



SPECIAL TOWN MEETING

MONDAY, APRIL 7, 2003 AT 6:00
P.M.

[Return to Town Meeting](#)
[Resources](#)

Town Moderator Roslyn Garfield convened the meeting at 6:00 p.m. Monday, April 7, 2003.

[Sue Buerkel moved to adjourn the Annual Town Meeting until after the Special Town Meeting.](#)
Motion Carried

Mary-Jo Avellar paid tribute to the **Town Moderator, Roslyn Garfield**, by presenting a bronze plaque in her honor to be placed beneath the Moderator's podium in Town Hall Auditorium. The plaque reads:

IN HONOR OF
ROSLYN GARFIELD
“MADAM MODERATOR”

**FOR HER SERVICE TO HER COMMUNITY, HER GRACE UNDER
PRESSURE AND HER COMMITMENT TO THE TOWN MEETING
FORM OF GOVERNMENT**

TOWN MODERATOR 1985-2003

**DEDICATED BY THE PEOPLE OF PROVINCETOWN - APRIL
2003**

PRELIMINARY MOTIONS

(1) [Mary-Jo Avellar moved that the Town vote to waive the reading of the warrant.](#) **Motion Carried.**

(2) [Mary-Jo Avellar moved that the Town vote to grant permission to speak at the April 7, 2003 Special Town Meeting to the following persons who are not registered voters of the Town of Provincetown: Dennis Anderson, Cape End Manor CEO; Edward Boxer, PHS Principal; Dennis Clark, Recreation Director; Patricia Fitzpatrick, Tourism Director; Paul Gabriel, Mark White, and Wayne Perry of Environmental Partners Group, wastewater engineers; Elizabeth Gallerrizo, Licensing Agent; Jon Gilmore, Director of Community Development; John W. Giorgio, Esq., and other attorneys of the firm of Kopelman & Paige, P.C., Town Counsel; William Henchy, Esq., attorney, and Chris King, Chairman of the Board of Directors of PROFISH; Michelle Jarusiewicz, Acting Assistant Town Manager; Bruce T. Miller, Director of Municipal Finance and Town Accountant; Paul O'Shea, Massachusetts Division of Fisheries & Wildlife; Patricia Pajaron, Health Inspector; Jane Raasch, Health Agent; Anthony Teso, Principal, Veterans Memorial Elementary School; Eileen Thomas, Cape End Manor Administrator; Dr. Colette Traylor, Superintendent of Schools.](#) **Motion Carried.**

(3) [Mary-Jo Avellar moved that on all matters to come before the April 7, 2003 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 Carried.**

WASTEWATER

Article 1. *Low Interest Loans for Repair, Replacement, Upgrade of Septic Systems and Sewer Connections.* moved to see if the Town will vote to appropriate the sum \$200,000, to be expended under the direction of the Director of Municipal Finance, for the purpose of funding the following water pollution abatement facility projects: repair, replacement, and/or upgrade of septic systems pursuant to agreements with the Board of Health and residential property owners, and for the cost of connecting individual properties to the sewer system, including without limitation all costs thereof as defined under Chapter 29C, section 1 of the General Laws; that to meet this appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$200,000 and issue bonds or notes therefor under Chapter 111, section 127B½ and/or Chapter 29C of the General Laws; that project and financing costs shall be repaid by property owners in accordance with those agreements, but such bonds or notes shall be general obligations of the Town; that the Treasurer with the approval of the Board of Selectmen is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the projects or for the financing thereof; and that the Board of Selectmen is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the projects; or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 5-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

BOARD OF HEALTH RECOMMENDS: 5-0-0

[2/3's vote required for borrowing]

Mary Jo Avellar moved that the Town vote to approve Article 1 as printed in the warrant. Motion Carried (2/3rd vote)

Article 2. *Wastewater Phase I Construction- Supplemental Expenses.* To see if the Town will vote as follows:

WHEREAS, prior votes of Town Meeting have authorized borrowing \$17.5-million for the construction of Phase I of the sewer system, with the costs of said project to be borne by the sewer's users and not the property taxpayers; and

WHEREAS, the number of properties connecting the sewer system in Phase I has increased from 430 to 490, due in large measure to so-called "red dot delay" properties needing hook up sooner rather than later, with additional expenses which are still expected to produce a unit cost of no more than \$33 per gallon per day for final sewer betterments;

THEREFORE, The Town votes to appropriate the sum of \$1,957,000 to add to the amounts appropriated under Article 12 of the April 1, 2002 Special Town Meeting and Article 2 of the April 2, 2001 Special Town Meeting, to be expended under the direction of the Director of Public Works for construction of sewerage systems in accordance with the engineering scope of services developed by the Wastewater Management Plan Citizens Advisory Committee for a wastewater facilities plan as

outlined by the Department of Environmental Protection, and including without limitation all costs defined under C.29C,§1 of the General Laws; and to raise said appropriation the Town Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum of money under and pursuant to C.44,§7(1) and/or C.29C of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor; and that to the extent that any State, Federal or other funds are or become available for the purposes set forth above, the Board of Selectmen is authorized to apply for and accept such funds; and, further, the Town votes to authorize the Water and Sewer Board to assess one hundred percent of the project cost to the Town of the installation of sewers and construction of wastewater treatment plant upon those who benefit from the project, such assessments to be made by the Uniform Unit method as provided by General Laws Chapter 83, Section 15; or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 6-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

WATER & SEWER BOARD RECOMMENDS: 3-0-0

BOARD OF HEALTH RECOMMENDS: 5-0-0

[2/3's vote required for borrowing under MGL C.44,§7]

Mary-Jo Avellar moved that the Town vote to approve Article 2 as printed in the warrant. Motion Carried (2/3 vote)

CAPE END MANOR

Article 3. *Fund AFSCME Cape End Manor Unit Collective Bargaining Agreement.* To see if the Town will vote to raise and appropriate the sum of \$94,648 to fund the collective bargaining agreement reached with AFSCME Council 93, Local 1462, Cape End Manor Unit "B" for FY 2003, or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 6-0-0

BOARD OF SELECTMEN RECOMMENDS: 4-0-0

CAPE END MANOR BOARD OF DIRECTORS RECOMMENDS: 3-0-0

Mary Jo Avellar moved that the Town vote to transfer from Overlay Surplus the sum of \$94,648 to fund the collective bargaining agreement reached with AFSCME Council 93, Local 1462, Cape End Manor Unit "B" for FY 2003. Motion Carried

Article 4. *Cape End Manor FY 2003 Supplemental Appropriation.* To see if the Town will vote to raise and appropriate the sum of \$210,678 to increase the 525 Cape End Manor budget for Fiscal Year 2003 established under Article 2 of the April 1, 2002 Annual Town Meeting, or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 7-0-0

BOARD OF SELECTMEN RECOMMENDS: 4-0-0

CAPE END MANOR BOARD OF DIRECTORS RECOMMENDS: 3-0-0

[2/3rds vote required for use of Stabilization Fund under MGL C.40,§5B.]

