

SPECIAL TOWN MEETING

MONDAY, APRIL 3, 2006 AT 6:00 P.M.

Meeting Called to Order: Town Moderator Mary-Jo Avellar convened the meeting at 6:05 p.m. on Monday, April 3, 2006 in the Town Hall Auditorium. Provincetown Poet Laureate Jason Shinder read a poem entitled "Work" to open the Town Meeting.

Preliminary Motions:

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

Motion Passed.

Cheryl Andrews moved that the Town vote to grant permission to speak at the April 3, 2006 Special Town Meeting to the following persons who are not registered voters of the Town of Provincetown:

Dennis Anderson, *Cape End Manor Care Campus project coordinator;*

Edward Boxer, *PHS Principal;*

Dennis Clark, *Recreation Director;*

Susan Connelly, *Associate Director of Community Housing Initiatives, Massachusetts Housing Partnership;*

Jane Evans, *Health Agent;*

Elizabeth Hartsgrove, *Licensing Agent;*

Alexandra Heilala, *Town Accountant;*

John W. Giorgio, Esq., and other attorneys of the firm of Kopelman & Paige, P.C., *Town Counsel;*

Beau Jackett, *Information Systems Director;*

Michelle Jarusiewicz, *Acting Assistant Town Manager;*

Janice Lachowetz, *Superintendent of Schools;*

David Maloney, *Cape End Manor Administrator;*

Maxine Notaro, *Permit Coordinator;*

Anthony Teso, *Principal, Veterans Memorial Elementary School and Director of Student Services;* and

John Zoltowski, *Vice President of Operations;* Sharon Buehrle, *Vice President of Marketing, New England Deaconess Association.*

Motion Passed.

Cheryl Andrews moved that on all matters to come before the April 3, 2006 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. Wastewater Optimization and Expansion - Borrowing Authorization. To see if the Town will vote to appropriate and borrow the sum of \$1,500,000, to be expended under the direction of the Town Manager and the Board of Selectmen for the development of plans and

specifications for optimization and expansion to the Town's sewerage systems, and for capital modifications and repairs to Phase I of the sewer system, 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 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 Board of Selectmen and the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 9-0-0

BOARD OF HEALTH RECOMMENDS: 4-0-0

CONSERVATION COMMISSION RECOMMENDS: 5-0-0

WATER & SEWER BOARD RECOMMENDS: 3-0-0

(Borrowing – 2/3's vote required)

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

Article 2. Community Preservation: Acquisition of 90 Shankpainter Road for Community Housing Purposes. To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain for community housing purposes, pursuant to the Community Preservation Program, the fee interest in a certain parcel of real estate at 90 Shankpainter Road owned by the V.S.H. Realty, Inc., the Cumberland Farms property so-called, containing 2.53-acres, more or less, shown as Lot 2 on a plan titled "Plan of Land Located in the Town of Provincetown, Massachusetts, Shown Being a Division of Property in Plan Book 248, Plan 41," dated April 2, 2004 and prepared by Coastal Engineering Co., a copy of which is on file in the Office of the Town Clerk, together with and subject to all rights, restrictions and easements of record, on such terms and conditions as the Selectmen may determine, and also for the purpose of conveyance for community housing purposes, subject to affordable housing restriction(s) or community housing restriction(s) in a form enforceable in perpetuity or for the longest period permitted by law, and subject to local preference for occupancy of such community housing units to be required in accordance with the Board of Selectmen's policy adopted September 8, 2003, as it may be amended; and that the Board of Selectmen is authorized to convey said parcel on such terms and conditions and for such consideration, which may be nominal consideration, as the Selectmen may determine in consultation with the Community Preservation Committee, subject to affordable housing restriction(s) or community housing restriction(s) in a form enforceable in perpetuity or for the longest period permitted by law, with local preference for occupancy of such community housing units to be required in accordance with the Board of Selectmen's policy adopted September 8,

