

# Special Town Meeting – Monday, April 4, 2011

**Meeting Called to Order.** Town Moderator Irene Rabinowitz convened the Special Town Meeting at 6:05 p.m. on Monday, April 4, 2011 in the Town Hall Auditorium.

## **Preliminary Motions:**

Michele 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 4, 2011 Special Town Meeting to the following persons who are not registered voters of the Town of Provincetown: John W. Giorgio, Esq., and other attorneys of the firm of Kopelman & Paige, P.C., *Town Counsel*; Mark White, *Environmental Partners Group*; John Goodrich, *Facilitator*; Rob Adams, *AECOM*; Russ Kleekamp, *GHD, Inc.*; Wendall Kalsow, *McGinley Kalsow and Associates*; Mark Almeda, *McGinley Kalsow and Associates*; Tom Scarlata, *Bargmann Hendrie + Archetype, Inc.*; Sally Deane, *Outer Cape Health Services*; Beth Singer, *Superintendent of Schools*; Kim Y. Pike, *District Principal* Betty G. White, *Administrative Assistant to Supt. of Schools for Business & Finance*; Russell Braun, *Building Commissioner*; Beau Jackett, *Information Systems Director*; Michelle Jarusiewicz, *Housing Specialist/Grant Administrator*; Maxine Notaro, *Permit Coordinator*; Jane Evans, *Health Agent*; Brandon Motta, *Recreation Director*; Pam Hudson, *Employee Benefits Administrator*.

**Motion Passed.**

Michele Couture moved that on all matters to come before the April 4, 2011 Special Town Meeting, requiring a two-thirds vote by statute, that a count need not be taken unless the vote so declared is immediately questioned by seven or more registered voters.

**Motion Passed.**

## **Article 1. FY 2011 Budget Adjustments.**

To see what amendments the Town will vote to make to the Fiscal Year 2011 operating budgets established under Article 2 of the April 2010 Annual Town Meeting and what sums the Town will vote to raise and appropriate or transfer from available funds therefore; 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**

Michele Couture moved that the Town vote to make the following adjustments to the sources of funding established under Article 2 of the April 5, 2010 Annual Town Meeting for the Fiscal year beginning July 1, 2010, as follows:

Division I. General Government. Reduce the amount to be raised and appropriated by \$5,836 in order to remove the funding in the 2011 budget for the Economic Development Council.

Division II. Finance. Reduce the amount to be raised and appropriated by \$71,000 to reduce the funding for Retirement and Insurance in the 2011 budget.

Division IV. Public Works. Reduce the amount to be raised and appropriated by \$75,000 to reduce funding for the Snow and Ice budget by \$60,000 and the DPW Administration budget by \$15,000 and

Division IV. Public Works.

transfer \$93,070 from 2010 Annual Town Meeting Article 5-3 - DPW Fleet Replacement,

transfer \$14,064 from 2001 Annual Town Meeting Article 5-1 – DPW Buildings and Grounds Upgrade,

transfer \$14,501.18 from 2001 Annual Town Meeting Article 5-8 – DPW Highway Truck Storage

to Division IV, Public Works to reduce the amount to be raised and appropriated by an additional \$121,635.18.

**Motion Passed.**

**Article 2. Rescind Unused Borrowing Authority.** To see if the Town will vote to rescind unused borrowing authority, as follows:

Date of Vote	Town Mtg	Article No.	Authorized and Unissued Debt	Fund	Amount Authorized	Total Borrowed to 04/04/11	Rescind Unused Balance
04/02/01	STM	21-1	Repairs to Heritage Museum	Gen.	\$150,000	\$77,000	\$73,000
04/07/03	ATM	4-6	Fleet Replacement- Recycling Vehicle	Gen.	\$130,000	\$104,000	\$26,000
04/04/05	STM	3	Land Acquisition Bond	Gen.	\$140,000	\$138,100	\$1,900
04/03/06	ATM	7-3	Parking Computers	Gen.	\$25,200	\$10,150	\$15,050
04/04/07	ATM	6-4	DPW Fleet	Gen.	\$182,500	\$153,175	\$29,325