Mary-Jo Avellar moved that the Town vote to transfer \$10,678 from Overlay Surplus and \$200,000 from the Stabilization Fund, for a total of \$210,678, to increase the 525 Cape End Manor budget for Fiscal Year 2003 established under Article 2 of the April 1, 2002 Annual Town Meeting. **Motion Carried (2/3 rd Vote)**

Article 5. Future of Cape End Manor - Options. To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$40,000 to be expended under the direction of the Board of Selectmen and the Cape End Manor Board of Directors to fund study of options for the future of the Cape End Manor nursing home, and to present the results of said study to a special town meeting to be held during the Fall of 2003, or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 7-0-0

BOARD OF SELECTMEN RECOMMENDS: 4-0-0

CAPE END MANOR BOARD OF DIRECTORS RECOMMENDS: 3-0-0

COUNCIL ON AGING BOARD RECOMMENDS: 4-0-0

BOARD OF HEALTH RECOMMENDS: 2-1-2

LOCAL HOUSING PARTNERSHIP RECOMMENDS: 3-0-0

PLANNING BOARD RECOMMENDS: 3-0-0

LOCAL COMPREHENSIVE PLAN IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

Mary-Jo Avellar moved that the Town vote to transfer from Overlay Surplus the sum of \$40,000 to be expended under the direction of the Board of Selectmen and the Cape End Manor Board of Directors to fund study of options for the future of the Cape End Manor nursing home, and to present the results of said study to a special town meeting to be held during the Fall of 2003. **Motion Carried**

Article 6. Zoning Amendment: Highway Corridor Overlay District Rezoning. To see if the Town will vote to amend the Provincetown Zoning By-laws to add the following paragraph to §2352, **District Boundaries**, relative to the Highway Corridor Overlay District (HCOD):

The boundaries of the HCOD shall be expanded to include those properties shown on a map, entitled "Highway Corridor Overlay District, Provincetown, MA," dated December 12, 2002, which map is on file with the Town Clerk's office and hereby incorporated by reference into the Zoning By-laws. The properties shown on said map include: hose lands north of the paved surface of Route 6, going northward to and including the DPW Highway Garage Site, and those lands running westward and northward from the eastern edge of the Race Point Road and Route 6 intersection to include the following four parcels: Assessors Map 9-1-08; 9-1-013; and 9-1-07; and a portion of the layout of Route 6 which is adjacent to both 9-1-013 and 9-1-07 which is about the same size as parcels 9-1-013 and 9-1-07.

The original copy of this zoning by-law change is on file for public inspection in the Town Clerk's Office; or to take any other action relative thereto.

[Requested by the Board of Selectmen]

FINANCE COMMITTEE RECOMMENDS: 7-0-0

BOARD OF SELECTMEN RECOMMENDS: 4-0-0

CAPE END MANOR BOARD OF DIRECTORS RECOMMENDS: 3-0-0

COUNCIL ON AGING BOARD RECOMMENDS: 4-0-0

PLANNING BOARD RECOMMENDS: 3-0-0

[2/3's vote required for zoning amendment under MGL C.40A]

Mary-Jo Avellar moved that the Town vote to approve Article 6 as printed in the warrant. **Motion Carried (2/3rd Vote)**

Article 7. Zoning Amendment: Highway Corridor Overlay District Uses and Dimensions:

To see if the Town will vote to amend the Provincetown Zoning By-laws by amending the Highway Corridor Overlay District sections as follows:

(1) **Purposes in Section 2351** to include the words "and similar uses listed below in Section 2353, Permitted Uses.

(2) **Permitted uses in Section 2353** to include "Medical or Health Care Center; Animal Shelter; and Independent Living Units for Seniors."

(3) **Dimensional Regulations in Section 2354** to change minimum frontage from 200 feet on Route 6 to 100 feet on Route 6 and/or Race Point Road; to change minimum front yard setback from 75 feet to 30 feet; to change minimum rear yard setback from 50 feet to 25 feet; and to change minimum side yard setback from 45 feet of which 30 feet shall be maintained as a vegetative buffer to "25 feet of which a minimum of 15 feet shall be maintained as a vegetative buffer."

(4) **HCOD Definitions in Section 2356** to add the following definitions:

Medical or Health Care Center shall refer to any facility or institution that is licensed to provide health care services to natural persons, including but not limited to health-maintenance organizations, home-health agencies, rehabilitation agencies and skilled nursing facilities.

Animal Shelter shall refer to a non-profit public animal control facility or any other facility which is operated by any organization or individual for the purpose of protecting animals from cruelty, neglect or abuse.

Independent Living Units for Senior Citizens shall mean non-profit housing intended for occupancy by persons fifty-five or over or sixty-two or over which complies with the provisions set forth in 42 U.S.S. Section 3601, et seq. and which is associated with a Nursing Home, Convalescent Home or Nonprofit Assisted Living Facility as defined in this Bylaw.

The original copy of this zoning by-law change is on file for public inspection in the Town Clerk's Office; or to take any other action relative thereto.

[Requested by the Board of Selectmen]

FINANCE COMMITTEE RECOMMENDS: 7-0-0

BOARD OF SELECTMEN RECOMMENDS: 4-0-0

PLANNING BOARD RECOMMENDS: 3-0-0

CAPE END MANOR BOARD OF DIRECTORS RECOMMENDS: 3-0-0

COUNCIL ON AGING BOARD RECOMMENDS: 4-0-0

[2/3's vote required for zoning amendment under MGL C.40A]

Mary-Jo Avellar moved that the Town vote to approve Article 7 as printed in the warrant with the following amendments:

(1) in the definition of Animal Shelter, delete "or any other facility" and "or individual" so that it reads as follows: "Animal Shelter shall refer to a non-profit public animal control facility or any other facility which is operated by any organization or individual for the purpose of protecting animals from cruelty, neglect or abuse."

(2) in the definition of Independent Living Units, change "U.S.S." to U.S.C." so that the reference reads "42 U.S.C. Section 3601." **Motion Carried (2/3rd Vote)**

Article 8. *Authorize Conveyance of 100 Alden Street to Housing Authority for Affordable Housing Purposes.* To see if the Town will vote to accept the provisions of the second paragraph of MGL C.40, §15A, and, further, to transfer care, custody, control and management of the 1.2-acre Cape End Manor property at 100 Alden Street (Assessors Map 08-2-026) to the Board of Selectmen for purposes of conveyance upon declaration of said property as surplus by the Board of Selectmen; and to further authorize the Board of Selectmen to convey said property to the Provincetown Housing Authority for the construction of low and moderate income housing thereat; or take any other action relative thereto.

[Requested by the Board of Selectmen and the Provincetown Housing Authority]

**FINANCE COMMITTEE RESERVES RECOMMENDATION
BOARD OF SELECTMEN DOES NOT RECOMMEND: 3-2-0
LOCAL HOUSING PARTNERSHIP RECOMMENDS: 3-0-0**

Mary-Jo Avellar moved that the Town vote to indefinitely postpone action on Article 8. Motion Carried.

