

Annual Town Meeting – Monday, April 6, 2009

Meeting Called to Order. Town Moderator Irene Rabinowitz convened the Annual Town Meeting at 6:00 p.m. on Monday, April 6, 2009 in the in the Veterans Memorial Elementary School and hearing no objection decided to hold the Special Town Meeting first.

Town Moderator Irene Rabinowitz convened the Annual Town Meeting at 7:40 p.m. on Monday, April 6, 2009.

Preliminary motions:

Michelle Couture moved that the Town vote to waive the reading of the warrant.

Motion Passed.

Michele Couture moved that the Town vote to grant permission to speak at the April 6, 2009 Annual Town Meeting to the following persons who are not registered voters of the Town of Provincetown: Russell Braun, *Building Commissioner*; John W. Giorgio, Esq., and other attorneys of the firm of Kopelman & Paige, P.C., *Town Counsel*; Alexandra Heilala, *Finance Director*; Pam Hudson, *Secretary to the Town Manager, Employee Benefits Administrator*; Brandon Motta, *Recreation Director*; Beau Jackett, *Information Systems Director*; Michelle Jarusiewicz, *Housing Specialist/Grant Administrator*; Maxine Notaro, *Permit Coordinator*; Jane Evans, *Health Agent*; Wendall Kalsow, *Principal, McGinley Kalsow & Associates*; Mark Almeda, *Project Engineer, McGinley Kalsow & Associates*; Robert Sanborn, *Tourism Director*; Rob Adams, *Project Manager, Metcalf & Eddy*; Bill Meyers, *Project Superintendent, Kronenberger & Sons Restoration, Inc.*

Motion Passed.

Michele Couture moved that on all matters to come before the April 6, 2009 Annual Town Meeting, requiring a two-thirds vote by statute, that a count need not be taken unless the vote so declared is immediately questioned by seven or more registered voters.

Motion Passed.

Article 1. *To Hear Town Reports.* To see if the Town will vote to hear the reports of the Town Officials and Committees and to act thereon.

[Requested by the Board of Selectmen]

Michele Couture moved that the Town vote to hear the reports of the Town Officials and Committees and to act thereon.

Motion Passed.

Article 2. *FY 2010 Operating Budget.* To see to if the Town will vote to raise and appropriate or transfer from available funds the sum of \$19,705,911 to fund operating budgets for the several Town departments for Fiscal Year 2010 in accordance with Chapter 9, section 1 of the Provincetown Charter, as follows:

Budget Divisions	FY 2009	FY 2010	% '09-'10
<i>I. General Government</i>	\$1,291,048	1,290,365	-0.10%
<i>II. Finance</i>	7,348,194	7,378,449	+0.41%
<i>III. Public Safety</i>	3,941,801	3,971,450	+0.75%
<i>IV. Public Works</i>	2,423,523	2,526,790	+4.26%
<i>V. Public Services*</i>	807,890	823,702	+1.96%
Sub-total, I-V	\$15,812,456	\$15,990,756	+1.13%
<i>VI. Public Schools</i>	3,790,935	3,556,648	-6.18%
Total, I-VI	\$19,603,391	\$19,547,404	-0.30%

or to take any other action relative thereto.

*A portion of the appropriation for public services may be contingent on a Proposition 2 ½ override.

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

Article 2. FY 2010 Municipal Operating Budget.

Division I. General Government.

BOARD OF SELECTMEN RECOMMENDS: 4-1-0

FINANCE COMMITTEE RECOMMENDS: 9-0-0

Michele Couture moved that the Town vote to raise and appropriate the sum of \$880,201, and transfer from the Land Bank fund the sum of \$337,448, from the Wetlands Protection Fund the sum of \$7,296 for a total of \$1,284,685, to fund operating budgets for the several Town departments for Fiscal Year 2010 under budget Division I, General Government, as requested by the Board of Selectmen and recommended by the Finance Committee.

Motion Passed.

Article 2. FY 2010 Municipal Operating Budget.

Division II. Finance

BOARD OF SELECTMEN RECOMMENDS: 4-1-0

FINANCE COMMITTEE RECOMMENDS: 9-0-0

Michele Couture moved that the Town vote to raise and appropriate the sum of \$7,100,829, and transfer from Free Cash the sum of \$277,000, for a total of \$7,377,829 to fund operating budgets for the several Town departments for Fiscal Year 2010 under budget Division II, Finance, as requested by the Board of Selectmen and recommended by the Finance Committee.

Motion Passed.

Article 2. FY 2010 Municipal Operating Budget.

Division III. Public Safety

BOARD OF SELECTMEN RECOMMENDS: 4-0-0

FINANCE COMMITTEE RECOMMENDS: 9-0-0

Michele Couture moved that the Town vote to raise and appropriate the sum of \$3,795,450, and transfer from the Municipal Waterways Improvement and Maintenance Fund the sum of \$139,000, from Ferry Embarkation Fees Receipts Reserved \$30,000, for a total of \$3,964,450, to fund operating budgets for the several Town departments for Fiscal Year 2010 under budget Division III, Public Safety, as requested by the Board of Selectmen and recommended by the Finance Committee.

Motion Passed.

Article 2. FY 2010 Municipal Operating Budget.

Division IV. Public Works

BOARD OF SELECTMEN RECOMMENDS: 4-1-0

FINANCE COMMITTEE RECOMMENDS: 9-0-0

Michele Couture moved that the Town vote to raise and appropriate the sum of \$2,449,790, and transfer from the Tourism Fund \$77,000, for a total of \$2,526,790 to fund operating budgets for the several Town departments for Fiscal Year 2010 under budget Division IV, Public Works, as requested by the Board of Selectmen and recommended by the Finance Committee.

Motion Passed.

Article 2. FY 2010 Municipal Operating Budget.

Division V. Public Services

BOARD OF SELECTMEN RECOMMENDS: 3-1-0

FINANCE COMMITTEE RECOMMENDS: 8-0-0

Michele Couture moved the Town vote to raise and appropriate the sum of \$708,202 to fund operating budgets for the several Town departments for Fiscal Year 2010 under budget Division V, Public Services, as requested by the Board of Selectmen and recommended by the Finance Committee.

Motion Passed.

Article 2. FY 2010 Municipal Operating Budget.

Division VI. Public Schools

SCHOOL COMMITTEE RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 8-0-0

Peter Grosso moved that the Town vote to raise and appropriate the sum of \$3,556,648 to fund the Provincetown Public School System Budget for Fiscal Year 2010.

Motion Passed.

Article 3. Public Services/Recreation Department. To see if the Town will vote to raise and appropriate the sum of \$115,500 to fund the operating budget of the Town for FY 2010 as voted under Article 2 of the 2009 Annual Town Meeting by funding Budget Division No V by the amount of \$115,500; provided that this appropriation shall be contingent on the passage of a Proposition 2 ½ override vote in accordance with General Laws Ch. 59 Section 21C(m) provided further that the appropriation shall be used to fund a level service budget for fiscal year 2010; or to take any action relative thereto.

[Requested by the Board of Selectmen]

BOARD OF SELECTMEN RECOMMENDS: 4-0-1

FINANCE COMMITTEE RESERVES RECOMMENDS: 6-0-0

Austin Knight moved that the Town vote to raise and appropriate the sum of \$115,500 to fund the Recreation Department for the Fiscal Year beginning July 1, 2009, provided that this appropriation shall be contingent on the passage of a Proposition 2 and ½ override by the voters of the Town in accordance with General Laws c.59 § 21C(m).

Motion Passed.

Article 4. FY 2010 Cape Cod Regional Technical High School Assessment. To see to if the Town will vote to raise and appropriate the sum of \$88,072 to fund the Town of Provincetown’s assessment for the CCRTHS FY2010 operating budget, or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 6-0-0

Elaine Anderson moved that the Town vote to raise and appropriate the sum of \$88,072 for its assessment for Cape Cod Technical Regional High School for FY 2010.

Motion Passed.

Article 5. FY 2010 Enterprise Funds. To see to if the Town will vote to raise and appropriate or transfer from available funds the following amounts for enterprise funds of the Town of Provincetown for Fiscal Year 2010:

440 Wastewater Enterprise Fund	<i>FY 2009</i>	<i>FY 2010</i>	<i>09-10 %</i>
Enterprise Fund Costs	\$2,181,730	\$2,478,687	
General Fund Costs	<u>152,453</u>	<u>157,027</u>	
TOTAL COSTS	\$2,334,183	\$2,635,714	10.2%
450 Water Enterprise Fund	<i>FY 2009</i>	<i>FY 2010</i>	<i>09-10 %</i>
Enterprise Fund Costs	\$1,502,885	\$1,635,509	
General Fund Costs	<u>261,516</u>	<u>269,361</u>	
TOTAL COSTS	\$1,764,401	\$1,904,870	+7.90%

or to take any other action relative thereto.

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

Article 5. FY 2010 Enterprise Funds.

Motion 1. 440 Wastewater Enterprise Fund.