			Replacement				
04/04/07	ATM	6-8	DPW Transfer Station Equipment	Gen.	\$60,000	\$54,250	\$5,750
04/06/09	STM	3	Replace Ladder Truck	Gen.	\$300,000	\$278,553	\$21,447

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 rescind the unused borrowing authority as follows:

- STM 04/02/01 Article 21-1 Repairs to Heritage Museum \$73,000
- ATM 04/07/03 Article 4-6 Fleet Replacement Recycling Vehicle \$26,000
- STM 04/04/05 Article 3 Land Acquisition Bond \$1,900
- ATM 04/03/06 Article 7-3 Parking Computers \$15,050
- ATM 04/04/07 Article 6-4 DPW Fleet Replacement \$29,325
- ATM 04/04/07 Article 6-8 DPW Transfer Station Equipment \$5,750
- STM 04/06/09 Article 3 Replace Ladder Truck \$21,447

For a total amount to be rescinded of \$172,472.

**Motion Passed.**

**Article 3. Capital Improvements and Transition Costs Related to Relocation to the Veteran’s Memorial Elementary School.** To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds a sum of money to be expended under the direction of the Town Manager and the Director of Public Works for capital improvements needed for the Veteran’s Memorial Elementary School Building and costs associated with the relocation of various staff departments to the same building and costs related thereto provided that the appropriation shall be contingent on a Prop 2 ½ Capital Outlay or Debt Exclusion ballot question; 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**

**Council On Aging Recommends: 4-0-0**

**2/3<sup>rd</sup>s Vote Required**

Austin Knight moved that the Town appropriate the sum of \$379,721, to be expended under the direction of the Town Manager and the Director of Public Works for capital improvements needed for the Veteran's Memorial Elementary School Building and costs associated with the relocation of various staff departments to the same building and costs related thereto; that to meet this appropriation, the Treasurer with the approval of the Board of Selectmen is hereby authorized to borrow \$379,721 pursuant to General Laws Chapter 44, Sections 7 or 8, or any other enabling authority, and to issues bonds and notes therefor; provided that the appropriation shall be contingent on the passage of a Proposition 2 and ½ Debt Exclusion ballot question.

Astrid Berg moved to postpone Article 3 until after Article 4 & 5 have been considered.

**Motion to Postpone Article 3 Does Not Pass.**

**Motion Passed. (2/3<sup>rd</sup>'s Vote Declared)**

**Article 4. Sale of the Grace Gouveia Building.** To see if the Town will transfer the care, custody, control, and management of the following described parcel of land from the board or officer that currently has custody of the land to the Board of Selectmen to be held for the purpose of sale; and further to authorize the Board of Selectmen to sell said parcel, pursuant to the procedures set forth in General Laws Chapter 30B, on such terms and conditions as the Board of selectmen shall determine to be in the best interests of the Town; the land being all or a portion of Assessors Map No.12-1, Parcel No. 34, located at 26 Alden St., and commonly known as the Grace Gouveia Building; 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**

**2/3<sup>rd</sup>'s Vote Required**

Elaine Anderson moved that the Town transfer the care, custody, control, and management of the following described parcel of land from the board or officer that currently has custody of the land to the Board of Selectmen to be held for the purpose of sale; and further to authorize the Board of Selectmen to sell said parcel, pursuant to the procedures set forth in General Laws Chapter 30B, on such terms and conditions as the Board of Selectmen shall determine to be in the best interests of the Town; the land being all or a portion of Assessors Map No.12-1, Parcel No. 34, located at 26 Alden St., and commonly known as the Grace Gouveia Building.

**Motion Passed. (2/3<sup>rd</sup>'s Vote Declared)**

**Article 5. Sale of the Community Center Building.** To see if the Town will transfer the care, custody, control, and management of the following described

parcel of land from the board or officer that currently has custody of the land to the Board of Selectmen to be held for the purpose of sale; and further to authorize the Board of Selectmen to sell said parcel, pursuant to the procedures set forth in General Laws Chapter 30B, on such terms and conditions as the Board of Selectmen shall determine to be in the best interests of the Town; the land being all or a portion of Assessors Map No.7-2, Parcel No. 62, located at 46 Bradford St., and commonly known as the Community Center Building; 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: 5-0-1**