2003, as it may be amended, and that the affordable housing restriction(s) be accepted by the Town of Provincetown acting by and through its Board of Selectmen under the provisions of G.L. Chapter 184, §§31-32 and that the community housing restriction(s) be accepted by the Town of Provincetown acting by and through its Board of Selectmen under the provisions of G.L. Chapter 40, §14; and further that the Board of Selectmen is authorized to apply for and accept gifts and grants for the purpose of this acquisition in order to reduce the amount needing to be borrowed under this article, and that the Board of Selectmen is authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town to effect said purchase and apply for and accept such gifts and grants, and as funding therefor to appropriate by transfer from the Community Preservation Fund and/or borrow the sum of \$1,000,000 pursuant to G.L. c. 44B or any other general or special law for said purchase, and to authorize the Treasurer, with the approval of the Board of Selectmen to borrow a sum of money in the amount of \$1,000,000 pursuant to said Chapter 44B and pursuant to G.L. Chapter 44 Section 7 (3) or any other enabling authority, for the cost of said acquisition, and for costs incidental and related thereto, net of any gifts or grants that are received, and to issue bonds or notes therefor; or take any other action relative thereto

[Requested by the Community Preservation Committee]

COMMUNITY PRESERVATION COMMITTEE RECOMMENDS: 6-0-0
BOARD OF SELECTMEN RECOMMENDS: 5-0-0
HOUSING AUTHORITY RECOMMENDS: 4-0-0
FINANCE COMMITTEE RECOMMENDS WITH AMENDMENT: 9-0-0

(Borrowing/Disposition of Land – 2/3’s vote required)

Elaine Anderson moved that the Town vote to approve Article 2 as printed in the warrant provided that the source of funding shall be borrowing pursuant to G.L. c. 44B.

Robert Vetrick moved to amend Article 2 to require that the Board of Selectmen assess the site’s remediation liabilities prior to actually closing on the purchase of said property.

Amendment Passed.

Sheila McGuiness moved to amend the motion by adding “and only in the event of adverse title issue, by eminent domain” after gift in the first sentence.

Amendment Does Not Pass.

Motion As Amended Passed. For 198 Against 78 (2/3rd’s Vote Declared)

Article 3. Land Bank - Open Space Acquisition –74 Harry Kemp Way. To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain the fee interest in a certain parcel of real estate located at 74 Harry Kemp Way, owned by the Provincetown Theater Foundation, containing 2.0-acres, more or less, and described in a deed recorded with the Barnstable County Registry of Deeds in Book 19122, Page 159, on such terms and conditions as the Selectmen may determine; and to appropriate and borrow the sum of \$340,500 for such acquisition and all expenses incidental and related thereto, pursuant to Chapter 293 of the Acts of 1998 entitled, "An Act Relative to the Establishment of the Cape Cod Open Space Land Acquisition Program" (the so-called "Land Bank"), or any other enabling authority;

and to issue bonds or notes of the Town therefor; provided that said land is to be conveyed to the Town of Provincetown under the provisions of Massachusetts General Laws, Chapter 40, Section 8C, and as it may be hereafter amended, and other Massachusetts statutes relating to conservation and passive recreation, to be under the care, custody and control of the Provincetown Conservation Commission; and, to the extent that any federal, state or other funds are or become available for the purposes outlined in this Article, to authorize the Board of Selectmen or other applicable boards or commissions to apply for and accept such funds; and further provided that the Board of Selectmen does not expend more than \$190,000 out of this appropriation unless the Board of Selectmen has received a written commitment from the Massachusetts Division of Conservation Services or other state or federal agency, non-profit foundations or other source of gifts or grants that at least \$150,000 of such \$340,500 shall be reimbursed to the Town; and further provided that the Board of Selectmen and the Conservation Commission be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Provincetown to effect said acquisition and grants; and further, to authorize the Board of Selectmen and the Conservation Commission to convey to the Trustees of the Provincetown Conservation Trust, for no consideration, a perpetual conservation restriction on said land as authorized by Massachusetts General Laws, Chapter 184, Sections 31-33, allowing conservation and passive recreation uses described in Massachusetts General Laws, Chapter 40, Section 8C; or take any other action relative thereto.

[Requested by the Open Space Committee and the Town Manager]

OPEN SPACE COMMITTEE RECOMMENDS: 4-0-0

BOARD OF SELECTMEN RECOMMENDS: 4-0-1

CONSERVATION COMMISSION RECOMMENDS: 4-1-0

FINANCE COMMITTEE RECOMMENDS: 7-1-0

(Borrowing/Disposition of Land – 2/3’s vote required)

Keith Bergman moved that the Town vote to approve Article 3 as printed in the warrant, with the following correcting amendment: the figure “\$150,000” to read “150,500”, as the amount to be raised by grants within the total borrowing of \$340,500 and the limit of borrowing under the Land Bank of \$190,000.