BOARD OF SELECTMEN RECOMMENDS: 4-1-0

FINANCE COMMITTEE RECOMMENDS: 9-0-0

BOARD OF HEALTH RECOMMENDS: 5-0-0

David Bedard moved that the Town vote that \$2,635,714 be appropriated to operate the Wastewater Enterprise Fund, \$2,478,687 to come from Wastewater Enterprise Fund revenues and fund balance, and further, \$157,027 to be appropriated in the general fund and funded from Wastewater Enterprise revenues.

Motion Passed.

Article 5. FY 2010 Enterprise Funds.

Motion 2. 450 Water Enterprise Fund.

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 8-1-0

BOARD OF HEALTH RECOMMENDS: 5-0-0

David Bedard moved that the Town vote that \$1,904,870 be appropriated to operate the Water Enterprise Fund, for \$1,635,509 to come from Water Enterprise Fund revenues and fund balance, and further, \$269,361 to be appropriated in the general fund and funded from Water Enterprise revenues.

Motion Passed.

Article 6. FY 2010 Capital Improvements Program. To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds the following sums to defray the costs of the Fiscal Year 2010 Capital Improvements Program submitted in accordance with Chapter 9, section 2 of the Provincetown Charter, provided that the appropriation shall be contingent on the passage of a Proposition 2 ½ capital outlay exclusion by the voters of the Town in accordance with General Laws Ch. 59, sec. 21C(m);as follows:

DPW Street Sidewalk Replacement: \$50,000 to be expended under the direction of the Town Manager and the Director of Public Works for maintenance and repair of streets and sidewalks, and costs related thereto;
or take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 6-0-0

Mary-Jo Avellar moved that the Town vote to raise and appropriate the sum of \$50,000 to be expended under the direction of the Town Manager and the Director of Public Works for maintenance of streets and sidewalks, and costs related thereto, provided

that the appropriation shall be contingent on the passage of a Proposition 2 and ½ capital outlay exclusion by the voters of the Town in accordance with General Laws Ch. 59, §21C(m).

Motion Passed.

Article 7. FY 2010 Capital Improvements Program. To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds the following sums to defray the costs of the Fiscal Year 2010 Capital Improvements Program submitted in accordance with Chapter 9, section 2 of the Provincetown Charter, provided that the appropriation shall be contingent on the passage of a Proposition 2 ½ capital outlay exclusion by the voters of the Town in accordance with General Laws Ch. 59, sec. 21C(m);as follows:

DPW Drainage Maintenance: \$50,000 to be expended under the direction of the Town Manager and the Director of Public Works for maintenance and repair of Drainage Structures, and costs related thereto;
or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 6-0-0

BOARD OF HEALTH RECOMMENDS: 5-0-0

Michele Couture moved that the Town vote to raise and appropriate the sum of \$50,000 to be expended under the direction of the Town Manager and the Director of Public Works for maintenance and repair of Drainage Structures, and costs related thereto, provided that the appropriation shall be contingent on the passage of a Proposition 2 and ½ capital outlay exclusion by the voters of the Town in accordance with General Laws Ch. 59, §21C(m).

Motion Passed.

Article 8. FY 2010 Revolving Accounts. To see if the Town will vote to continue for FY 2010 the following revolving accounts established pursuant to MGL C.44,§53E½:
(1) Preservation of Town Hall Auditorium: to allow receipts from the rental and custodial fees charged for the public use of Town Hall Auditorium to be segregated into a special account; and with funds therefrom, up to a limit of \$20,000 annually, to be expended for the repair, updating and refurbishing of the Town Hall Auditorium under the direction of the Town Manager and Board of Selectmen;
(2) Shellfish Grants: to allow receipts from Shellfish Grants to be segregated into a special account; and with funds therefrom, up to a limit of \$2,500 annually, to be expended under the direction of the Shellfish Warden and the Board of Selectmen for the purpose of shellfish seeding, cultivation on public shellfish areas;
or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 6-0-0

David Bedard moved that the Town vote to continue for FY 2010 the revolving accounts established pursuant to MGL C.44, §53E½ as printed in the warrant.

Motion Passed.

Barbara Rushmore moved to reconsider Annual Town Meeting Article 3 and submitted the signatures of 10 registered voters for consideration.

Motion to Reconsider Does Not Pass.

Article 9. Cape Cod Greenhead Fly Control District Assessment. To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$938.75 for Greenhead Fly Control as authorized by Section 24, Chapter 252 of the General Laws; and authorize the Town Treasurer to pay said appropriation into the State Treasury; or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 6-0-0

BOARD OF HEALTH RECOMMENDS: 5-0-0

Mary-Jo Avellar moved that the Town will vote to raise and appropriate the sum of \$938.75 for Greenhead Fly Control as authorized by Section 24, Chapter 252 of the General Laws; and authorize the Town Treasurer to pay said appropriation into the State Treasury.

Motion Passed.

Article 10. Community Preservation Budget for FY 2010. To see if the Town will vote to hear and act on the report of the Community Preservation Committee on the Fiscal Year 2010 Community Preservation Budget, to appropriate or reserve from FY 2010 Community Preservation Fund annual revenues the following amounts totaling \$1,470,623, as recommended by the Community Preservation Committee, with each item considered a separate appropriation:

1. Reserves:

- A. \$0 for Open Space
- B. \$0 for Community Housing;
- C. \$57,153 for Historic Resources;

2. Appropriations:

- A. \$60,530 for open space debt service with \$57,153 from open space estimated funds and \$3,377 from open space reserves;
- B. \$243,200 for community housing debt service from community housing reserves;
- C. \$59,740 for the Provincetown Housing Office and Housing Specialist with \$57,153 from community housing estimated receipts, and \$2,587 from housing reserves;

- D. \$150,000 of Community Housing reserves to fund a grant for 15 community housing units at 83 Shankpainter Road, and to authorize the Board of Selectmen to accept an affordable housing restriction on said property;
- E. \$100,000 of undesignated fund balance for the open space purchase of land located at 608 Commercial Street; commonly known as Suzanne's Garden;
- F. \$800,000 of Community Housing reserves to fund a grant for 32 units of community housing at 35 Race Point Road, to be known as Stable Path, and to authorize the Board of Selectmen to accept an affordable housing restriction on 32 units on said property;

or to take any other action relative thereto.

[Requested by the Community Preservation Committee]

**BOARD OF SELECTMEN RECOMMENDS ARTICLE 11, SECTION 1: 5-0-0
FINANCE COMMITTEE RECOMMENDS ARTICLE 11, SECTION 1: 6-0-0
COMMUNITY PRESERVATION COMMITTEE RECOMMENDS: 6-0-0**

Mary-Jo Avellar moved that the Town vote to set aside from Community Preservation Act estimated annual revenue for Fiscal Year 2010 the sum of \$57,153 for the historic resources reserve fund.

Motion Passed.

**BOARD OF SELECTMEN RECOMMENDS ARTICLE 11, SECTION 2-A: 5-0-0
FINANCE COMMITTEE RECOMMENDS ARTICLE 11, SECTION 2-A: 6-0-0
COMMUNITY PRESERVATION COMMITTEE RECOMMENDS: 6-0-0**

William Dougal moved that the Town vote to approve Article 10, Section 2A, the sum of \$60,530 to fund the debt service for Fiscal Year 2010, as printed in the Warrant.

Motion Passed.

**BOARD OF SELECTMEN RECOMMENDS ARTICLE 11, SECTION 2-B: 5-0-0
FINANCE COMMITTEE RECOMMENDS ARTICLE 11, SECTION 2-B: 6-0-0
COMMUNITY PRESERVATION COMMITTEE RECOMMENDS: 6-0-0
HOUSING AUTHORITY RECOMMENDS ARTICLE 11, SECTION 2-B: 5-0-0**

William Dougal moved that the Town vote to approve Article 10, Section 2B, the sum of \$243,200 to fund the debt service for Fiscal Year 2010, as printed in the Warrant.

Motion Passed.

**BOARD OF SELECTMEN RECOMMENDS ARTICLE 11, SECTION 2-C: 5-0-0
FINANCE COMMITTEE RECOMMENDS ARTICLE 11, SECTION 2-C: 6-0-0
COMMUNITY PRESERVATION COMMITTEE RECOMMENDS: 6-0-0
HOUSING AUTHORITY RECOMMENDS ARTICLE 11, SECTION 2-C: 5-0-0**

Brian Green moved that the Town vote to approve Article 10, Section 2C, the sum of \$59,740 to fund the Provincetown Housing Office Specialist, as printed in the Warrant.

Motion Passed.

BOARD OF SELECTMEN RECOMMENDS ARTICLE 11, SECTION 2-D: 4-0-1
FINANCE COMMITTEE RECOMMENDS ARTICLE 11, SECTION 2-D: 6-0-0
COMMUNITY PRESERVATION COMMITTEE RECOMMENDS: 6-0-0
HOUSING AUTHORITY RECOMMENDS ARTICLE 11, SECTION 2-D: 5-0-0

William Dougal moved that the Town vote to approve Article 10, Section 2D, the sum of \$150,000 to fund a grant for 15 community housing units at 83 Shankpainter Road, and to authorize the Board of Selectmen to accept an affordable housing restriction on said property, as printed in the Warrant.