### **2/3<sup>rd</sup>'s Vote Required**

F. John Santos moved that the Town transfer the care, custody, control, and management of the following described parcel of land from the board or officer that currently has custody of the land to the Board of Selectmen to be held for the purpose of sale; and further to authorize the Board of Selectmen to sell said parcel, pursuant to the procedures set forth in General Laws Chapter 30B, on such terms and conditions as the Board of Selectmen shall determine to be in the best interests of the Town; the land being all or a portion of Assessors Map No.7-2, Parcel No. 62, located at 46 Bradford St., and commonly known as the Community Center Building.

**Stephen Cohen moved to indefinitely postpone Article 5.**

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

**Motion Passed. (2/3<sup>rd</sup>'s Vote Declared)**

**Article 6. Wastewater Optimization and Expansion – Supplemental Borrowing Authorization.** To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to supplement the amount appropriated under Article 2 of the April 2009 Special Town Meeting, to be expended under the direction of the Town Manager and the Board of Selectmen, for the development of plans and specifications and for construction, optimization and expansion of the Town's sewer system including the expansion of the treatment capacity of the wastewater treatment plant and further extensions of the Town's sewer system, including without limitation all costs defined under C.29C, §1 of the General Laws and all other costs incidental and related thereto; and to raise said appropriation the Town Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum of money under and pursuant to 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 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 take any other action relative thereto.

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

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

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

**Conservation Commission Recommends: 3-1-1**

**Board of Health Recommends: 4-0-0**

**Water and Sewer Board Recommends: 4-0-0**

### **2/3<sup>rd</sup>'s Vote Required**

Michele Couture moved that the Town appropriate the sum of \$3.9 million to supplement the amount appropriated under Article 2 of the April 2009 Special Town Meeting, to be expended under the direction of the Town Manager and the Board of Selectmen, for the development of plans and specifications and for construction, optimization and expansion of the Town's sewer system including the expansion of the treatment capacity of the wastewater treatment plant and further extensions of the Town's sewer system, including without limitation all costs defined under C.29C, §1 of the General Laws and all other costs incidental and related thereto; and to raise said appropriation the Town Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$3.9 million 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 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.

**Motion Passed. (2/3<sup>rd</sup>'s Vote Declared)**

**Article 7. Transfer Funds to the Cemetery Perpetual Care Fund.** To see if the Town will vote to transfer unexpended funds in the amount of \$46,645 from prior Town Meeting articles to the Cemetery Perpetual Care Fund to correct a funding error made during the 2003 Annual Town Meeting, article 4-8, Cemetery Tractor and article 4-9 Paving Cemetery Roads and costs related thereto; or to take any other action relative thereto.

*[Requested by the Bd of Selectmen, the Town Mgr. and the Cemetery Com.]*

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

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

David Bedard moved that the Town vote to transfer \$46,645 from the following prior year Town Meeting articles to the Cemetery Perpetual Care Fund in order to

correct a funding error made during the 2003 Annual Town Meeting, Articles 4-8 and 4-9.

- \$11,891.72 from 2001 Annual Town Meeting, Article 19 - Local Comprehensive Plan Update
- \$5,166.90 from 2002 Annual Town Meeting, Article 18 – Survey Historical Resources
- \$1,216 from 2002 Annual Town Meeting, Article 66 – Street Lights
- \$25,000 from 2002 Special Town Meeting, Article 18-4 – Wetlands Management Master Plan
- \$477.61 from 2003 Annual Town Meeting, Article 4-9 – Paving Cemetery Roads
- \$2,354.77 from 2003 Annual Town Meeting, Article 29 – Human Services Grants
- \$538 from 2008 Special Town Meeting, Article 5 – GIS Flyover

**Motion Passed.**

**Article 8. Library Renovations – Extend Air Conditioning to Second Floor.** To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to extend air conditioning to the second floor of the Provincetown Public Library as part of the on-going library restoration project, including all costs incidental and related thereto; to authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow said sum of money, pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 7 and/or 8 or any other enabling authority, and to issue bonds and notes of the Town therefor; to authorize the Board of Selectmen and the Board of Library Trustees to take all actions necessary to carry out the project and apply for, accept, and expend grant funds for this project, with said borrowing authority contingent upon approval by the voters of a Proposition 2 ½ debt exclusion ballot question in accordance with the provisions of M.G.L. c. 59, §21C(m); or to take any other action relative thereto.