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

Article 4. Land Bank Pre-acquisition Expenses. To see if the Town will vote to transfer from the Land Bank Fund established under Chapter 293 of the Acts of 1998 the sum of \$30,000 to be expended under the direction of the Open Space Committee and the Town Manager for the funding of pre-acquisition expenses for potential Land Bank purchases, including but not limited to title searches and appraisals, updating of the Open Space Plan to qualify said purchases for state grants, and other costs associated therewith; or take any other action relative thereto.

[Requested by the Open Space Committee and the Town Manager]

OPEN SPACE COMMITTEE RECOMMENDS: 4-0-0

BOARD OF SELECTMEN RECOMMENDS: 4-0-1

FINANCE COMMITTEE RECOMMENDS: 7-1-0

Keith Bergman moved that the Town vote to approve Article 4 as printed in the warrant.
Motion Passed.

Article 5. *Perfecting Land Transfers.* To see if the Town will authorize the Board of Selectmen to acquire by eminent domain, for general municipal purposes, including confirmation of the Town's title thereto, and for the purpose of conveyance, the parcel of land shown as "Parcel 4 Area = 1,975+ Sq.Ft." on a plan of land entitled "Plan of Land in Provincetown as Surveyed for the Town of Provincetown," dated November, 2005, revised through December 1, 2005, prepared by William N. Rogers Professional Civil Engineers & Land Surveyors, on file with the Town Clerk, said conveyance being previously authorized by the vote under Article 2 of the November 7, 2005 Special Town Meeting; and further, to see if the Town will authorize the Board of Selectmen to acquire by eminent domain, for general municipal purposes, including confirmation of the Town's title thereto, and for the purpose of conveyance, a portion of the parcel of land identified on Assessors Map as 07-4-070, which portion is shown on the sketch plan on file with the Town Clerk, said conveyance being previously authorized by the vote under Article 1 of the October 25, 2004 Special Town Meeting; and further, to see if the Town will authorize the Board of Selectmen to acquire by gift, purchase or eminent domain, for general municipal purposes, and for the purpose of conveyance, a portion of parcel of land known as the St. Peter's Cemetery, which portion is shown as "Parcel 1 Area = 53,976 Sq.Ft. 1.239+ Acres" on a plan of land entitled "Plan of Land in Provincetown as Surveyed for Town of Provincetown 'Cape End Manor'," dated September, 2005, prepared by William N. Rogers, Professional Civil Engineers & Land Surveyors, on file with the Town Clerk, said acquisition being previously authorized by the vote under Article 1 of the October 25, 2004 Special Town Meeting or to take any other action relative thereto.

[Requested by the Town Manager]

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

(Disposition of Land – 2/3's vote required)

Keith Bergman moved that the Town vote to approve Article 5 as printed in the warrant.
Motion Passed. (2/3rd's Vote Declared)

Article 6. *Cape End Manor FY 2006 Supplemental Appropriation.* To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$200,000 to fund the operating budget for the Cape End Manor Nursing Home for the fiscal year beginning July first, two thousand and five, and further to raise and appropriate the supplemental amount of \$350,000 for the operating budget of the Cape End Manor Nursing Home for said Fiscal Year for a total appropriation of \$550,000, provided that the appropriation of the supplemental amount of \$350,000 shall be contingent on the passage of a Proposition 2 and ½ override by the voters of the Town in accordance with General Laws c. 59, sec. 21C(m); 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: 8-1-0
BOARD OF HEALTH RECOMMENDS: 4-0-0

Cheryl Andrews moved that the Town vote to raise and appropriate the sum of \$200,000 to fund the operating budget for the Cape End Manor Nursing Home for the fiscal year beginning July first, two thousand and five, and further to raise and appropriate the supplemental amount of \$350,000 for the operating budget of the Cape End Manor Nursing Home for said Fiscal Year for a total appropriation of \$550,000, provided that the appropriation of the supplemental amount of \$350,000 shall be contingent on the passage of a Proposition 2 and ½ override by the voters of the Town in accordance with General Laws c. 59, sec. 21C(m).