LAND EXCHANGE

Article 9. *Land Exchange: Transfer 4.49 Acres to Fisheries & Wildlife for Transfer of Surplus Parcel C to Provincetown Housing Authority.* To see if the Town will vote to transfer the following parcel from the Conservation Commission for conservation and passive recreation purposes to the Board of Selectmen for the purpose of conveyance, and to further authorize the Board of Selectmen to convey to the Massachusetts Division of Fisheries and Wildlife in trust to be held forever for conservation and open space purposes: a 4.49-acre portion of the 40-acre parcel at 244 Route 6 (Assessors Map 08-1-005), [as shown on a plan dated February 14, 2003](#), a copy of which is on file in the office of the Town Clerk; provided that said conveyance shall be conditioned upon the Commonwealth of Massachusetts, acting through the Division of Capital Asset Management or the Division of Fisheries and Wildlife, conveying to the Provincetown Housing Authority for affordable housing purposes a 4.49-acre parcel of land shown as Parcel C on MassHighways' plan for discontinuance of Route 6 dated May 24, 2002, a copy of which is on file in the office of the Town Clerk; and further to authorize the filing of special legislation necessary to carry out the purposes of this article, including legislation under Article 97 of the Amendments to the Massachusetts Constitution; or to take any other action relative thereto.

[Requested by the Housing Authority and the Board of Selectmen]

**FINANCE COMMITTEE RESERVES RECOMMENDATION
BOARD OF SELECTMEN recommends Indefinite Postponement: 5-0-0
PLANNING BOARD DOES NOT RECOMMEND: 3-0-0**

Michael Bunn moved that the Town vote to indefinitely postpone action on Article 9. Motion Carried.

HOME RULE PETITIONS

Article 10. *Home Rule Petition/Real Estate Transfer Fee/Affordable Housing Trust Fund in the Town of Provincetown.* To see if the Town will vote as follows:

WHEREAS, housing costs in Provincetown continue to escalate; with Provincetown's median residential sales price of \$370,000 for 2001 being the highest of any town on Cape Cod, according to Banker & Tradesman, with property values increasing by an average of 17% per year; and

WHEREAS, at 61.8%, Provincetown has the highest percentage of low- and moderate-income households on Cape Cod; at 32.2% in January 2002, ours is the highest unemployment level on the Cape; and

WHEREAS, the 2000 U.S. Census results confirm the exodus of Provincetown's year-round population caused by our housing crisis, as Provincetown was the only community on Cape Cod to see its year-round population actually decrease between 1990 and 2000-- from 3,561 to 3,431. Moreover, Provincetown was the only Cape community to see its year-round housing stock decrease during this same period: Provincetown lost 324 year-round housing units -- a 13.6% decrease; and

WHEREAS, the majority of Provincetown housing stock is no longer owned by year-round residents, and are utilized principally as second homes; and therefore these homes are no longer available for the housing of year-round residents; and

WHEREAS, our real estate market continues to threaten the ability of residents to remain in Provincetown, and the ability of businesses to maintain a local labor force; and

WHEREAS, the legislature has established an Affordable Housing Trust Fund for the Town of Provincetown for the creation, preservation, and support of affordable housing; and

WHEREAS, the Town of Provincetown desires to deposit in said fund revenues resulting from a two percent real estate transfer fee modeled after those in effect on [Nantucket since 1983](#), and Martha's Vineyard since 1986;

THEREFORE, the Town votes to instruct its representative in the General Court to file a home rule petition for a special act entitled, "An Act Relative to a Real Estate Transfer Fee for the Affordable Housing Trust Fund in the Town of Provincetown," to read as follows:

SECTION 1. Definitions. For purposes of this act, the words and phrases set forth in this section shall have the following meanings:

"Authority", shall refer to the Provincetown Housing Authority.

"Fund", shall refer to the Affordable Housing Trust Fund, established by [Chapter 230 of the Acts of 2002](#).

"Institutional lender", any bank defined in section one of chapter one hundred and sixty-seven of the General Laws, any insurance company defined in section one of chapter one hundred and seventy-five of the General Laws, and any mortgage company or investment company that made more than twenty mortgages in the calendar year preceding the year of the relevant mortgage for the purposes of subsection (-m-) of section five, and any national bank, federal savings and loan association, federal savings bank, bank holding company, or state or federally chartered credit union.

"Purchaser", the transferee, grantee or recipient of any real property interests.

"Purchase price", all consideration paid or transferred by or on behalf of a purchaser to a seller or his nominee, or for his benefit, for the transfer of any real property interest, and shall include, but not be limited to, all cash or its equivalent so paid or transferred; all cash or other property paid or transferred by or on behalf of the purchaser to discharge or reduce any obligation of the seller; the principal amount of all notes or their equivalent, or other deferred payments, given or promised to be given by or on behalf of the purchaser to the seller or his nominee; the outstanding balance of all obligations of the seller which are assumed by the purchaser or to which the real property interest transferred remains subject after the transfer, determined at the time of transfer, but excluding real estate taxes and other municipal liens or assessments which are not overdue at the time of transfer; the fair market value, at the time of transfer, of any other consideration or thing of value paid or transferred by or on behalf of the

purchaser, including, but not limited to, any property, goods or services paid, transferred or rendered in exchange for such real property interest.

"Real property interest", any present or future legal or equitable interest in or to real property, and any beneficial interest therein, including the interest of any beneficiary in a trust which holds any legal or equitable interest in real property; but shall not include any interest which is limited to any or all of the following: the dominant estate in any easement or right of way; the right to enforce any restriction; any estate at will or at sufferance, and any estate for years having a term of less than thirty years; any reversionary right, condition, or right of entry for condition broken; the interest of a mortgage or other secured party in any mortgage or security agreement; and the interest of a stockholder in a corporation, or a partner in a partnership or limited liability company, except as provided in section 3A.

"Seller", the transferor, grantor or immediate former owner of any real property interests.

"Time of transfer", of any real property interest shall mean, the time at which such transfer is legally effective as between the parties thereto, and, in any event, with respect to a transfer evidenced by an instrument recorded with the appropriate registry of deeds or filed with the assistant recorder of the appropriate registry district, not later than the time of such recording or filing.

SECTION 2. Funds derived from the fee levied in Section 3 shall be deposited in the Affordable Housing Trust Fund established under Chapter 230 of the Acts of 2002.

Notwithstanding any general or special law to the contrary, the Provincetown Housing Authority may expend funds from said fund to hire such staff and obtain such professional services as are necessary in order to perform its duties under this Chapter.

SECTION 3. There is hereby imposed a fee equal to two per cent of the purchase price upon the transfer of any real property interest in any real property situated in the town of Provincetown. Said fee shall be the liability of the purchaser of such real property interest, and any agreement between the purchaser and the seller or any other person with reference to the allocation of the responsibility for bearing said fee shall not affect such liability of the purchaser. The fee shall be paid to the Authority, or its designee, and shall be accompanied by a copy of the deed or other instrument evidencing such transfer, if any, and an affidavit signed under oath or under the pains and penalties of perjury by the purchaser or his legal representative, attesting to the true and complete purchase price and the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from the fee imposed hereby. The Authority, or its designee, shall promptly thereafter execute and issue a certificate indicating that the appropriate fee has been paid or that the transfer is exempt from the fee, stating the basis for the exemption. The register of deeds for Barnstable county, and the assistant recorder for the registry district of Barnstable county, shall not record or register, or receive or accept for recording or registration, any deed, except a mortgage deed, to which has not been affixed such a certificate executed by the Authority or its designee. Failure to comply with this requirement shall not affect the validity of any instrument. The Authority shall deposit all fees received hereunder with the treasurer of the town of Provincetown, as a part of the fund established by Chapter 230 of the Acts of 2002. The fee imposed hereunder shall be due simultaneously with the time of transfer of the transfer upon which it is imposed. Notwithstanding the foregoing, whenever there is a conveyance of real property interests and a conveyance of personalty related thereto at or about the same time, the allocations of payments between real estate and personalty agreed to by the purchaser and seller shall not determine the amount of the fee due pursuant to this section; instead, the Authority may require payment of the fee referred to in real property interests so conveyed as determined by the Authority.

