COMMITTEE RECOMMENDS: 9-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

WATER & SEWER BOARD RECOMMENDS: 3-0-0

2/3's vote required for borrowing and land disposition

Cheryl Andrews moved that the vote to approve Article 5 as printed in the warrant.

Motion Passed. (2/3rd's Vote Declared)

Article 6. Article 6. *Conveyance of PHS Annex property, 5 Holway Avenue.*
To see if the Town will vote subject to G.L. c. 40, §15A, to transfer the PHS Annex property at 5 Holway Avenue, comprised of 0.3 acres, more or less (Assessor's Map 07-4-065-A) from the School Committee, to the Board of Selectmen, to be held for the purposes of conveyance pursuant to G.L. c. 30B, §16 or any other applicable provisions of law, on such terms and conditions as the Board of Selectmen deem to be in the best interests of the Town, provided that said conveyance shall be for a minimum consideration of \$800,000, shall include existing appurtenant footpath and driveway easements, and shall reserve to the Town any interest in the septic system easement currently held by the Town, and provided further, that the proceeds from said conveyance shall substantially reduce or eliminate the School Department's debt service obligation pursuant to the vote under Article 7 of the April 1, 2002 Special Town Meeting which provided that half of the local debt service cost for the SBA-reimbursable PHS and VMES school building projects "shall be paid from the school department through one or more of the following ways . . . (3) the sale or lease of the annex;" or take any other action relative thereto.

[Requested by the Board of Selectmen, the School Committee, and the Town Manager]

FINANCE COMMITTEE RECOMMENDS: 8-0-0

BOARD OF SELECTMEN RECOMMENDS: 4-1-0

SCHOOL COMMITTEE RECOMMENDS: 5-0-0

2/3's vote required for land disposition

Sarah Peake moved that the Town vote subject to G.L. c. 40, §15A, to transfer the PHS Annex property at 5 Holway Avenue, comprised of 0.3 acres, more or less (Assessor's Map 07-4-065-A) from the School Committee, to the Board of Selectmen, to be held for the purposes of conveyance pursuant to G.L. c. 30B, §16 or any other applicable provisions of law, and to authorize the Board of Selectmen to convey to the Provincetown Center for Coastal Studies on such terms and conditions as the Board of Selectmen deem to be in the best interests of the Town, provided that said conveyance shall be for a minimum consideration of \$800,000, shall include existing appurtenant footpath and driveway easements, and shall reserve to the Town any interest in the septic system easement currently held by the Town, and provided further, that the proceeds from said conveyance shall substantially reduce or eliminate the School Department's debt service obligation pursuant to the vote under Article 7 of the April 1, 2002 Special Town Meeting which provided that half of the

local debt service cost for the SBA-reimbursable PHS and VMES school building projects “shall be paid from the school department through one or more of the following ways . . . (3) the sale or lease of the annex.”

Motion Passed. (2/3rds Vote Declared)

Article 7. Article 7. *Apply PHS Energy Rebate to Reduce SBA Debt Service.*
To see if the Town will vote to transfer from the Reserve for Appropriation Account the \$75,000 energy rebate from the Cape Light Compact for electrical improvements made to Provincetown High School, said sum to be used to reduce the debt service obligation pursuant to the vote under Article 7 of the April 1, 2002 Special Town Meeting which provided that half of the local debt service cost for the SBA-reimbursable PHS and VMES school building projects “shall be paid from the school department through one or more of the following ways . . . (4) other options that may arise;” or to take any other action relative thereto.

[Requested by the Board of Selectmen, the School Committee, and the Town Manager]

FINANCE COMMITTEE RECOMMENDS: 9-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

SCHOOL COMMITTEE RECOMMENDS: 5-0-0

Sarah Peake moved that the Town vote to approve Article 7 as printed in the warrant.

Motion Passed.

Article 8. Article 8. *Increase Length of Borrowing from 10 to 20 years for SBA-Reimbursable School Building Improvements.* To see if the Town will vote to amend its vote under Article 7 of the April 1, 2001 Special Town Meeting by increasing the length of borrowing authorized thereunder from 10 to 20 years, so that said article reads as follows: “voted to appropriate and borrow the sum of \$7,000,000, to be expended under the direction of the School Building Committee, which has been appointed by the School Committee, for the purpose of providing rehabilitated and renovated facilities for the Provincetown Public Schools, including Provincetown High School on Winslow Street and Veteran’s Memorial Elementary School on Mayflower Lane, and including, but not limited to, design services, construction bids, and reconstruction, rehabilitation, remodeling, and renovation of such facilities and for other expenses related thereto and, that to raise said appropriation the Treasurer, with the approval of the Board of Selectmen, is hereby authorized to issue bonds and/or notes of the Town therefore, pursuant to Chapter 44 of the General Laws or any other enabling authority for a period of ~~ten~~ **twenty** years; and to the extent that any State, Federal or other funds are or become available for the purposes set forth above, to authorize the School Building Committee, the School Committee, and the Superintendent of Schools to apply for and accept such funds; and provided further that, within compliance of the minimum school spending requirements of M.G.L. Chapter 70, half of the local debt service cost shall be paid from the school department through one or more of the following ways: (1) operating budget for said ~~ten~~ **twenty**-year period; (2) the sale or lease of the annex; or (3) other options that may arise, provided, however, that any bonds or notes issued hereunder are general obligations of the Town;” or to take any other action relative thereto.