Motion Passed.

10:15 p.m Motion to adjourn Annual Town Meeting until tomorrow, April 7, 2009 at 6 p.m.

Motion Passed.

Town Moderator Irene Rabinowitz called the meeting to order at 6:00 p.m. on Tuesday, April 7, 2009.

BD OF SELECTMEN RECOMMENDS INDEF. POSTPONEMENT OF ART. 11, SEC. 2-E: 5-0-0
FINANCE COMMITTEE RECOMMENDS ARTICLE 11, SECTION 2-E: 7-0-0
COMMUNITY PRESERVATION COMMITTEE RECOMMENDS: 6-0-0
CONSERVATION COMMISSION RECOMMENDS: 3-0-1
HISTORICAL COMMISSION RECOMMENDS ARTICLE 11, SECTION 2-E: 4-0-0

Arturo Alon moved that the Town vote to approve Article 11, Section 2E, the sum of \$100, 000 for the open space purchase of land located at 608 Commercial Street, commonly known as Suzanne's Garden.

Austin Knight moved that the Town vote to indefinitely postpone action on Article 10-2-E.

Motion to Indefinitely Postpone Does Not Pass.

Motion Passed (191 Yes 43 No).

BOARD OF SELECTMEN RECOMMENDS ARTICLE 11, SECTION 2-F: 4-1-0
FINANCE COMMITTEE DOES NOT RECOMMEND ARTICLE 11, SECTION 2-F: 7-0-0
COMMUNITY PRESERVATION COMMITTEE RECOMMENDS: 7-0-0
HOUSING AUTHORITY RESERVES RECOMMENDATION: 3-2-0
COMMUNITY HOUSING COUNCIL RECOMMENDS: 4-0-0

Dorothy Palanza moved that the Town vote to approve Article 10, Sections 2-F, the sum of \$800,000 to fund a grant for 32 units of community housing at 35 Race Point Road, to be known as Stable Path, and to authorize the Board of Selectmen to accept an affordable housing restriction on 32 units of said property, as printed in the warrant.

Astrid Berg moved to request a secret ballot vote Article 10-2F, Annual Town Meeting April 7, 2009.

Motion for Secret Ballot Does Not Pass.

Motion Passed (Yes 161, No 88).

Article 11. Town Hall Project. To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of \$2,000,000 more or less under the Community Preservation Act program for historic preservation, rehabilitation, and restoration, for the comprehensive restoration and renovation of town hall, including all costs incidental and related thereto and to authorize the Board of Selectmen to apply for and accept any grant funds that may be available for said project, and to authorize the Board of Selectmen to convey an historic preservation restriction for the town hall building as may be necessary or appropriate under the Community Preservation Act and/or any grant program, and to further authorize the Board of Selectmen to take all other actions necessary to carry out the project; or to take any action relative thereto.

[Requested by the Community Preservation Committee]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 6-0-0

COMMUNITY PRESERVATION COMMITTEE RECOMMENDS: 7-0-0

HISTORICAL COMMISSION RECOMMENDS: 5-0-0

VISITOR SERVICES BOARD RECOMMENDS: 5-0-0

Eric Dray moved that the Town appropriate the sum of \$2,000,000 under the Community Preservation Act program for historic preservation, rehabilitation, and restoration, for the comprehensive restoration and renovation of Town Hall, including all costs incidental and related thereto; that to meet this appropriation, the treasurer, with the approval of the Board of Selectmen is authorized to borrow said sum, pursuant to M.G.L. ch. 44B, or any other enabling authority, and to issue bonds or notes of the Town therefor, and to authorize the Board of Selectmen to apply for and accept any grant funds that may be available for said project, and to authorize the Board of Selectmen to convey an historic preservation restriction for the Town Hall building as may be necessary or appropriate under the Community Preservation Act and/or any grant program, and to further authorize the Board of Selectmen to take all other actions necessary to carry out the project.

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

Article 12. Town Hall Historic Preservation Restriction To see if the Town will vote to transfer the care, custody, management and control of the Town Hall land, located at 260 Commercial Street, Provincetown, and having an assessors parcel identification number of 11-3-81-0-E, from the Board of Selectmen for the purpose of a town hall, to the Board of Selectmen for the purpose of a town hall and for the purpose of conveying a perpetual historic preservation restriction therein, and to authorize the Board of Selectmen to convey a perpetual historic preservation restriction encumbering said Town Hall land and building to the Commonwealth of Massachusetts, by and through the Massachusetts Historical Commission, on such terms and conditions, and

for such consideration, as the Board of Selectmen deems appropriate, or to take any other action relative thereto.

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

**BOARD OF SELECTMEN RECOMMENDS: 5-0-0
FINANCE COMMITTEE HAS NO RECOMMENDATION.**

Austin Knight moved that the Town vote to approve Article 12 as printed in the warrant.
Motion Passed. (2/3rd's Vote Declared).

Article 13. Amendments to Personnel By-law/Classification and Compensation Plan. To see if the Town will vote as follows:

1. **Schedule A:** to amend Schedule A, "Permanent Full and Part-time Non-Union Positions," of the Classification and Compensation Plan of the Town, effective July 1, 2009, as follows:

Grade	Actual FY 2009		Proposed FY 2010		Position Title
	Min.	Max.	Min.	Max.	
21	91,006	106,517	91,006	106,517	Town Manager <i>[exempt – MGL C.41, §108N]</i>
20	77,124	92,417	77,124	92,417	Chief of Police <i>[exempt – MGL C.41, §108O]</i> Director of Public Works
19	73,105	87,601	73,105	87,601	<i>no positions assigned</i>
18	69,293	83,034	69,293	83,034	<i>no positions assigned</i>
17	65,680	76,118	65,680	76,118	Director of Municipal Finance Police Staff Lieutenant*
16	62,256	74,602	62,256	74,602	<i>no positions assigned</i>
15	59,009	68,388	59,009	68,388	Assistant Town Manager Building Commissioner Deputy Director of Public Works
14	55,670	66,710	55,670	66,710	Health Agent Health and Environmental Affairs Manager**
13	52,520	60,866	52,520	60,866	<i>no positions assigned</i>
12	49,547	59,372	49,547	59,372	Human Services/Council on Aging Director Information Services Director Library Director

					Principal Assessor
					Town Accountant
11	47,187	56,543	47,187	56,543	Collector
					Treasurer
10	44,940	53,852	44,940	53,852	DPW Finance Coordinator Recreation Director
9	42,800	51,287	42,800	51,287	Local Building Inspector Parking Administrator
					Administrative Director of Tourism Town Clerk
8	40,377	48,384	40,377	48,384	COA Outreach Coordinator Library Operations Director Permit Coordinator
					Town Manager's Secretary/ Employee Benefits Administrator
7	38,093	45,646	38,093	45,646	Electrical/Deputy Building Inspector Licensing Agent Payroll Coordinator/Asst Town Acct.*
6	37,013	44,354	37,013	44,354	Secretary to the Board of Selectmen Secretary to the Chief of Police Administrative Assistant Accounting*

*Change in title only. No change in salary grade or job duties.

** Change in title and salary grade. No change in job duties.

2. **Schedule B:** to amend Schedule B, "Fire Department Positions," effective July 1, 2009, as requested by the Board of Fire Engineers, as follows:

Position	Current	Proposed
Deputy Fire Chief	\$6,600	\$6,600
District Fire Chief/Engineer	2,200	2,200
Firefighter	715	750
Fire Auxiliary	360	375
Fire Captain (<i>additional stipend</i>).....	500	500
Fire Lieutenant (<i>additional stipend</i>)	305	305
House Steward (<i>additional stipend</i>)	880	880

House Steward (<i>additional stipend</i>)	1,100	.....	1,100
Ladder Steward (<i>additional stipend</i>).....	1,300	.....	1,300
Main Station Steward (<i>additional stipend</i>)	4,800.....	LCA	
Oil Inspector	1,747		
Rescue Captain (<i>additional stipend</i>)	1,100	.....	1,450
Rescue Lieutenant (<i>additional stipend</i>)....	880	.....	880
Rescue Steward (<i>additional stipend</i>).....	2,640	.....	3,000
Rescue Training Officer (<i>additional stipend</i>)	1,650.....		1,650
Radio Officer (<i>additional stipend</i>)	550	.....	550
Air Officer (<i>additional stipend</i>)	880	1000

Annual Salary

Position

Fire Chief.....	\$25,000	25,000
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Non-Firefighter Positions

Position

First Responders.....	\$12.00 per call		
EMT-Basic.....	18.50/hour.....		21.30
EMT-Intermediate	21.00	.....	20.65
EMT-Paramedic	23.00	.....	23.70
Stand-by	17.00.....		18.00
Safety Inspections.....	14.03		
Rescue Squad participation.....	\$250.00 per quarter		

[Requested by the Personnel Board and the Town Manager]

**BOARD OF SELECTMEN RECOMMENDS: 5-0-0
FINANCE COMMITTEE HAS NO RECOMMENDATION
PERSONNEL BOARD RECOMMENDS AS AMENDED: 3-0-0**

Elaine Anderson moved that the Town vote to approve Article 13 as printed in the warrant with the following amendment: Schedule A, Grade 7, add MIS Technicians to the *Position Title*.