SECTION 3A. To the extent not otherwise subject to payment of a fee pursuant to section three, and notwithstanding the exemptions set forth in paragraphs (i) and (j) of section five unless otherwise exempted pursuant to section five excluding said paragraphs (i) and (j), there shall be paid a fee equal to two per cent of the fair market value of real property interests held in the name of or otherwise owned by a corporation upon the transfer by the controlling stockholders of their interests of the stock of such corporation. This fee is due on or before the time of transfer of the stock. To the extent not otherwise subject to payment of a fee pursuant to section three and notwithstanding the exemptions referred to in said paragraphs (i) and (j), unless otherwise exempted pursuant to said section five excluding said paragraphs (i) and (j), there shall be paid a fee equal to two per cent of the fair market value of real property interests held in the name of a partnership or limited liability company or otherwise owned by a partnership or limited liability company upon the change in composition of such partnership or limited liability company either in one transaction or a series of related transactions which change in composition results in a transfer of capital interests in excess of fifty per cent of the total capital interests within such partnerships or limited liability companies or results in a transfer of the ownership rights to profit interests within such partnership or limited liability company in excess of fifty per cent of the total profit interests within such partnerships or limited liability companies.

SECTION 4. At any time within seven days following the issuance of the certificate of payment of the fee imposed by section ten, the purchaser or his legal representative may return said certificate to the Authority or its designee for cancellation, together with an affidavit signed under oath or under the pains and penalties of perjury that the transfer, with respect to which such certificate was issued, has not been consummated, and thereupon the fee paid with respect to such transfer shall be forthwith returned to the purchaser or his legal representative.

SECTION 5. The following transfers of real property interests shall be exempt from the fee established by section ten. Except as otherwise provided, the purchaser shall have the burden of proof that any transfer is exempt hereunder.

- (-a) Transfers to the government of the United States, the commonwealth, and any of their instrumentalities, agencies or subdivisions.
- (-b) Transfers which, without additional consideration, confirm, correct, modify or supplement a transfer previously made.
- (-c) Transfers made as gifts without consideration. In any proceeds to determine the amount of any fee due hereunder, it shall be presumed that any transfer for consideration of less than fair market value of the real property interests transferred was made as a gift without consideration to the extent of the difference between the fair market value of the real property interests transferred and the amount of consideration claimed by the purchaser to have been paid or transferred, if the purchaser shall have been at the time of transfer the spouse, the lineal descendant, or the lineal ancestor of the seller, by blood or adoption, and otherwise it shall be presumed that consideration was paid in an amount equal to the fair market value of the real property interests transferred, at the time of transfer.
- (-d) Transfer to the trustees of a trust in exchange for a beneficial interest received by the seller in such trust; distributions by the trustees of a trust to the beneficiaries of such trust.
- (-e) Transfers by operation of law without actual consideration, including but not limited to transfers occurring by virtue of the death or bankruptcy of the owner of a real property interest.
- (-f) Transfers made in partition of land and improvements thereto, under chapter two hundred and forty-one of the General Laws.

- (-g-) 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, provided that the real property interests so transferred will be held by the charitable or religious organization solely for its public charitable or religious purposes.
- (-h-) Transfers to a mortgagee in foreclosure of the mortgage held by such mortgagee, and transfers of the property subject to a mortgage to the mortgagee in consideration of the forbearance of the mortgagee from foreclosing said mortgage.
- (-i-) Transfers made to a corporation or partnership or limited liability company at the time of its formation, pursuant to which transfer no gain or loss is recognized under the provisions of section three hundred and fifty-one or seven hundred and twenty-one of the Internal Revenue Code of 1986, as amended; provided, however, that such transfer shall be exempt only in the event that (i) with respect to a corporation, the transferor retains a controlling interest in such corporation after such formation or (ii), with respect to a partnership or limited liability company, the transferor retains after such formation rights to capital interests in excess of fifty per cent of the capital interests within such partnership or limited liability company or retains rights to profit interests within such partnership or limited liability company in excess of fifty per cent of the total profit interests within such partnership.
- (j) Transfers made to a stockholder of a corporation in liquidation of the corporation, and transfers made to a partner of a partnership or to a member of a limited liability company in dissolution of the partnership or limited liability company; but the transfer shall be exempt only if (i) with respect to a corporation, the transferee had before the transfer a controlling interest in the corporation, or (ii) with respect to a partnership or limited liability company, the transferee had before the transfer rights to capital interests in excess of 50 per cent of the total capital interests within the partnership or limited liability company or had rights to profit interests within the partnership or limited liability company in excess of 50 per cent of the total profit interests within the partnership or limited liability company.
- (-k-) Transfers consisting of the division of marital assets under the provisions of section thirty-four of chapter two hundred and eight of the General Laws or other provisions of law.
- (-l-) Transfers of property consisting in part of real property interests situated in the town of Provincetown and in part of other property interests, to the extent that the property transferred consists of property other than real property situated in the town of Provincetown; provided that the purchaser shall furnish the Authority with such information as it shall require or request in support of the claim of exemption and manner of allocation of the consideration for such transfers.
- (-m-) The first two hundred thousand dollars of the purchase price of a transfer made to a purchaser who, or whose spouse at the time of transfer, has at no time prior to said transfer owned or possessed any real property interest as defined in section one either within or without the town of Provincetown; provided that the purchaser shall make the real property interest which is the subject of the transfer the purchaser's actual domicile within two years of the time of transfer; provided further that in the event of a subsequent transfer within five years of the transfer exempted from the fee under this subsection, other than the transfer of a mortgage to an institutional lender, the fee exempted shall become due, together with the accumulated interest and penalties, and in addition to any fee otherwise due as a result of the subsequent transfer. The purchaser shall certify as to the foregoing, and the Authority shall attach to the deed a certificate which shall recite the fact that there is running with the land a lien equal to the amount of the fee exempted plus accumulated interest and penalties until such time as all conditions of this subsection have been met.
- (-n-) Transfers of property that constitute "affordable housing." The term "affordable

housing" shall mean housing that is subject to an affordable housing restriction, as defined under [G.L.c.184, §31](#), ¶5, provided that any such restriction shall have a remaining duration of at least ten years at the time of that a transfer and request for exemption occurs; and, provided further, that any such restriction shall establish a method for establishing the maximum resale price during the restriction period and that said maximum resale price shall not exceed the formula, as established by the Massachusetts Department of Housing and Community Development or any successor agency, for low or moderate income housing for the region.