*[Requested by the Bd of Selectmen, Bd of Library Trustees and the Town Mgr.]*

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

**Finance Committee Recommends: 5-2-0**

**Board of Library Trustees Recommends: 3-0-0**

**Visitor Services Board Recommends: 4-0-0**

**2/3<sup>rd</sup>'s Vote Required**

Michele Couture moved that the Town appropriate the sum of \$360,000 to extend air conditioning to the second floor of the Provincetown Public Library as part of the on-going library restoration project, including all costs incidental and related thereto; to authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow said sum of money, pursuant to the provisions of Massachusetts General Laws Chapter 44, Section 7 and/or 8 or any other enabling authority, and to issue bonds and notes of the Town therefor; to

authorize the Board of Selectmen and the Board of Library Trustees to take all actions necessary to carry out the project and apply for, accept, and expend grant funds for this project, with said borrowing authority contingent upon approval by the voters of a Proposition 2 ½ debt exclusion ballot question in accordance with the provisions of M.G.L. c. 59, §21C(m).

**Motion Passed. (2/3<sup>rd</sup>'s Vote Declared)**

**Article 9. Use of Parking Funds for Capital Improvements.** To see if the Town will vote to expend \$67,794 from the Parking Fund for the following repairs and maintenance:

- (1) \$13,794 for electrical and maintenance repairs on three parking booths.
  - (2) \$5,000 for patching repairs to the Municipal Parking Lot pavement.
  - (3) \$6,000 for the replacement of car stop bumpers in the Johnson Street, Alden Street and School Street parking lots.
  - (4) \$43,000 for the reconfiguration of the Municipal Parking Lot.
- 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**

**Visitor Services Board Recommends: 4-0-0**

Elaine Anderson moved that the Town expend \$67,794 from the Parking Fund for electrical and maintenance repairs in three parking lot booths, patching repairs to the Municipal Parking Lot pavement, the replacement of car stop bumpers in the Johnson Street, Alden Street and School Street parking lots and the reconfiguration of the Municipal Parking Lot.

**Motion Passed.**

**Article 10. Use of Unexpended Funds in Prior Town Meeting Articles to Fund Fire Department Building Capital Improvements.** To see if the Town will vote to transfer \$61,480 from the following prior Town Meeting articles for expenditure on:

- (1) \$28,480 for maintenance repairs to the main Fire Station.
- (2) \$22,000 for maintenance repairs to Fire Station #4.
- (3) \$11,000 for maintenance repairs to Fire Station #5.

Date of Vote	Town Mtg	Article No.	Article Description	Amount Authorized	Amount Borrowed	Amount Expended	Amount Borrowed Not Expended
04/04/00	STM	16	Heritage Museum Repairs	\$300,000	\$300,0000	\$253,367.08	\$46,632.92 (see note below)
04/02/01	STM	21-1	Heritage Museum	\$150,000	\$77,000	\$74,722.38	\$2,277.62

			Repairs				
04/06/99	STM	23-6	High School Roof Repairs	\$115,000	\$115,000	\$116,133.11	-\$1,133.11
04/03/06	STM	7	Cape End Manor Repairs	\$100,000	\$100,000	\$62,045.89	\$37,954.11

*Note: Of the \$46,632.92 borrowed, but not expended from this 2000 Special Town Meeting Article \$22,381.38 is being transferred for this 2011 Special Town Meeting Article.*

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**

F. John Santos moved that the Town vote to transfer \$61,480 from prior Town Meeting articles as follows to be expended under the direction of the Town Manager and the Fire Chief for repairs to the Main Fire Station in the amount of \$28,480, Fire Station #4 in the amount of \$22,000 and Fire Station #5 in the amount of \$11,000 and costs related thereto;

- \$21,248.27 from 2000 Special Town Meeting Article 16 Heritage Museum repairs.
- \$2,277.62 from 2001 Special Town Meeting Article 21-1 Heritage Museum Structural Repairs
- \$37,954.11 from 2006 Special Town Meeting Article 7 Cape End Manor Repairs

**Motion Passed.**

**Article 11. Stabilization Fund.** To see if the Town will vote to transfer \$220,000 from free cash to the Stabilization Fund; or to take any other action relative thereto.