Motion Passed.

Article 14. Expenditures from the Tourism Fund. To see if the Town will vote to transfer from the Tourism Fund the sum of \$423,136 to be expended under the direction of the Board of Selectmen and the Visitor Services Board to fund the following expenditures which market, beautify or enhance tourism in Provincetown pursuant to Chapter 178 of the Acts of 1996:

1. \$79,000 for coordination/support of the Visitor Service Board and the Tourism Department; and costs related thereto;
2. \$206,016 for marketing, and costs related thereto;
3. \$34,120 for municipal projects, and costs related thereto; and
4. \$100,000 for tourism grants, and costs related thereto;
5. \$4,000 for Beautification Committee

or to take any other action relative thereto.

[Requested by the Board of Selectmen and the Visitor Services Board]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 5-0-0
VISITOR SERVICES BOARD RECOMMENDS: 5-0-0

Mary-Jo Avellar moved that the Town vote to approve Article 14 as printed in the warrant.
Motion Passed.

Town Moderator Irene Rabinowitz recused herself and relinquished the role of moderator to Town Clerk Doug Johnstone.

Article 15. FY 2010 Human Services Grant Program. To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$53,799 to be expended under the direction of the Board of Selectmen, to fund grants to assist non-profit agencies and organizations to maximize available resources to meet needs identified by the community by providing services to local residents, particularly those of low- and moderate-income and those who are uninsured or underinsured, as follows:

AIDS Support Group of Cape Cod.....	\$7,000
Cape Cod Children’s Place	3,500
Consumer Assistance Council	250
Gosnold	13,000
Helping Our Women.....	6,000
Independence House.	3,800
Interfaith Council for the Homeless	2,649
Lower Cape Outreach Council, Inc.	4,000
Mass Appeal.....	400
Outer Cape Health Services	5,500
Sight Loss Services, Inc.	400
Soup Kitchen in Provincetown	3,000
South Coast Counties Legal Services	<u>4,300</u>
<i>Total</i>	<u>\$53,799</u>

or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 5-0-0
FINANCE COMMITTEE RECOMMENDS: 5-0-0
HUMAN SERVICES COMMITTEE RECOMMENDS: 4-0-0
BOARD OF HEALTH RECOMMENDS: 5-0-0

Michele Couture moved that the Town vote to raise and appropriate the sum of \$53,799 to be expended under the direction of the Board of Selectmen, to fund grants to assist non-profit agencies and organizations to maximize available resources to meet needs identified by the community by providing services to local residents, particularly those of low- and moderate-income and those who are uninsured or underinsured, as printed in the warrant.
Motion Passed.

Town Moderator Irene Rabinowitz returned to the meeting.

Article 16. Adoption of MGL Ch. 32B, Section 18 Medicare. To see whether the Town will vote to adopt M.G.L. c.32B, § 18 requiring that all retirees and their spouses and dependents who are enrolled in Medicare Part A at no cost to the retiree, their spouse or dependents, or eligible for coverage thereunder at no cost to the retiree, their spouse or dependents, be required to enroll in a Medicare health benefits supplement plan offered by the Town; or to take any other action relative thereto.

[Requested by the Finance Committee and the Town Manager]

BOARD OF SELECTMEN RECOMMENDS INDEFINITE POSTPONEMENT: 4-1-0

FINANCE COMMITTEE RECOMMENDS: 6-0-0

INSURANCE ADVISORY BD RECOMMENDS INDEFINITE POSTPONEMENT: 5-0-0

David Bedard moved that the Town vote to indefinitely postpone Article 16.

Motion Passed.

Article 17. Land Bank – Acquisition of land for Community Agriculture, Conservation, and Open Space – 6R, 10R, and 14 R, Browne Street. To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise the fee interest in a certain three parcels of real estate **6R, 10R, and 14 R, Browne Street** in common ownership by, **E. Richard Davis** together containing **2.29 acres**, more or less, shown as assessors map **07-1-0032; 07-1-0033; and 07-1-0034**, a copy of which is on file in the Office of the Town Clerk, together with and subject to all rights, restrictions and easements of record, on such terms and conditions as the Selectmen may determine; and to appropriate and borrow the sum of Two Hundred Thousand and 00/100 (\$200,000.00) for such acquisition and all expenses incidental and related thereto, pursuant to Chapter 293 of the Acts of 1998 entitled, "An Act Relative to the Establishment of the Cape Cod Open Space Land Acquisition Program" (the so-called "Land Bank"); provided that said land is to be conveyed to the Town of Provincetown consistent with the provisions of Massachusetts General Laws, Chapter 40, Section 8C and Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, and as it may be hereafter amended, and other Massachusetts statutes relating to non-commercial agriculture, conservation, open space, 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 or other applicable boards or commissions to apply for and accept such funds, including but not limited to funding under the Self Help Act, G.L. c.132 A, Sec. 11 (now, so-called LAND grants); and further provided that the Board of Selectmen and the Conservation Commission be authorized 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

non-commercial community agricultural, conservation and open space passive recreation uses described in Massachusetts General Laws, Chapter 40, Section 8C; or take any other action relative thereto.

[Requested by the Conservation Commission and Open Space Committee]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 8-0-0

CONSERVATION COMMISSION RECOMMENDS: 4-0-0

Dennis Minsky moved to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise the fee interest in a certain three parcels of real estate 6R, 10R, and 14 R, Browne Street in common ownership by, E. Richard Davis, **Nancy A. Richardson, and Richard E. Davis**, together containing 2.29 acres, more or less, shown as assessors map 07-1-0032; 07-1-0033; and 07-1-0034, a copy of which is on file in the Office of the Town Clerk, **and easements over other land for access to a public way**, together with and subject to all rights, restrictions and easements of record, on such terms and conditions as the Selectmen may determine, pursuant to Chapter 293 of the Acts of 1998 entitled, "An Act Relative to the Establishment of the Cape Cod Open Space Land Acquisition Program" (the so-called "Land Bank"); provided that said land is to be conveyed to the Town of Provincetown consistent with the provisions of Massachusetts General Laws, Chapter 40, Section 8C and Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, and as it may be hereafter amended, and other Massachusetts statutes relating to non-commercial agriculture, conservation, open space, and passive recreation; and to appropriate the sum of One Hundred Eighty Thousand and 00/100 (\$180,000.00) for such acquisition including all expenses incidental and related thereto: that to meet said appropriation, the Treasurer with the approval of the Board of Selectmen is hereby authorized to borrow \$180,000 pursuant to Massachusetts General Laws Chapter 44, Sections 7 and 8, or any other enabling authority, and to issue bonds and notes therefor; that to the extent that any federal, state or other funds are or become available for the purposes set forth in this vote , to authorize the Board of Selectmen or other applicable boards or commissions to apply for and accept such funds, including but not limited to funding under the Self Help Act, G.L. Ch. 132 A, Sec. 11 (now, so-called LAND grants); and further provided that the Board of Selectmen and the Conservation Commission be authorized 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 non-commercial community agricultural, conservation and open space passive recreation uses described in Massachusetts General Laws, Chapter 40, Section 8C.

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

Article 18. Land Bank – Acquisition for Community Garden, Conservation, and Open Space of a portion of 608 Commercial St. Map 15-3-061.

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise the fee interest in a certain portion of the parcel of real estate at 608 Commercial Street held in ownership by Jonathan Sinaiko, 5,620 ± sq. ft., more or less, shown as assessors map 15-3-061, a copy of which is on file in the Office of the Town Clerk, together with and subject to all rights, restrictions and easements of record, on such terms and conditions as the Selectmen may determine; and to appropriate and borrow the total sum of \$250,000 with \$150,000 of Land Bank funds to be used for such acquisition and all expenses incidental and related thereto, pursuant to Chapter 293 of the Acts of 1998 entitled, "An Act Relative to the Establishment of the Cape Cod Open Space Land Acquisition Program" (the so-called "Land Bank"); provided 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 or other applicable boards or commissions to apply for and accept such funds; and further provided that the Board of Selectmen and the Open Space Committee be authorized 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 Open Space Committee 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 community agricultural, conservation and passive recreation uses described in Massachusetts General Laws, Chapter 40, Section 8C; or take any other action relative thereto.