SECTION 6. A purchaser who fails to pay all or any portion of the fee established by section three on or before the time when the same is due shall be liable for the following additional payments in addition to said fee: (-a-) Interest: The purchaser shall pay interest on the unpaid amount of the fee to be calculated from the time of transfer at a rate equal to fourteen per cent per annum. (-b-) Penalties: Any person who, without fraud or willful intent to defeat or evade a fee imposed by this chapter, fails to pay all or a portion of the fee within thirty days after the time of transfer, shall pay a penalty equal to five per cent of the outstanding fee as determined by the Authority for each month or portion thereof thereafter that the fee is not paid in full; provided, however, that in no event shall the amount of any penalty imposed hereunder exceed twenty-five per cent of the unpaid fee due at the time of transfer. Whenever the Authority determines that all or a portion of a fee due under this chapter was unpaid due to fraud with intent to defeat or evade the fee imposed by this chapter, a penalty equal to the amount of said fee as determined by the Authority shall be paid by the purchaser in addition to said fee.

SECTION 7. (-a-) The Authority shall notify a purchaser by registered or certified mail of any failure to discharge in full the amount of the fee due under this Act and any penalty or interest assessed. The Authority shall grant a hearing on the matter of the imposition of said fee, or of any penalty or interest assessed, if a petition requesting such hearing is received by the Authority within thirty days after the mailing of said notice. The Authority shall notify the purchaser in writing by registered or certified mail of its determination concerning the deficiency, penalty or interest within fifteen days after said hearing. Any party aggrieved by a determination of the Authority concerning a deficiency, penalty or interest may, after payment of said deficiency, appeal to the district or superior court within three months after the mailing of notification of the determination of the Authority. Upon the failure to timely petition for a hearing, or appeal to said courts, within the time limits hereby established, the purchaser shall be bound by the terms of the notification, assessment or determination, as the case may be, and shall be barred from contesting the fee, and any interest and penalty, as determined by the Authority. All decisions of said courts shall be appealable. Every notice to be given under this section by the Authority shall be effective if mailed by certified or registered mail to the purchaser at the address stated in a recorded or registered instrument by virtue of which the purchaser holds any interest in land, the transfer of which gives rise to the fee which is the subject of such notice; and if no such address is stated or if such transfer is not evidenced by an instrument recorded or registered in the public records in Barnstable county, such notice shall be effective when so mailed to the purchaser in care of any person appearing of record to have a fee interest in such land, at the address of such person as set forth in an instrument recorded or registered in Barnstable county.

(-b-) All fees, penalties and interest required to be paid pursuant to this chapter shall constitute a personal debt of the purchaser and may be recovered in an action of contract or in any other appropriate action, suit or proceeding brought by the Authority; said action, suit or proceeding shall be subject to the provisions of chapter two hundred and sixty of the General

Laws.

(-c-) If any purchaser liable to pay the fee established by this act neglects or refuses to pay the same, the amount, including any interest and penalty thereon, shall be a lien in favor of the Authority upon all property and rights to property, whether real or personal, belonging to such purchaser. Said lien shall arise at the time of transfer and shall continue until the liability for such amount is satisfied. Said lien shall in any event terminate not later than six years following the time of transfer. Said lien shall not be valid as against any mortgagee, pledgee, purchaser or judgment creditor unless notice thereof has been filed by the Authority (-a-) with respect to real property or fixtures, in the registry of deeds for Barnstable county, or (-b-) with respect to personal property, in the office in which a security or financing statement or notice with respect to the property would be filed in order to perfect a nonpossessory security interest belonging to the person named in the relevant notice, subject to the same limitations as set forth in section fifty of chapter sixty-two C of the General Laws.

In any case where there has been a refusal or neglect to pay any fee, interest or penalties imposed by this act, whether or not levy has been made, the Authority, in addition to other modes of relief, may direct a civil action to be filed in a district or superior court of the commonwealth to enforce the lien of the Authority under this section with respect to such liability or to subject any property of whatever nature, of the delinquent, or in which he has any right, title or interest, to the payment of such liability.

The Authority may issue a waiver or release of any lien imposed by this section. Such waiver or release shall be conclusive evidence that the lien upon the property covered by the waiver or release is extinguished.

SECTION 8. This act shall be submitted to the voters of said town at the next annual or special town election in the form of the following question which shall be placed upon the official ballot to be used at said election: "Shall an act passed by the general court in the year 2003 entitled, 'An Act relative to a real estate transfer fee for the affordable housing trust fund in the town of Provincetown', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative, then section 1 of this act shall thereupon take effect, but not otherwise.

SECTION 9. Section 8 of this act shall take effect upon its passage.

The General Court may only make clerical or editorial changes of form 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 the Town Manager, the Board of Selectmen,
the Provincetown Housing Authority, and the Provincetown Housing Partnership]*

FINANCE COMMITTEE DOES NOT RECOMMEND: 5-0-0

BOARD OF SELECTMEN RECOMMENDS: 3-2-0

HOUSING AUTHORITY RECOMMENDS: 2-0-0

HOUSING PARTNERSHIP RECOMMENDS: 4-0-0

LOCAL COMPREHENSIVE PLAN IMPLEMENTATION

COMMITTEE RECOMMENDS: 3-0-0

COUNCIL ON AGING BOARD DOES NOT RECOMMEND: 4-0-0

PLANNING BOARD DOES NOT RECOMMEND: 3-0-0

[Arturo Alon moved that the Town vote to approve Article 10 as printed in the warrant with the following amendments:](#)

(1) amend Section 5 of the proposed special act:

- by amending Exemption(c) to read as follows: "(-c-) Transfers made as gifts without consideration";

- by deleting Exemption (k) pertaining to division of marital assets; and

- by amending Exemption (m) by striking the words "or whose spouse" in the first sentence thereof so that the text of the home rule petition reads as printed in the Finance Committee Booklet.

(2) amend Section 4 so that it refers to a "fee imposed by section three" rather than section ten.

(3) amend Section 8 by adding the phrase "through 7" so that it reads in relevant part "then sections 1 through 7 of this act shall thereupon take effect."

(4) and, further, to require that, prior to submission of the special act to the voters for their acceptance at an election pursuant to Section 8, the proposed spending plan for the Affordable Housing Trust Fund shall be submitted to Town Meeting for its consideration.

Pam Parmakian moved to reduce the fee proposed in Article 10 to one percent. **Amendment defeated**

Motion defeated

Article 11. Home Rule Petition/Land Bank Amendment/Affordable Housing in the Town of Provincetown. To see if the Town will vote as follows:

WHEREAS, the Town of Provincetown desires to make the Land Bank Act a more perfect fit for our community by addressing affordable housing needs within the limits of the Land Bank's three percent property tax surcharge, and

WHEREAS, in recognition of the affordable housing crisis in this community, the Town of Provincetown seeks further legislative relief to allow more than 10% of our Land Bank funds to be used for affordable housing; and

WHEREAS, the legislature has established an Affordable Housing Trust Fund for the Town of Provincetown for the creation, preservation, and support of affordable housing;

THEREFORE, the Town votes to instruct its representative in the General Court to file a home rule petition for a special act entitled, "An Act Relative to Affordable Housing in The Town of Provincetown," to read as follows:

SECTION 1. Section 1 of [chapter 43 of the acts of 2000](#) which currently reads as follows:

Notwithstanding the provisions of section 5 of chapter 293 of the acts of 1998, the town of Provincetown may expend funds received under the provisions of said chapter 293 for affordable housing purposes. However, funds for purposes of affordable housing shall not exceed 10 per cent of the total funds received under said chapter 293. is hereby amended to read as follows:

Notwithstanding the provisions of section 5 of chapter 293 of the acts of 1998, the town of Provincetown shall deposit 35% of the total funds received under the provisions of said chapter 293 in the Affordable Housing Trust Fund established pursuant to [Chapter 230 of the Acts of 2002](#).