[Requested by the School Committee]

151-B Legal Services	55,000	
192-A DPW Bldgs & Grounds	2,200	
192-B DPW Bldgs & Grounds	23,000	
210-A Police	115,000	
240-A Inspectors	5,380	
296-A Shellfish	1,300	
431-A DPW Solid Waste	10,000	
422-A DPW Highway	8,000	
423-B DPW Snow & Ice	133,820	
450-A Water Enterprise (Article 3)	6,000	
541-A Council on Aging	1,560	
<i>Sub-total</i>		\$ 414,980

or to take any other action relative thereto.

[Requested by the Town Manager]

FINANCE COMMITTEE RECOMMENDS: 9-0-0
BOARD OF SELECTMEN RECOMMENDS: 4-0-1

Keith Bergman moved that the Town vote to approve Article 10 as printed in the warrant.
Motion Passed.

Article 11. Article 11. *Fund Collective Bargaining Agreements.* To see what sums the Town will vote to raise and appropriate or transfer from available funds to fund collective bargaining agreements reached with AFSCME Council 93, Local 1462, Town-wide Unit “A”; AFSCME Council 93, Local 146, Cape End Manor Unit “B”; the Provincetown Police Labor Federation/IBPO Local 610; and the Provincetown Police Superior Officers’ Association/IBPO; or to take any other action relative thereto.

[Requested by the Town Manager]

FINANCE COMMITTEE RECOMMENDS INDEFINITE POSTPONEMENT: 9-0-0
BOARD OF SELECTMEN RECOMMENDS INDEFINITE POSTPONEMENT: 5-0-0

Keith Bergman moved that the Town vote to indefinitely postpone action on Article 11.
Motion Passed.

Article 12. PUBLIC WORKS Article 12. *Massachusetts Highway Department Chapter 90 Funds for Road and Sidewalk Construction and Repairs.* To see if the Town will vote to appropriate from funds available from the Massachusetts Highway Department the sum of \$82,907 for the undertaking of road and sidewalk construction and repairs under the provisions of Section 34(2)(a) of Chapter 90 of the General Laws, or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 9-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

Michele Couture moved that the Town vote to appropriate from funds available from the Massachusetts Highway Department the sum of \$82,907 for the undertaking of road and sidewalk construction and repairs under the provisions of Section 34(2)(a) of Chapter 90 of the General Laws.

Motion Passed.

Article 13. Article 13. *Extension of SEMASS Solid Waste Disposal Agreement.*

To see if the Town will vote to authorize the Board of Selectmen to exercise the option to extend the Original Term of the Waste Acquisition Agreement (the “Agreement”) with SEMASS Partnership dated January 1, 1985 from the initial termination date of January 1, 2008 to the extend termination date of January 1, 2015 as provided in the Agreement, and subject to the terms and conditions of said agreement, or take any action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 9-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

Michele Couture moved that the Town vote to authorize the Board of Selectmen to exercise the option to extend the Original Term of the Waste Acquisition Agreement (the “Agreement”) with SEMASS Partnership dated January 1, 1985 from the initial termination date of January 1, 2008 to the extend termination date of January 1, 2015 as provided in the Agreement, and subject to the terms and conditions of said agreement.

Motion Passed.

Article 14. Article 14. *Wastewater Design/Implementation.* To see if the Town will vote to amend its vote under Article 4, Item 7 of the April 7, 2004 Annual Town Meeting, which voted “to appropriate and borrow the sum of \$200,000, to be expended under the direction of the Director of Public Works for the development of Phase II plans and specifications for construction of an expansion to the Town’s sewerage systems, and including without limitation all costs defined under C.29C,§1 of the General Laws” to include also design and construction of so-called red dot delay properties and costs related thereto, and to initiate and, pending approval of the state Department of Environmental Protection, fund a study and pilot program for the disposal of septage at the Provincetown wastewater treatment plant supervised by the Sewer Team with Woodard & Curran, or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 9-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

CONSERVATION COMMISSION RECOMMENDS: 5-0-0

BOARD OF HEALTH RECOMMENDS: 3-0-0

Borrowing: 2/3’s vote required under MGL C.44

Richard Olson moved that the Town vote to approve Article 14 as printed in the warrant.

Barbara Rushmore moved to amend Article 14 eliminate the words “fund a study and pilot program for the disposal of septage at the Provincetown wastewater treatment plant supervised by the Sewer Team with Woodard & Curran.”

Amendment Does Not Pass.

Motion Passed. (2/3rds Vote Declared)

Article 15. Article 15. *Wastewater System Monitoring/Enforcement.* To see if the Town will vote to amend its vote under Article 29 of the April 7, 2004 Annual Town Meeting, which raised and appropriated the sum of \$20,000 “to initiate and, pending approval of the state Department of Environmental Protection, fund a study and pilot program for the disposal of septage at the Provincetown sewage treatment plant supervised by the Sewer Team with Woodard & Curran” so that the purpose of said article instead reads as follows: “\$20,000 to be expended under the direction of the Board of Selectmen and the Town Manager for expenses associated with monitoring the operation and maintenance of the wastewater system, including enforcement of rules and regulations adopted by the Water & Sewer Board and the Board of Health relative to properties connected to the wastewater system, and costs related thereto,” or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 9-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

CONSERVATION COMMISSION RECOMMENDS: 5-0-0

Richard Olson moved that the Town vote to approve Article 15 as printed in the warrant.

Mark Baker moved to amend Article 15 by adding the words “by the Town’s Health Agent” in monitoring the operation and maintenance of the wastewater system.

Amendment Does Not Pass.

Motion Passed.

Mary-Jo Avellar moved to dissolve Special Town Meeting.

Motion Passed.

Special Town Meeting dissolved at 8:25 p.m. on Monday April 4, 2005.