[Requested by the Open Space Committee]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RESERVES RECOMMENDATION: 7-0-0

CONSERVATION COMMISSION RECOMMENDS: 3-0-1

OPEN SPACE COMMITTEE RECOMMENDS: 3-0-0

Mary-Jo Avellar moved to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise the fee interest in a certain portion of the parcel of real estate at 608 Commercial Street held in ownership by Jonathan Sinaiko, 5,620 ± sq. ft., more or less, shown as assessors map 15-3-061, a copy of which is on file in the Office of the Town Clerk, together with and subject to all rights, restrictions and easements of record, on such terms and conditions as the Selectmen may determine, pursuant to Chapter 293 of the Acts of 1998 entitled, "An Act Relative to the Establishment of the Cape Cod Open Space Land Acquisition Program" (the so-called "Land Bank"); provided 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 appropriate the sum of \$150,000 for said acquisition including all costs incidental and related thereto; that to meet said appropriation, the Treasurer, with the approval of the Board of Selectmen is hereby authorized to borrow \$150,000 pursuant to Massachusetts General laws Chapter 44, Sections 7 or 8, or any other enabling authority, and to issue bonds and notes therefor, and, to the extent that any federal, state or other funds are or become available for the purposes set forth in this vote, to authorize the Board of Selectmen or other applicable boards or commissions to apply for and accept such funds; and further provided that the Board of Selectmen and the Open Space Committee be authorized 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 Open Space Committee 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 community agricultural, conservation and passive recreation uses described in Massachusetts General Laws, Chapter 40, Section 8C.

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

Article 19. General By-law Amendment: Non-Criminal Disposition of Pier Corporation Regulations. To see if the Town will vote to amend the Provincetown General By-laws by amending §2-3-1-1 to read as follows:

Article 2-3-1-1. Any rule or regulation of the Provincetown Public Pier Corporation duly enacted as of ~~April 7, 2008~~ **April 6, 2009** shall be deemed a regulation of the Board of Selectmen. Violation of such rules or regulations may be enforced by any available means in law or equity, including but not limited to non-criminal disposition pursuant to G.L. c.40, §21D, and Sections 2-3-1 through 2-3-3 of the General By-laws. For the purposes of this by-law, the following officials shall be enforcing persons: the Harbormaster and his designees and any police officer of the Town of Provincetown.

2-3-2-1. Violations of the Provincetown Public Pier Corporation Regulations in Effect on ~~April 7, 2008~~ **April 6, 2009** (attached as Appendix 1 to Schedule A): 1st offense, \$100.00; 2nd offense, \$200.00; 3rd and subsequent offenses, \$300.00
Or to take any other action relative thereto.

[Requested by Provincetown Public Pier Corporation]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

PROVINCETOWN PUBLIC PIER CORPORATION RECOMMENDS: 3-0-0

Kerry Adams moved that the Town vote to approve Article 19 as printed in the warrant.
Motion Passed.

Article 20. Marijuana Policy. To see whether the Town will vote to add the following Section to the General By-laws:

Section 13-2-8-3.

PUBLIC CONSUMPTION OF MARIJUANA OR TETRAHYDROCANNABINOL PROHIBITED:

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. c. 94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

This by-law may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. c. 40, § 21, or by noncriminal disposition pursuant to G.L. c. 40, § 21D,* by the Board of Selectmen, the Town Manager, or their duly authorized agents, or any police officer. The fine for violation of this by-law shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this by-law shall be in addition to any civil penalty imposed under M.G.L. c. 94C, § 32L; or to take any other action relative thereto.

[Requested by the Police Chief]

**BOARD OF SELECTMEN DOES NOT RECOMMEND: 4-1-0
FINANCE COMMITTEE HAS NO RECOMMENDATION**

[Jeff Jaran moved that the Town vote to approve Article 20 as printed in the warrant.](#)
Motion Does Not Pass.

Article 21. Historic District By-Law. To see if the Town will vote to amend Chapter 15. Local Historic District. Section 11. Appendices. Appendix 1. Provincetown Historic District Guidelines. 9 of the Town's General By-laws by deleting and substituting the following:

9. ROOF DECKS, DECKS AND PORCHES.

Roof decks are may be permitted under the following criteria:

- a. The size and location of the roof deck should not dominate the roof.
- b. ~~Where possible, r~~ Roof decks should be located to be minimally visible from a public way, or **and** detailed to reflect an historic roof walk, **if appropriate to the building and site.**

- c. Railing design should consist of wooden railings with captured balusters.

Decks and porches extending beyond the façade plane of a building are may be permitted provided the deck supports do not obscure significant architectural detail. New decks should be detailed in a manner appropriate to the building; or to take any other action relative thereto.

[Requested by the Historic District Commission]

BOARD OF SELECTMEN RECOMMENDS: 4-1-0

FINANCE COMMITTEE RESERVES RECOMMENDATION: 9-0-0

Elaine Anderson moved that the Town vote to approve Article 21 as printed in the warrant.

Motion Passed.

Article 22. Delete By-law Section 9-5:Habitations for Rent. To see if the Town will vote to amend the Provincetown General By-laws by deleting its entirety Section 9-5 Habitations for Rent; or to take any other action relative thereto.

[Requested by the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RESERVES RECOMMENDATION: 9-0-0

BOARD OF HEALTH RECOMMENDS: 5-0-0

Michele Couture moved that the Town vote to approve the amendment of the Provincetown General By-Laws by deleting its entirety Section 9-5 Habitations for Rent.

Motion Passed.

Article 23. Licensing and vaccination of dogs. To see if the Town will vote to amend the General By-laws by amending Article 13-2-7-5. Licensing by adding the following to the end of the section: Any owner that fails to license and/or vaccinate a dog by order of an enforcement official within two business days of receipt of a notice to license shall be subject to a fine of \$25.00. Any owner that fails to license and /or vaccinate a dog by order of an enforcement official within the next two business days shall be subject to a fine of \$50.00. Any owner that fails to license and/or vaccinate a dog by order of an enforcement official for more than four days shall be subject to a fine of \$75.00. Each day thereafter that a violation of the Town by-law continues shall be deemed to be a separate offense, or to take any other action relative thereto.

[Requested by the Animal Welfare Committee and the Chief of Police]

BOARD OF SELECTMEN RECOMMENDS: 4-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION.

ANIMAL WELFARE COMMITTEE RECOMMENDS: 3-0-0

BOARD OF HEALTH RECOMMENDS: 5-0-0

Barbara Murphy moved that the Town vote to approve Article 23 as printed in the warrant.

Motion Passed.

Article 24. Safe Transportation of Animals. To see if the Town will vote to amend the General Bylaws by inserting a new section 13-2-7.2, Safe Transportation of Animals, to read as follows: No person shall transport an animal in the back of a motor vehicle in a space intended for a load on the vehicle on a public way unless such space is enclosed or has side and tail racks to a height of at least 46 inches extending vertically from the floor, the animal is cross tethered to the vehicle, the animal is

protected by a secured container or cage or the animal is otherwise protected in a manner which will prevent the animal from being thrown or from falling or jumping from the vehicle. A non-criminal disposition penalty will be assessed in the amount of \$50.00 (fifty dollars) to the owner for the first offense; \$75.00 (seventy five dollars) to the owner for the second offense; and \$100.00 (one hundred dollars) for the third and subsequent offenses; or to take any other action relative thereto.

[Requested by the Animal Welfare Committee and the Chief of Police]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0
FINANCE COMMITTEE HAS NO RECOMMENDATION
ANIMAL WELFARE COMMITTEE RECOMMENDS: 3-0-0
BOARD OF HEALTH RECOMMENDS: 5-0-0

Carol MacDonald moved that the Town vote to approve Article 24 as printed in the warrant.

Motion Passed.

Article 25. Control of dogs. To see if the Town will vote to amend the General By-laws by amending Article 13-2-7-3. Control of dogs. Any dog within Town boundaries must be restrained and may not be at large except as specified herein. Any dog within Town boundaries may be off-leash only in specific off-leash areas as designated by the Town, provided that such dog is under voice and sight control. The following are Town-owned open space off-leash areas (limited by specified times as noted): Foss Woods, Locke Property (also known as 'Whistle Path Woods'), Abandoned Railroad Right-Of-Way, and all Town beaches. From Memorial Day through November 1 dogs may be off-leash if under voice and sight control on Town beaches between the hours of 6 am and 9 am and the hours of 6 pm and 9 pm; from November 2 through the day before Memorial Day dogs may be off-leash if under voice and sight control on Town beaches between the hours of 6 am and 9pm; all dogs must be restrained on Town beaches at all other times. In designated off-leash areas, any owner whose dog is not under voice and sight control or is out of control is in violation of this by-law. In all other areas, any owner whose dog is at large, out of control, or not restrained is in violation of this by-law. **A non-criminal disposition penalty will be assessed in the amount of \$25.00 (twenty-five dollars) to the owner for the first offense; \$50.00 (fifty dollars) for the second offense; \$75.00 (seventy-five dollars) for the third offense and subsequent offenses. Each violation of this by-law shall be deemed to be a separate offense;** or take any other action relative thereto.

[Requested by the Animal Welfare Committee and the Chief of Police]

BOARD OF SELECTMEN RECOMMENDS: 3-2-0
FINANCE COMMITTEE HAS NO RECOMMENDATION
ANIMAL WELFARE COMMITTEE RECOMMENDS: 3-0-0
BOARD OF HEALTH RECOMMENDS: 5-0-0
CONSERVATION COMMISSION RECOMMENDS: 3-0-1

Candace Nagle moved that the Town vote to approve Article 25 as printed in the warrant with the following change: To further delete from the By-law the reference to Shank Painter Pond Uplands.