SECTION 2. This act shall be submitted to the voters of said town at the next annual or special town election in the form of the following question which shall be placed upon the official ballot to be used at said election: "Shall an act passed by the general court in the year 2003 entitled, 'An Act relative to affordable housing in the town of Provincetown', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative, then section 1 of this act shall thereupon take effect, but not otherwise.

SECTION 3. Section 2 of this act shall take effect upon its passage.

The General Court may only make clerical or editorial changes of form 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 the Town Manager, the Board of Selectmen, the Provincetown Housing Authority, and the Provincetown Housing Partnership]

FINANCE COMMITTEE RECOMMENDS: 7-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

HOUSING AUTHORITY RECOMMENDS: 2-0-0

LOCAL HOUSING PARTNERSHIP RECOMMENDS: 4-0-0

LOCAL COMPREHENSIVE PLAN IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

[Keith Bergman moved that the Town vote to approve Article 11 as printed in the warrant.](#)

[Robin Evans proposed an amendment for Article 11 of Special Town Meeting, Section 1 of Chapter 43 "for affordable housing purposes restricted to the reuse and renovation of existing structures. **Amendment passed**](#)

[Katherine Perry proposed the following: amendment of Article 11, paragraph 4 of section one, is here by amended as follows at the end of paragraph 2 of section 1 "conditional upon renting 50 percent of units at affordable rates and 50 percent of new/existing rentals at fair market rental costs to ease the town of Provincetown's lack of housing" yearround. After the words "of said chapter 293 in the Affordable Housing Trust Fund established pursuant to chapter 230 of the acts of 2002" **Amendment withdrawn.**](#)

[Motion carried as amended](#)

Article 12. Home Rule Petition/Land Bank Amendment/Open Space in the Town of Provincetown. To see if the Town will vote as follows:

WHEREAS, the Town of Provincetown desires to make the Land Bank Act a more perfect fit for our community by addressing open space needs within the limits of the Land Bank's three percent property tax surcharge, and

WHEREAS, the Town desires to better manage-- and not simply acquire-- open space properties, including the 95 acres of open space properties it owns which were not acquired with Land Bank funds;

THEREFORE, the Town votes to instruct its representative in the General Court to file a home rule petition for a special act entitled, "An Act Relative to Open Space in The Town of Provincetown," to read as follows:

SECTION 1. Notwithstanding the provisions of section 5 of chapter 293 of the acts of 1998, the town of Provincetown may expend funds received under the provisions of said chapter 293 for (1) the maintenance and improvement of property (a) purchased with land bank funds and (b) not purchased with land bank funds but owned by the town for conservation or open space purposes, and for (2) administrative and operating expenses, including the management of open space and conservation properties. However, funds for the purposes of this section shall not exceed 10% of the total funds received under said chapter 293. Funds used for the purposes of this section shall not replace existing operating funds,

only augment them.

SECTION 2. This act shall be submitted to the voters of said town at the next annual or special town election in the form of the following question which shall be placed upon the official ballot to be used at said election: "Shall an act passed by the general court in the year 2003 entitled, 'An Act relative to open space in the town of Provincetown', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative, then section 1 of this act shall thereupon take effect, but not otherwise.

SECTION 3. Section 2 of this act shall take effect upon its passage.

The General Court may only make clerical or editorial changes of form 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 take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 7-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

PLANNING BOARD RECOMMENDS: 3-0-0

LOCAL COMPREHENSIVE PLAN IMPLEMENTATION

COMMITTEE RECOMMENDS: 3-0-0

Keith Bergman moved that the Town vote to approve Article 12 as printed in the warrant. Motion carried

Article 13. Home Rule Petition/Parking Violations in the Town of Provincetown. To see if the Town will vote to instruct its representative in the General Court to file a home rule petition for a special act entitled, "An Act Relative to Parking Violations in the Town of Provincetown," to read as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Provincetown may establish, by by-law, fines for parking violations, not exceeding \$25 if paid within 21 days, not exceeding \$30 if paid after 21 days but before the parking clerk reports to the registrar of motor vehicles, and not exceeding \$45 after the violation has been reported to the registrar.

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

The General Court may only make clerical or editorial changes of form 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;

And further, to amend the Provincetown General By-laws by adding a new Section 11-6-4, Parking Violations, to read as follows:

11-6-4 Parking Violations. Fines for parking violations in the Town of Provincetown shall be \$25 if paid within 21 days, not exceeding \$30 if paid after 21 days but before the parking clerk reports to the registrar of motor vehicles, and \$45 after the violation has been reported to the registrar of motor vehicles.

or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 7-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

Keith Bergman moved that the Town vote to approve Article 13 as printed in the warrant.

David Atkinson proposed an amendment to Article 13 that the parking department vehicles must comply with Massachusetts Registry of Motor Vehicles rules and regulations. **Amendment defeated.**

Motion Carried.

Article 14. *Home Rule Petition/Relocation and Alteration of High Pole Hill Road Layout.* To see if the Town will vote to instruct its representative in the General Court to file a home rule petition for a special act entitled, "An Act Relative to Relocation and Alteration of Layout of High Pole Hill Road in the Town of Provincetown," to read as follows:

SECTION 1. Notwithstanding the provisions of sections 21 through 24 of chapter eighty two of the general laws, the board of selectmen of the town of Provincetown may from time to time relocate and alter the layout of High Pole Hill Road, a public town way laid out by the selectmen, reported for acceptance on October 25, 1853 and accepted by the town of Provincetown on November 15, 1853, and further laid out by the selectmen, reported for acceptance on January 27, 1862 and accepted by the town of Provincetown on February 10, 1862, said relocation and alteration to become effective upon vote of the board of selectmen that public convenience and necessity require such relocation and alteration, and filing of an order of relocation and alteration and plan of relocation and alteration with the town clerk, and no acceptance by vote of the town meeting is required under this act, provided that the necessary land or interest in land for such relocation and alteration is acquired by gift or purchase under this act, or by eminent domain if a waiver of appraisal and damages is given by the owner of the land affected by said taking, and further provided that the acquisition of the necessary land or interest must be accomplished within one year of the filing of the order of relocation and alteration and plan with the town clerk or said relocation and alteration shall be void, but may be re-voted under this act.

SECTION 2. The board of selectmen of the town of Provincetown may acquire by gift from the Cape Cod Pilgrim Memorial Association of Provincetown, a Massachusetts non-profit corporation, its successors and assigns (the "Association"), the fee ownership interest or an easement for all purposes for which public ways are used within the town of Provincetown within the layout of High Pole Hill Road, as such layout may change from time to time, and may accept a deed of such fee or such easement subject to a restriction whereby the board of selectmen is obligated to further alter the layout of High Pole Hill Road to another reasonably convenient location if requested to do so by the Association and if the Association grants to the town of Provincetown the necessary easement or fee within the layout of High Pole Hill Road as so further altered and bears the design and construction cost of such further alteration.