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

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

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

**2/3<sup>rd</sup>'s Vote Required**

David Bedard moved that the Town transfer \$220,000 from free cash into the Stabilization Fund.

**Motion Passed. (2/3<sup>rd</sup>'s Vote Declared)**

**Article 12. Room Occupancy Tax.** To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation

authorizing the Town to impose a room occupancy tax on vacation rentals not currently subject to such tax; provided, however, that the General Court may make clerical or editorial changes of form only to said bill, unless the Board of Selectmen approves amendments thereto prior to enactment by the General Court, and provided further that 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 Board of Selectmen and the Town Manager]*

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

**Finance Committee Recommends: 5-0-0**

**Visitor Services Board Recommends: 3-0-1**

Austin Knight moved that the Town authorize the Board of Selectmen instruct its representative in the General Court to file a home rule petition for a special act to read as follows:

*An Act Relative to the Application of the Local Option Room Occupancy Excise Tax to Seasonal Rental Properties in the Town of Provincetown.*

Section 1. Notwithstanding the provisions of any general or special law to the contrary, in addition to the authority to impose a local excise tax upon any transfer of occupancy of any room or rooms as may be set forth in and authorized by Chapter 64G section 3A of the Massachusetts General Laws or other law, as the same may be amended from time to time, the town of Provincetown shall, commencing on the first day of the fiscal year that begins after the effective date of this Act, be authorized to impose a local excise tax upon the transfer of occupancy of any room in a seasonal rental property or other transient accommodations located within said town by any operator at the rate of up to but not exceeding six (6) percent of the total amount of rent of each such occupancy.

Section 2. For the purposes of this chapter, all terms used herein shall, unless the context requires otherwise, have the same meanings as set forth in Chapter 64G section 1 of the Massachusetts General Laws and as follows:

“Occupancy”, the use or possession, or the right to the use or possession, of any room or rooms in a bed and breakfast establishment, bed and breakfast home, hotel, lodging house, motel, seasonal rental property or other transient accommodation designed and normally used for sleeping and living purposes, or the right to the use or possession of the furnishings or the services and accommodations, including breakfast in a bed and breakfast establishment or bed and breakfast home, accompanying the use and possession of such room or rooms, for a period of ninety consecutive calendar days or less, regardless of whether such use and possession is as a lessee, tenant, guest or licensee.

“Seasonal rental property or other transient accommodations” shall mean any bed and breakfast home, as defined by Chapter 64G section 1 of the Massachusetts General Laws and any residential or commercial dwelling, dwelling unit or part thereof, unit of a condominium as defined by Chapter 183A of the Massachusetts General Laws or time-share as defined by Chapter 183B of the Massachusetts General Laws, used for the lodging of guests or invitees in exchange for rent.

Section 3. No excise shall be imposed upon for the transfer of occupancy of any room in a seasonal rental property or other transient accommodations if the total amount of rent is less than fifteen dollars per day or its equivalent or if the accommodation, other than a bed and breakfast home, is exempt under the provisions of Chapter 64G section 2 of the Massachusetts General Laws.

Section 4. All operators of seasonal rental property or other transient accommodations shall be responsible for assessing, collecting reporting and paying such local excise tax as set forth in Chapter 64G sections 3, 4, 5, 6 and 7A of the Massachusetts General Laws and shall be liable in the same manners as operators in Chapter 64G section 7B of the Massachusetts General Laws.

Section 5. 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 the petition.

**Barbara Rushmore moved to approve Article 12 as printed in the warrant.  
Motion to Approve As Printed in the Warrant Passed.**

**Christopher Snow moved to Indefinitely Postpone Article 12.  
Motion to Indefinitely Postpone Does Not Pass.  
Motion As Amended Passed.**

**Special Town Meeting dissolved at 8:46 p.m. on April 4, 2011.**