Christopher Snow moved to amend the motion in Article 25 to add the word "owned" after the word Town where it appears in the article in "Town beaches".

Motion to Amend Passed.

Motion As Amended Passed.

Article 26. Zoning By-law Amendment: Article 6 Growth Management By-Law, Section 6200 Applicability. To see if the Town will vote to amend the Provincetown Zoning By-laws, as follows, with changed text shown in underlined and deleted text shown as ~~strikethrough~~.

Section 6200 Applicability

1. Except as provided below this Growth Management By-law shall apply to all new construction, including new structures and enlargement, alteration or renovation of existing structures, to all new uses, and to all expansions, changes, or alterations of existing uses, which will result in an increase, no change, or a decrease in Title 5 Design Flow (pursuant to 310 C.M.R. 15.203 (2) through (6), and Board of Health Regulations Part 7 Local Title V Supplements) as determined by the ~~Health Agent~~ Community Development Department ("Department").
2. No building permit shall be issued for a new structure or for the enlargement, reduction, renovation or alteration of an existing structure and no occupancy permit shall be issued for any new use or any reduction, expansion, change or alteration of an existing use for which no building permit is required; until and unless:
 - (a) The ~~Health Agent~~ Department determines the amount, if any, by which Title 5 Design Flow will increase or decrease as a result of the proposed structure or use. In making determinations of Title 5 Design Flow, the ~~Health Agent~~ Department shall apply the definitions of Fixed Standing and Seats as defined in Article 1, where applicable; and
 - (b) In the event the ~~Health Agent~~ Department determines the amount of Title 5 Design Flow will increase, the property owner obtains a Growth Management Allocation Permit sufficient to allow the increase.
3. If the ~~Health Agent~~ Department determines under Section 6200-2a that a decreased Title 5 Design Flow will result, then during a two-year period following the issuance of the building permit or occupancy permit, whichever is earlier, for such structure or use, no Growth Management Allocation Permit will be required for any subsequent change in such structure or use that increases its Title 5 Design Flow up to and including the Title 5 Design Flow amount so determined by the ~~Health Agent~~ Department prior to the decrease in Title 5 Design Flow, unless the owner has abandoned the prior use or intensity of use. Such abandonment shall occur by wholly changing such use to a different principal use, or by issuing a written statement or covenant to the Town expressly abandoning the prior use or intensity of use.
4. This Growth Management Zoning By-law shall not apply to:
 - a. Municipal Uses;
 - b. approved Laundromats;

~~5. Notwithstanding any other provisions of this By-law to the contrary, any building permit issued for construction authorized by a special permit granted prior to December 31, 2000 shall continue to be governed by the applicable provisions of the Growth Management By-law in effect on the date the special permit was granted, provided that:~~

- ~~(1.) the building permit application for such construction was submitted to the Department within six months of the date of the grant of the authorizing special permit, and~~
- ~~(2.) any delay in issuance of the building permit beyond the six month period following the grant of the special permit was due solely to the annual building permit limitations contained in the Growth Management By-law in effect on the date the special permit was granted.~~

~~6. This Growth Management Zoning By-law shall not apply to:~~

~~a. the demolition, reconstruction and/or remodeling of dilapidated and/or condemned structures deemed by the Inspector of Buildings on or before March 1, 2000 to be a public safety hazard subject, however, to all other provisions of these By-laws governing maintenance, extension, alteration or change to pre-existing structures and/or uses.~~

~~b. c. construction of a single-family dwelling, one per lot, upon a vacant lot by the record owner(s) thereof appearing at the Barnstable County Registry of Deeds as of March 1, 2000 which is intended to be occupied and is subsequently occupied for a continuous period of at least two (2) years by said owner(s) as his/her/their permanent principal residence. An Affidavit of Intention setting forth the owner(s) certification of intended commitment to compliance with the requirements of this subsection and signed and notarized under the pains and penalties of perjury by said record owner(s) shall be filed with the Inspector of Buildings with any building permit application filed pursuant to this exception. No property utilizing this exception shall be eligible to receive an additional Growth Management Allocation Permit for a period of five (5) years from the date of issuance of the original Growth Management Allocation Permit nor may a qualifying person or persons under this exception ever re-qualify for a further exception under this subparagraph b. c.~~

~~c. d. single family dwellings where the owners are the resident and have a private well suitable for drinking. Said lot shall not be permitted to connect to the Town's water system.~~

~~7. e. This Growth Management By-law shall not apply to health care related uses in the Health Care Overlay District.~~

Section 6300 Procedure

1. Application for a Growth Management Allocation Permit may be made in writing to the ~~Permit Coordinator~~ Department only after having first ~~applied for~~ received all other permits, (except building and occupancy permits), licenses, special permits, variances, determinations and/or orders of conditions for the proposed construction and/or use as deemed necessary by the ~~Permit Coordinator~~ Department including, if applicable, Affordable Housing and/or Community Housing Permits awarded by the ~~PLHP~~ Provincetown Community Housing Council (PCHC) or Economic Development Permits awarded by the Board of Selectmen. For purposes of such application, statutory appeal periods relative to said permits, variances, special permits, determinations and/or orders

of conditions, need not have expired without appeals ~~having been taken in order for the Permit Coordinator Department to determine that an application for a Growth Management Allocation Permit is completed.~~

2. In order to be considered complete, a Growth Management Allocation Permit application must be accompanied by the application for any building permit required for the proposed construction or, if no building permit is required, the application for an occupancy permit.

3. Growth Management Allocation Permits shall be issued, after completion of the annual growth management review by the Board of Selectmen, in the order that the completed applications have been received, ~~based upon the allowed Growth Limitation Goal allocation for each category at the beginning of each calendar year in the order that Completed Applications have been received in the Department of Regulatory Management and after the Department of Regulatory Management has had 30 days to review the completed application.~~

4. Affordable Housing Permits and/or Community Housing Permits will be authorized on a priority basis as established by the PCHC, using criteria including but not limited to housing quality standards, quality of design, degree of affordability in terms of cost, and financial feasibility of the proposal. No Affordable Housing Permit and/or Community Housing Permit shall be issued without prior authorization of the PCHC. Each property in which 100% of the dwelling units are Affordable Housing and/or Community Housing, and for which an Affordable Housing Permit or a Community Housing Permit is granted, shall be deemed a public service use under Section 3 of Chapter 157 of the Acts of 2000.”

5. Discontinued and Abandoned Uses.

a. Discontinued. ~~The Health Agent Department shall, two years after a determination of decreased Title 5 Design Flow pursuant to section 6200.2(a), and provided that such Title 5 Design Flow has not increased during the two year period, or two years after actual discontinuance of use pursuant to a growth management allocation permit, assign the difference in gallonage between the prior, higher Title 5 Design Flow and the current Title 5 Design Flow to a “Surplus Gallonage Pool.”~~ back to the corresponding General Use Category.

b. Abandoned. In the event a property owner abandons the prior use or intensity of use pursuant to Section 6200-3, the ~~Health Agent Department~~ shall immediately assign the difference in gallonage between the prior, higher Title 5 Design Flow and the new Title 5 Design Flow ~~to a “Surplus Gallonage Pool.”~~ back to the corresponding General Use Category.

Section 6500 Table of Use Categories and Priorities

GENERAL USE CATEGORY 1

1a. Affordable Housing Units

1b. ~~Medium~~ Median Income Community Housing Units

1c. Middle Income Community Housing Units

GENERAL USE CATEGORY 2

The non-affordable housing components of project consisting of:

2a1 Multi-family dwellings projects that consist of 50%-99% affordable housing and/or community housing

2a2 Two-family dwellings projects that consist of 50%-99% affordable housing and/or community housing

2a3 Single-family dwelling projects that consist of 50%-99% affordable housing and/or community housing

2b1 Multi-family dwelling projects that consist of 33%-49.9% affordable housing and/or community housing

2b2 Two-family dwelling projects that consist of 33%-49.9% affordable housing and/or community housing

2b3 Single-family dwelling projects that consist of 33%-49.9% affordable housing and/or community housing

GENERAL USE CATEGORY 3

3a. Expansions or alterations to existing residential structures or uses that result in increased Title 5 flow, not to exceed the Title 5 Design Flow pursuant to 310 CMR 15.203(2) for one bedroom per year per applicant not to exceed a total of 330 gallons per year."

3b. Single-family dwelling, one per lot; two family dwelling, one per lot.

3c. All other market rate residential projects without affordable housing components that result in increased Title 5 flow.

GENERAL USE CATEGORY 4

4a ~~Office, Artists' Studio, For-profit Nursing home, For-profit Outpatient Rehabilitation Facility~~ Projects that receive an Economic Development Permit

4b ~~Boarding, Lodging or Tourist Homes~~ Non-Profit or Community Service Uses which meet a critical community need as determined by the Board of Selectmen

4c Boarding, Lodging or Tourist Homes, Hotel, Motel, Inn, Camp, Cabin, Dormitory Housing

4d ~~Restaurant and Bar~~

4e 4d All other non-residential uses, expansions or alterations to existing structures or uses and any change in use or increase in posted occupant load that results in increased Title 5 Design Flow.