SECTION 3. The board of selectmen of the town of Provincetown in connection with the alteration of layout of High Pole Hill from time to time, may, for such consideration as the selectmen shall deem appropriate, which may be nominal consideration, release to the owner of the underlying fee in the land within said layout all right, title and interest of the town of Provincetown in said land and, if the land within said layout is held in fee by the town of Provincetown, said board of selectmen may grant a release deed to the Association of said land, including without limitation the land shown as "West Approach - East Approach" on the plan titled "Plan of Land in Provincetown," prepared by George F. Clements., C.E., dated January 21, 1938, filed with the Land Registration Office on April 11, 1938 as Plan No. 16183A, notwithstanding the requirements of sections fifteen and fifteen A of general laws chapter forty, section sixteen of general laws chapter thirty B, or any other law to the contrary.

SECTION 4. Said Association may grant to the town of Provincetown the fee

ownership interest or an easement for all purposes for which public ways are used within the town of Provincetown within the layout of High Pole Hill Road, as such layout may change from time to time, notwithstanding that the land within said layout is part of the land granted to the Association by the Commonwealth of Massachusetts by deed dated February 8, 1960, recorded with the Barnstable County Registry of Deeds in Book 1071, Page 23, pursuant to chapter 421 of the acts of 1959 and such conveyance, or the use of a portion of such land as a public town way rather than a free public parking area shall not cause all or any portion of such land to revert to the Commonwealth, notwithstanding the provisions of said act.

SECTION 5. Nothing in this act shall prevent the town of Provincetown from acting with respect to High Pole Hill Road as provided under sections 21 through 24 of chapter eighty two of the general laws G.L. c.82, §§21-24 should the town prefer to proceed under general law and, should the town proceed under general law, nothing shall prevent the town from exercising its power of eminent domain under chapter 79 of the general laws with respect to said High Pole Hill Road.

SECTION 6. This act shall take effect upon its passage.

The General Court may only make clerical or editorial changes of form 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 the Town Manager]

**FINANCE COMMITTEE HAS NO RECOMMENDATION
BOARD OF SELECTMEN RECOMMENDS: 4-1-0**

Keith Bergman moved that the Town vote to approve Article 14 as printed in the warrant. Motion Carried

Article 15. *Home Rule Petition/Exempting New Police Department Members from Civil Service.* To see if the Town will vote to instruct its representative in the General Court to file a home rule petition for a special act entitled, "An Act Exempting the Members of the Provincetown Police Department from Civil Service," to read as follows:

SECTION 1. The members of the police department of the town of Provincetown shall be exempt from the provisions of [chapter thirty-one of the General Laws](#).

SECTION 2. The provisions of section one shall not impair the civil service status of any member of the police department of the town of Provincetown on the effective date of this act.

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

The General Court may only make clerical or editorial changes of form 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 the Board of Selectmen and the Town Manager]

**FINANCE COMMITTEE HAS NO RECOMMENDATION
BOARD OF SELECTMEN recommends Indefinite Postponement: 5-0-0**

Mary-Jo Avellar moved that the Town vote to indefinitely postpone action on Article 15. Motion carried.

Article 16. *Accept MGL C.59,§2A(a) to Add New Growth Properties to Tax Base Six Months*

Earlier. To see if the Town will vote to accept the third sentence of [MGL C.59,§2A\(a\)](#), which reads as follows “Notwithstanding the foregoing, in any city or town which accepts the provisions of this sentence, buildings and other things erected on or affixed to land during the period beginning on January second and ending on June thirtieth of the fiscal year preceding that to which the tax relates shall be deemed part of such real property as of January first;” or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 5-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

BOARD OF ASSESSORS RECOMMENDS: 4-0-0

[Dana Faris](#) moved that the Town vote to approve Article 16 as printed in the warrant. **Motion Carried**

Article 17. *Accept MGL C.59,§5, clause 41C for Adjustments to Eligibility Requirements.*

To see if the Town will vote to accept the provisions of [clause 41C of section 5 of Chapter 59 of the General Laws](#) effective Fiscal Year 2003 to allow the Town to make adjustments to any or all of the following eligibility requirements: minimum age, exemption amount, gross receipts limit, whole estate limit, whole estate exclusion; however, adoption of the option does NOT increase state reimbursement; or to take any other action relative thereto.

[Requested by the Board of Assessors]

FINANCE COMMITTEE RECOMMENDS THE MOTION: 8-0-0

BOARD OF ASSESSORS RECOMMENDS THE MOTION: 3-0-0

[Dana Faris](#) moved that the Town vote to accept the provisions MGL C.59,§5, clause 41C by increasing the income limits contained in subclause (B) of the first sentence thereof whenever they appear in said subclause from \$13,000 to \$20,000, if single, and from \$15,000 to \$30,000, if married. **Motion Carried**

Article 18. *Accept MGL C.148,§26G. Buildings or additions; automatic suppressant or sprinkler systems.* To see if the Town will vote to accept the provisions of section [26G of Chapter 148 of the General Laws](#) to require that every building of more than 7,500 gross square feet in floor area or every addition of more than 7,500 gross square feet in floor area shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code; or to take any other action relative thereto.

[Requested by the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

BOARD OF FIRE ENGINEERS RECOMMENDS: 7-0-0

PLANNING BOARD RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

[Keith Bergman](#) moved that the Town will vote to approve Article 18 as printed in the warrant. **Motion Carried**

MACMILLAN PIER

Article 19. *MacMillan Pier - Approvals for Seafood Offloading Sublease and Structure.* To see if the Town will vote pursuant to section 5(o) of [Chapter 13 of the Acts of 2000](#) to authorize the Provincetown Public Pier Corporation to enter into a sublease of a portion of MacMillan Pier for seafood offloading and other ancillary uses for a term not to exceed twenty (20) years, the terms of said sublease to be subject to the approval of the Provincetown Public Pier Corporation and the Board of Selectmen; and to authorize the Provincetown Public Pier Corporation pursuant to section 5(m) of Chapter 13 of the Acts of 2000 to construct or cause to be constructed pursuant to a sublease of a portion of MacMillan Pier a building and/or other structure to facilitate seafood offloading and other ancillary uses, the plans for said building or structure to be subject to the approval of the Provincetown Pier Corporation and the Board of Selectmen; or to take any other action relative thereto.

[Requested by the Town Manager]

FINANCE COMMITTEE RESERVES RECOMMENDATION

BOARD OF SELECTMEN RECOMMENDS: 4-0-0

PUBLIC PIER CORPORATION BOARD OF DIRECTORS RECOMMENDS: 4-0-0

[2/3rds vote required under Chapter 13 of the Acts of 2000]

[Keith Bergman](#) moved that the Town vote to approve Article 19 as printed in the warrant. **Motion carried.**

FISCAL YEAR 2003

Article 20. *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 sums of \$33,744.94 and \$67,489.88 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, Chapter 53 of the Acts of 1999, and Chapter 246 of the Acts of 2002, or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 6-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

[Keith Bergman](#) moved that the Town vote to approve Article 20 as printed in the warrant. **Motion carried.**

Article 21. *Capital Improvement: Electronic Parking Meters.* To see if the Town will vote to transfer from the Parking Fund the sum of \$52,800 to be expended under the direction of the Town Manager and the Parking Administrator for electronic parking meters for the Provincetown Parking Department, and costs related thereto; or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 6-0-0

BOARD OF SELECTMEN RECOMMENDS: 4-1-0

[Keith Bergman](#) moved that the Town vote to transfer from the Parking Fund the sum of \$52,800 to be expended under the direction of the Town Manager and the Parking Administrator for electronic parking meters for the Provincetown Parking Department, and costs related thereto. **Motion carried.**

Article 22. FY 2003 Wastewater Enterprise Fund. To see if the Town will vote to amend its vote under Article 3, Item 1 of the April 1, 2002 Annual Town Meeting to read as follows: "to raise from wastewater receipts the sum of \$1,084,235, and appropriate in the General Fund the sum of \$200,000, for a total of \$1,284,235, for the operation of the Wastewater Enterprise Fund for Fiscal Year 2003;" or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 6-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

WATER & SEWER BOARD RECOMMENDS: 3-0-0

Keith Bergman moved that the Town vote to approve Article 22 as printed in the warrant. Motion carried.