Roslyn Garfield moved to divide the motion into two parts: 1) to raise and appropriate the sum of \$200,000 to fund the operating budget for the Cape End Manor Nursing Home for the fiscal year beginning July first, two thousand and five 2) to raise and appropriate the supplemental amount of \$350,000 for the operating budget of the Cape End Manor Nursing Home for said Fiscal Year to be contingent on the passage of a Proposition 2 and ½ override by the voters of the Town in accordance with General Laws c. 59, sec. 21C(m).

Motion to Divide the Vote Does Not Pass (For 126 Against 192)
Motion Passed.

Article 7. Cape End Manor Building Repair Costs. To see if the Town will vote to appropriate and borrow the sum of \$200,000 to be expended under the direction of the Town Manager for repairs to the Cape End Manor building which is to be leased by the Board of Selectmen to the New England Deaconess Association through the end of Phase I construction of the Seashore Point facility, and costs related thereto; or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS \$100,000: 5-0-0
FINANCE COMMITTEE RECOMMENDS \$100,000: 9-0-0
BOARD OF HEALTH RECOMMENDS: 4-0-0

(Borrowing – 2/3's vote required)

Cheryl Andrews moved that Town vote to appropriate and borrow the sum of \$100,000 to be expended under the direction of the Town Manager for repairs to the Cape End Manor building which is to be leased by the Board of Selectmen to the New England Deaconess Association through the end of Phase I construction of the Seashore Point facility, and costs related thereto; and that to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 7(3A), of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor.

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

Article 8. FY 2006 Budget Adjustments. To see what amendments the Town will vote to make to the Fiscal Year 2006 operating budgets and enterprise funds established under Articles 2

and 3 of the April 4, 2005 Annual Town Meeting and what sums the Town will vote to raise and appropriate or transfer from available funds therefor; or to take any other action relative thereto.

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

FINANCE COMMITTEE RECOMMENDS: 9-0-0

(2/3's vote required)

Keith Bergman moved that the Town vote to make the following amendments to the Fiscal Year 2006 operating budgets established under Article 2 of the April 4, 2005 Annual Town Meeting to reduce use of the property tax levy by \$293,000 as follows:

(1) to reduce the following available funds and appropriations

ATM-01	Art5-1	Lopes Square	3,824	
ATM-01	Art5-8	DPW Truck Storage	10,000	
ATM-02	Art18	Survey Historical Resources	2,000	
ATM-03	Art4-8	Cemetery Tractors	5,608	
ATM-03	Art5	CEM Feasibility Study	2,000	
ATM-04	Art10	27th Payroll	25,000	
ATM-05	421-A	DPW personal services	35,000	
ATM-05	421-B	DPW expense	3,500	
ATM-05	482-B	Airport - expense	15,000	
		<i>Sub-total</i>		\$101,932

(2) To increase the following appropriations:

ATM-05	151-B	Legal Expense - expenses	\$52,432	
ATM-05	182-B	Historical Commission	500	
ATM-05	192-B	DPW Bldgs & Grounds	36,000	
ATM-05	422-B	DPW Highway Expenses	13,000	
		<i>Sub-total</i>		\$101,932

(3) to amend the source of funding for said Article 2, Division II, Finance, so that the vote for said Division II reads as follows: “to raise and appropriate the sum of ~~\$6,210,123~~ \$5,937,123, transfer from Sale of Town Property Account the sum of \$243,000, and transfer from the Stabilization Fund the sum of ~~\$388,000~~ \$418,000, for a total of \$6,598,123 to fund operating budgets for the several Town departments for Fiscal Year 2006 under budget Division II, Finance, as requested by the Board of Selectmen”; and

(4) to amend the source of funding for said Article 2, Division III, Public Safety, so that the vote for said Division III reads as follows: “to raise and appropriate the sum of ~~\$3,071,275~~ \$3,051,275, and transfer from the Municipal Waterways Fund the sum of ~~\$5,300~~ \$25,300, for a total of \$3,076,575, to fund operating budgets for the several Town departments for Fiscal Year 2006 under budget Division III, Public Safety, as requested by the Board of Selectmen.