GENERAL USE CATEGORY 5

5a ~~Economic Development pursuant to an Economic Development Permit.~~

Section 6600 Growth Limitation Goal Allocations

~~Initially, 13,200 gpd shall be allotted for assignment for Use Category 1a. Thereafter, unassigned gallonage allotment shall be as follows in the order listed.~~

1. Annually, during the Growth Management Review, the Board of Selectmen may allocate up to 1650 gpd to General Use Category 1, provided that the Board of Selectmen 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.

The Selectmen shall have the flexibility with the General Use Category 1 to distribute the 1650 gallons amongst the Use Categories 1a, 1b, and 1c, based on the recommendation of the PCHC within the Annual Growth Management Report.

All unassigned gallonage remaining at the end of each calendar year for General Use Category 1a, 1b and 1c shall remain available ~~be allotted~~ for assignment in the next calendar year for those same categories, respectively Use Category 1a, 1b, and 1c.

~~2. Unassigned gallonage remaining at the end of each calendar year for General Use Categories 1b and 1c shall be allotted for assignment in the next calendar year for those same categories, respectively (1b to 1b and 1c to 1c).~~

~~3. One quarter of the unassigned gallonage remaining at the end of each calendar year for General Use Categories 3 and 4 shall be allotted for assignment in the next calendar year for Use Category 1a; two quarters of said remaining unassigned gallonage shall be so allotted for Use Category 1b; and one quarter of said remaining unassigned gallonage shall be so allotted for Use Category 1c.~~

~~4. One half of the unassigned gallonage remaining at the end of each calendar year for General Use Category 2 shall be allotted for assignment in the next calendar year for Use Category 2 and one half of said remaining unassigned gallonage shall be so allotted for Use Category 3. On the effective date of this zoning by-law amendment and on the anniversary thereof in 2005, 2006, 2007 and 2008, 550 gallons per day shall be added to the allotment for Use Category 1a, provided that prior to each such anniversary, the Board of Selectmen 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.~~

~~1a. On the effective date of this zoning by-law amendment and on the anniversary thereof in 2005, 2006, 2007 and 2008, 1,100 gallons per day shall annually be added to the allotment for Use Category 1b, provided that prior to each such anniversary, the Board of Selectmen 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.~~

~~1b. On the effective date of this zoning by-law amendment and on the anniversary thereof in 2005, 2006, 2007 and 2008, 550 gallons per day shall annually be added to the allotment for Use Category 1c, provided that prior to each such anniversary, the Board of Selectmen 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.~~

~~1c. On the effective date of this zoning by-law amendment and on the anniversary thereof in 2007 and 2008, 990 gallons shall be allocated for assignment to Use Category 3a for projects where Completed Applications were filed prior to March 31, 2005.~~

2. The Growth Limitation Goal shall be allocated for categories 2, 3 and 4 each year as follows:

~~(a.) 1,870 gpd shall be allocated for assignment under General Use Category 2.~~

(a) Annually, during the Growth Management Review, the Board of Selectmen may allocate up to 1,100 gpd to General Use Category 2, provided that the Board of Selectmen 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.

All unassigned gallonage remaining at the end of each calendar year for General Use Category 2 shall remain available for assignment in the next calendar year for General Use Category 2.

~~(b.) 1,100 gpd shall be allocated for assignment under General use Category 3.~~

(b) Annually, during the Growth Management Review, the Board of Selectmen may allocate up to 1,870 gpd to General Use Category 3, provided that the Board of Selectmen 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.

All unassigned gallonage remaining at the end of each calendar year for General Use Category 3 shall remain available for assignment in the next calendar year for General Use Category 3.

~~(c.) 700 gpd shall be allocated for assignment under General Use Category 4.~~

(c) Annually, during the Growth Management Review, the Board of Selectmen may allocate up to 1,250 gpd to General Use Category 4, provided that the Board of Selectmen 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.

All unassigned gallonage remaining at the end of each calendar year for General Use Category 4 shall remain available for assignment in the next calendar year for General Use Category 4.

~~3. Initially, 5,000 gpd shall be allotted for assignment for General Use Category 5.~~

~~Gallonage in the Surplus Gallonage Pool shall be allocated to General Use Category 5 as such gallonage accrues.~~

4. 3. Growth Management Review. Annually, by November 15, January 15, the Town Manager, in consultation with the DPW Director, Water Superintendent, Permit Coordinator, Planning Board, Board of Health, Water & Sewer Board, and Provincetown Community Housing Council (PCHC) and the Local Comprehensive Plan Implementation Committee shall evaluate the effects of growth on our resources over the past year, including but not limited to potable water supply, solid waste disposal, and wastewater disposal, and the inventory of affordable housing and issue an Annual Growth Management Report to the Board of Selectmen on those impacts and their recommendations therefore. The Board of Selectmen shall hold a Public Hearing on the Report in December of each year within 30 days, and make a determination as to the amount of the Growth Limitation Goal Allocations, not to exceed the assigned allocations in Section 6600 for the upcoming year.

[Requested by the Planning Board]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0
FINANCE COMMITTEE HAS NO RECOMMENDATION
PLANNING BOARD RECOMMENDS AS AMENDED: 4-0-0

Michele Couture moved that the Town vote to approve Article 26 as printed in the warrant, with the following change: remove all proposed change references to the “Community

Development Department” and thereafter “Department” and keep original language “Health Agent” and “Permit Coordinator” as it exists in the current by-law.

Clarence Walker moved to indefinitely postpone Article 26.

Motion to Indefinitely Postpone Does Not Pass.

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

Article 27. Zoning By-law Amendment: Section 2330 Floodplain District Boundaries and Base Flood Elevation Data. To see if the Town will vote to amend the Provincetown Zoning By-laws, as follows, with changed text shown in **underlined, bold, italics** and deleted text shown as strikethrough.

Provincetown Zoning Bylaws

Section 2330 Floodplain District Boundaries and Base Flood Elevation Data

~~2330 Class "A, V and A-O" Flood Area Overlay Districts Provisions.~~

~~Permits for new construction, alteration of structures, or other development (any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations) at or below the Base Flood Elevation (10' above mean high sea level) as specified within Zones A1-A30, V2-V4 and AO on Federal Emergency Management Agency Flood Insurance Rate Maps, effective July 15, 1992, such maps hereby incorporated as part of this By-Law and on file with the Town Clerk, the Planning Board and the Inspector of Buildings, shall be approved only subject to the following:~~

2330 Floodplain District Boundaries and Base Flood Elevation Data

The Floodplain District (“District”) is herein established as an overlay district. The District shall include all special flood hazard areas designed on the Town of Provincetown Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP) dated July 15, 1992 as Zone A, AE, AH, AO, A1-30, A99, V, V1-30, VE.

The FIRM designates the parameters of the 100-year base floodplain. The boundaries of the District shall be coincident with the 100-year base flood elevations as shown on the FIRM, Floodway Maps and Flood Insurance Study booklet, all of which are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.

2331 Elevation. New construction or substantial improvement (which shall be defined for purposes of this section as any repair, construction or alteration costing 50% or more of the market value of the structure before improvements; or if damaged, before damage occurred) of residential structures shall have the lowest floor (including basement) elevated to not less than Base Flood Elevations. (Substantial improvement is deemed to have occurred when the first alteration of any structural part of the building commences).

New construction or any substantial improvement of non-residential structures shall either be similarly elevated or, together with attendant utility and sanitary facilities shall be flood proof (i.e. watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy to or above that level) to not less than the Base Flood Elevations. However, structures such as boathouses that would be

functionally impaired by such measures, ~~which because it requires coastal~~ a water level locations, and ~~is which are~~ not continuously used for human occupancy, may be exempted from this requirement, upon the issuance of a Special Permits from the Zoning Board of Appeals.

~~2332 Mechanical and Utility Equipment. Electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.~~

~~2333 Start of Construction. [for other than new construction or substantial improvements under Coastal Barrier Resources Act (pub. L.97-348)], includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvements was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.~~

~~Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure.~~

~~2334 Enclosures Below A Structure's Lowest Floor. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters.~~

~~Designs for meeting this requirement must either be certified by a registered engineer or architect or must meet or exceed the following minimum criteria:~~

~~A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.~~

~~The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.~~

~~2335 **2332 Code References.** Any new construction or substantial improvements to be undertaken within said district shall be in accordance with the Massachusetts Uniform Building Code.~~

~~2336 **2333 Use of Available Flood Data.** The Building Inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or any other source, as a criteria for requiring that new construction, substantial improvements, or other development in Zone A meet all requirements set forth in Section 60.3 (c) (2), (3), (5), and (6) and (d) (3) of the National Flood Insurance Program; Final Rule dated August 25, 1986.~~

~~2337 **2334 "V" Zones.**~~

~~No land within areas designated as V (velocity) Zones on the F.I.A. Flood Hazard Rate Maps shall be developed unless such development:~~

a. is demonstrated by the applicant to be located landward of the reach of the mean high tide through issuance of a special permit by the Zoning Board of Appeals, and;
b. ~~is elevated at or above base flood elevation and adequately anchored to piles as specified in the Commonwealth of Massachusetts State Building Code and as specified in Section 60.3 (c) (4) of NFIP.~~ Any man-made alteration of sand dunes within said designated V Zones which might increase the potential for flood damage shall be prohibited.