Article 23. FY 2003 Budget Adjustments. To see if the Town will vote to transfer the sum of \$408,572 from the following Fiscal Year 2003 budgets established under Article 2 of the April 1, 2002 Annual Town Meeting, and other available funds, as follows

123-A Town Manager – Personal Services	\$23,189
145-B Treasurer/Collector - Expenses	3,500
190-A DPW Buildings & Grounds – Personal Services	23,107
211-B Police Station - Expenses	2,000
421-A DPW Administration – Personal Services	71,550
421-B DPW Administration – Expenses	13,305
422-A DPW Highway – Personal Services	7,500
431-B DPW Solid Waste – Expenses	12,692
499-B Cable Advisory - Expenses	5,000
543-B Veterans - Expenses	2,000
630-A Recreation – Personal Services	4,000
810-B Tax Titles - Expenses	10,000
02 ATM Art.17, Town Planner	28,531
99 ATM Art. 57, Stabilize Firehouse No. 2	23,235
99 ATM Art. 5-8 Police Computer Upgrades	29,105
99 STM Art. 23-5, Library Repairs	3,112
97 ATM Art. 40, Replace Fire Station Roof	10,000
Oct 96 STM, Art. 12, Veterans Park	2,198
Land Bank Fund	<u>134,548</u>
<i>Sub-total</i>	<i>\$408,572</i>

to increase the following Fiscal Year 2003 budgets:

151-B Legal Services - Expenses	\$47,625
156-B Land Bank – Debt Service	134,548
231-B Ambulance - Expenses	36,131
423-A Snow & Ice – Personal Services	17,650
423-B Snow & Ice – Expenses	50,000
431-A DPW Solid Waste – Personal Services	3,485
439-B DPW Waste Disposal – Expenses	84,305
682-B Airport - Expenses	<u>34,828</u>
<i>Sub-total</i>	<i>\$408,572</i>

or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 6-0-0**BOARD OF SELECTMEN RECOMMENDS: 5-0-0**

Keith Bergman moved that the Town vote to approve Article 23 as printed in the warrant, with the following amendments:

(1) by reducing total FY 2003 spending by \$201,374, as follows:[1]

123-A Town Manager- Personal Services	\$23,189
145-B Treasurer/Collector - Expenses	3,500
190-A DPW Buildings & Grounds - Personal Services	23,107
211-B Police Station - Expenses	2,000
421-A DPW Administration - Personal Services	71,550
421-B DPW Administration - Expenses	13,305
422-A DPW Highway - Personal Services	7,500
431-B DPW Solid Waste - Expenses	12,692
543-B Veterans - Expenses	2,000
630-A Recreation - Personal Services	4,000
810-B Tax Titles - Expenses	10,000
O2 ATM Art.17, Town Planner	28,531

Sub-total 201,374

(2) by transferring \$134,548 from the Land Bank Fund to the 156-B Land Bank debt service budget;

(3) by transferring \$65,275 from old article balances, as follows, to fund \$47,625 for 151-B Legal Services budget and \$17,650 for 423-A Snow & Ice Personal Services:

97 ATM Art. 40 Replace Fire Station roof	10,000
99 ATM Art.57 Stabilize Former Fire House No.2	23,235
99 ATM Art. 5-8 Police computer upgrades	29,105
99 ATM Art. 23-5 Library repairs & upgrades	2,935

Sub-total 65,275

(4) by transferring \$158,749 from the Tourism Fund to fund the following transfers for purposes which market, beautify, or enhance tourism, provided that said \$158,749 shall be repaid to the Tourism Fund over a three-year period beginning FY 2005.

231-B Ambulance - Expenses	36,131
431-A DPW Solid Waste - Expenses	3,485
439-B DPW Waste Disposal - Expenses	84,305
482-B Airport - Expenses	34,828

Sub-total 158,749

Peter Bez proposed to amend article 23 as follows: the sum of \$158,749.00 from the Tourism Fund being used to fund lines should remain in the Tourism Fund and that these line items should instead be raised and appropriated. **Amendment defeated**

Motion Passed

10:20 p.m. - Meeting adjourned until 6 p.m. on Tuesday, April 8, 2003.

Tuesday, April 8, 2003

Meeting called to order at 6:00 pm

Article 24. Use of Old Article Balances to Reill 6pm reduce FY 2003 Property Tax. To see if the Town will vote to apply the following article balances totaling \$213,087.88 to reduce the Fiscal Year 2003 property tax levy

<i>Town Mtg/Art.</i>	<i>Subject</i>	<i>Balance</i>
96 STM 7	Transportation Center Improvements	\$14.61
00 STM 16-4	Police station cellblocks	0.58
92 STM 4-4	Municipal Harbor Plan	1,502.16
00 STM 10	Dinghy dock extensions	78.15
95 STM 3-7	School building repairs	404.52
99 ATM 54	Survey of town property at CCNS	1,665.00
99 ATM 55	Survey for layout High Pole Hill Road	7,000.00
99 ATM 59	Beach Wheelchair	129.00
99 STM 23-3	Jerome Smith Lot Improvements	590.70
99 ATM 5-3	Street & Sidewalk Repairs	22,597.90
96 ATM 4-6	Community Center Repairs	2,128.34
00 ATM 4-3	Library Repairs	8,395.00
00 ATM 4-6	Sidewalk Repairs	10,888.50
00 ATM 4-7	Drainage Maintenance	10,000.00
00 ATM 4-9	Community Center Repairs	3,993.42
01 ATM 5-4	Street and Sidewalk Repairs	25,000.00
01 ATM 5-7	Police Station Generator	29,380.00
01 ATM 31	Drainage Improvements- 30 Creek Road	55,000.00
01 ATM 42	Swap Shop Construction	160.00
01 ATM 38	Cumulative Human Services Articles	<u>34,160.00</u>
	<i>Total</i>	<i>\$213,087.88</i>

or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 6-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

Mary-JoAvellar moved that Town vote to apply the article balances shown in Article 24, totaling \$213,087.88, to reduce the Fiscal Year 2003 property tax levy. **Motion carried.**

Article 25. Use of Free Cash to Reduce FY 2003 Property Tax. To see if the Town will vote to transfer \$600,000 from Free Cash to reduce the Fiscal Year 2003 property tax levy; or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 6-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

Keith Bergman moved that the Town will vote to indefinitely postpone action of Article 25. Motion carried.

Special Town Meeting dissolved at 6:06 p.m. on Tuesday, April 8, 2003.