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

Article 9. Increase Length of Borrowing from 10 to 20 years for SBA-Reimbursable School Building Improvements. To see if the Town will vote to amend its vote under Article 7 of the April 1, 2001 Special Town Meeting by increasing the length of borrowing authorized thereunder from 10 to 20 years, so that said article reads as follows: “voted to appropriate and borrow the sum of \$7,000,000, to be expended under the direction of the School Building Committee, which has been appointed by the School Committee, for the purpose of providing rehabilitated and renovated facilities for the Provincetown Public Schools, including Provincetown High School on Winslow Street and Veteran’s Memorial Elementary School on Mayflower Lane, and including, but not limited to, design services, construction bids, and reconstruction, rehabilitation, remodeling, and renovation of such facilities and for other expenses related thereto and, that to raise said appropriation the Treasurer, with the approval of the Board of Selectmen, is hereby authorized to issue bonds and/or notes of the Town therefore, pursuant to Chapter 44 of the General Laws or any other enabling authority for a period of ~~ten~~ **twenty** years; and to the extent that any State, Federal or other funds are or become available for the purposes set forth above, to authorize the School Building Committee, the School Committee, and the Superintendent of Schools to apply for and accept such funds; and provided further that, within compliance of the minimum school spending requirements of M.G.L. Chapter 70, half of the local debt service cost shall be paid from the school department through one or more of the following ways: (1) operating budget for said ~~ten~~ **twenty** -year period; (2) the sale or lease of the annex; or (3) other options that may arise, provided, however, that any bonds or notes issued hereunder are general obligations of the Town;” or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 5-0-0
FINANCE COMMITTEE RECOMMENDS: 8-1-0

(Borrowing – 2/3’s vote required)

Michele Couture moved that the Town vote to approve Article 9 as printed in the warrant.
Motion Passed. (2/3rd’s Vote Declared)

Article 10. Insurance Proceeds: Harbormaster’s Boat Repairs. To see if the Town will vote to appropriate from the insurance proceeds reserve the sum of \$45,665 to be expended under the direction of the Town Manager and the Provincetown Public Pier Corporation for repairs to the harbormaster’s patrol boat, or to take any other action relative thereto.

[Requested by the Provincetown Public Pier Corporation and the Town Manager]

PPPC BOARD OF DIRECTORS RECOMMENDS: 3-0-0
BOARD OF SELECTMEN RECOMMENDS: 5-0-0
FINANCE COMMITTEE RECOMMENDS: 9-0-0

Cheryl Andrews moved that the Town vote to approved Article 10 as printed in the warrant.
Motion Passed.

Article 11. *Cost of living increase adjustment to 17D Surviving Spouse, Minor Child, or Elderly Person exemption for Fiscal Year 2006.* To see if the Town will vote to add an annual, cumulative cost-of-living increase to exemptions granted under M.G.L. c. 59, §5, Clause 17D, Surviving Spouse, Minor Child, or Elderly Persons for fiscal year 2006 cost-of-living increase by 2.8%, or to take any other action thereto.

[Requested by the Board of Assessors]

BOARD OF ASSESSORS RECOMMENDS: 4-0-0
BOARD OF SELECTMEN RECOMMENDS: 5-0-0
FINANCE COMMITTEE RECOMMENDS: 9-0-0

Gregory Muse moved that the Town vote to add an annual, cumulative cost-of-living increase to exemptions granted under M.G.L. c. 59, §5, Clause 17D, Surviving Spouse, Minor Child, or Elderly Persons for fiscal year 2006 cost-of-living increase by 2.8%.

Motion Passed.

Article 12. *Fireworks.* To see if the Town will vote to transfer from the unexpended balance in Article 30, Item 4 of the April 7, 2003 Annual Town Meeting, *Historic Walking Trail*, the sum of \$32,100 to be expended under the direction of the Town Manager, the Chief of Police, and the Director of Public Works for a fireworks celebration; and costs associated therewith, or to take any other action relative thereto.

[Requested by the Board of Selectmen]

BOARD OF SELECTMEN RECOMMENDS INDEFINITE POSTPONEMENT: 4-1-0
FINANCE COMMITTEE RESERVES RECOMMENDATION

Cheryl Andrews moved that the Town vote to indefinitely postpone action of Article 12.

Motion Passed.

Mary-Jo Avellar moved to dissolve Special Town Meeting.

Motion Passed.

Special Town Meeting dissolved at 9:55 p.m. on Monday, April 3, 2006.