2335 Other Use Regulations

- 1) Within Zones AH and AO on the FIRM, adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- 2) All subdivision proposals shall be designed, based upon pre-construction and post-construction drainage calculations provided by a professional engineer, to assure that:
 - a. Such proposals minimize flood damage;
 - b. All public utilities and facilities shall be located and constructed to minimize or eliminate flood damage; and
 - c. Adequate drainage shall be provided to reduce exposure to flood hazards.

2338 Manufactured Homes.

~~All manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions specified in Section 60.3 (b) (8) of the Criteria for Land Management and Use of the National Flood Insurance Program unless being used as temporary housing following a natural holocaust provided by Section 3, Ch. 40A, M.G.L.~~

~~All manufactured homes to be placed or substantially improved in Zones V, VE, and V1-30 must meet the same standards as conventional housing (e.g. meet the provisions at Section 60.3 (e) (3), (4), (5), and (6) of NFIP criteria).~~

2339 ~~2336~~ Variances.

Any variance from the requirements of this section shall be considered a use variance and no use variance shall be issued from this section by the Zoning Board of Appeals. Only the Massachusetts State Building Code Commission may grant a variance from the building code requirements in the floodplain.

~~A. The Zoning Board of Appeals may grant a variance from these requirements in the case of new structures to be erected on a lot of 1/2 acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the Base Flood Elevation, providing the following are met:~~

- ~~1. A showing of good and sufficient cause;~~
- ~~2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;~~
- ~~3. A determination that the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense or any conflict with requirements in accordance with Chapter 40A, of the Massachusetts General Laws, and;~~

~~4. The Zoning Board of Appeals has notified the applicant for the variance, in writing, that the actuarial rates will increase as the first floor elevation decreases, and that such construction below the Base Flood Elevation Level increases risks to life and property.~~

~~B. Upon the granting of such variance, the Zoning Board of Appeals shall require that the Town of Provincetown shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual report to the Flood Insurance Administrator in accordance with the Department of Housing and Urban Development guidelines.~~

~~C. The Zoning Board of Appeals may authorize use variances within the flood area, in accordance with Section 5222 as in any other Zoning district within the Town of Provincetown.~~

~~D. The Zoning Board of Appeals may grant a variance for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in Section 3351.~~

~~2340~~ **2337 Other Laws.**

Where these flood area provisions impose greater or lesser restrictions or requirements than those of other applicable by-laws or regulations, the more restrictive **provisions** shall apply.

[Requested by the Planning Board]

BOARD OF SELECTMEN DOES NOT RECOMMEND: 5-0-0
FINANCE COMMITTEE HAS NO RECOMMENDATION
PLANNING BOARD RECOMMENDS AS AMENDED: 4-0-0
CONSERVATION COMMISSION RECOMMENDS: 3-0-0

Joseph DiMartino moved that the Town vote to approve Article 27 as printed in the warrant with the following change; ADD Section 2336 Variances to read:

“Any variance from the requirements of this section shall be considered a use variance and no use variance shall be issued from this section by the Zoning Board of Appeals. Only the Massachusetts State Building Code Commission may grant a variance from the building code requirements in the floodplain.”

The printed warrant for Section 2336 was inadvertently both crossed out and underlined. This change is intended to **add** the language above to the by-law.

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

Article 28. Home Rule Petition/Charter Amendment/Eliminate Term Limits. To see if the Town will vote to instruct its senator and representative in the General Court to file a home rule petition for a special act to read as follows:

SECTION 1. Section 3-4-4 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 repealed.

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

The General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the

General Court. 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 Barbara Rushmore and others]

**BOARD OF SELECTMEN HAS NO RECOMMENDATION
FINANCE COMMITTEE HAS NO RECOMMENDATION
CHARTER ENFORCEMENT COMMISSION DOES NOT RECOMMEND: 3-0-0**

Barbara Rushmore moved that the Town vote to approve Article 28 as printed in the warrant.

Motion Does Not Pass.

Article 29. Naming a Street After Original Tribe Shawnee Indians. To see if the Town will vote to rename an existing street or name an upcoming street after the Shawnee Indian Tribe that existed here before the Pilgrims arrived and as are shown on a map in 1620; or to take any other action relative thereto.

[Requested by Barbara Stevens and others]

**BOARD OF SELECTMEN RESERVES RECOMMENDATION: 5-0-0
FINANCE COMMITTEE HAS NO RECOMMENDATION
HISTORICAL COMMISSION RECOMMENDS: 3-0-0**

Barbara Stevens moved Article 29 as printed in the warrant with the following change: to remove the word Shawnee and replace with the word Meeshawn.

Motion Passed.

Article 30. Smoke Cessation Class. To see if the Town will vote to raise and appropriate \$1,500.00 to run a Smoke Cessation Class for six weeks next fall in a public building, each class to be 1½ hours long; or to take any other action relative thereto.

[Requested by Barbara Rushmore and others]

**BOARD OF SELECTMEN RESERVES RECOMMENDATION: 5-0-0
FINANCE COMMITTEE DOES NOT RECOMMEND: 7-0-0**

Barbara Rushmore moved that the Town vote to approve Article 30 as printed in the warrant.

Motion Does Not Pass.

Article 31. Home Rule Petition – Real Estate Transfer Fee. To see if the Town will vote as follows:
Section 1: To instruct its Senator and Representative in the General court to file a Home Rule Petition for a Real Estate Sale Transfer Fee equal to 1%, paid for by the Seller on the sale of all property and payable to the Town of Provincetown General Fund, providing that:

A. All primary residences be allowed to first exempt from the fee the amount equal to the median price of a home sold in Barnstable County for the previous calendar year, about \$350,000.

Section 2: The following transfers shall be exempt from the Real Estate Transfer Fee:

- A. Transfers to the Government of the United States, the Commonwealth, the Town of Provincetown and any of their instrumentalities, agencies or subdivisions, such as the Provincetown Housing Authority.
- B. Transfers without additional consideration to confirm, correct, modify or supplement a transfer previously made.
- C. Transfers of convenience with consideration under \$100 which include name change, into trusts, out of trusts, etc.
- D. Transfers to any charitable organization as defined in clause Third of Section Five of Chapter fifty-nine of the General Laws, or any religious organization, providing that the real property interests so transferred will be held by the charitable or religious organization solely for its public charitable or religious purpose.

Section 3:

- A. The fee imposed shall be due at the time of the transfer of the real property interest and shall be paid to the Town of Provincetown General Fund.
- B. The Seller shall pay interest on any unpaid amount of the fee at the rate of 14% per annum.
- C. The Town shall notify a Seller by Registered or Certified Mail of any failure to discharge the amount in full the amount of fee due.
- D. All fees and interest required to be paid under this act shall constitute a personal debt of the Seller and may be recovered in an action of contract.

The General Court may only make clerical or editorial changes of form to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General court. 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 Barbara Rushmore and others]

BOARD OF SELECTMEN DOES NOT RECOMMEND: 3-2-0

FINANCE COMMITTEE DOES NOT RECOMMEND: 7-0-0

[Barbara Rushmore moved to indefinitely postpone Article 31.](#)

Motion Passed.

Article 32. Waterways Capital Reserve Fund. To see if the Town will vote to allow the Provincetown Public Pier Corporation to keep all mooring fees that now belong exclusively to the Town and that such mooring fees in their entirety must continue to be kept in the Waterways Improvement and Maintenance Fund and expended only with a majority vote of the Town Meeting for the purposes outlined in *M.G.L. Chapter 40, Section 5G; Municipal waterways improvement and maintenance funds*. The Waterways Fund shall be the only capital reserve for the extraordinary and large capital expenditures by the Provincetown Public Pier Corporation and, therefore,

the corporation shall no longer have to add \$50,000 a year into a separate capital reserve fund as now required. All the funds now in the corporation's capital reserve shall be deposited into the Waterways Fund. Because the anticipated mooring fees this year will total about \$92,000 and because the corporation will no longer have to deposit \$50,000 a year into a separate capital reserve fund, the Town shall no longer be required after June 30, 2010 to pay an annual management fee to the corporation, which amounts to \$141,000 this year, for collecting mooring fees and other harbormaster services, or take any other action relative thereto.

[Requested by Duane A. Steele and others]

BOARD OF SELECTMEN DOES NOT RECOMMEND: 4-1-0

FINANCE COMMITTEE DOES NOT RECOMMEND: 0-0-0

Duane Steele moved to indefinitely postpone Article 32.

Motion Passed.

Town Moderator Irene Rabinowitz motioned to dissolve the Annual Town Meeting at 10:20 p.m.

Motion Passed.

Annual Town Meeting dissolved at 10:20 p.m.