



SPECIAL TOWN MEETING

WEDNESDAY, APRIL 7, 2004 AT 6:00 P.M.

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Town Moderator Elizabeth Steele-Jeffers convened the meeting at 6:00 p.m. Wednesday, April 7, 2004.

(1) Mary-Jo Avellar moved that the Town vote to waive the reading of the warrant.

Motion Passed.

(2) Mary-Jo Avellar moved that the Town vote to grant permission to speak at the April 7, 2004 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*; Christopher Flavell, *Marine Superintendent*; Elizabeth Hartsgrove, *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*; Michelle Jarusiewicz, *Acting Assistant Town Manager*; Bruce T. Miller, *Director of Municipal Finance and Town Accountant*; Maxine Notaro, *Permit Coordinator*; Patricia Pajaron, *Health Inspector*; Wayne Perry and Mark White, *engineers, Environmental Partners Group*; Jane Raasch, *Health Agent*; Albert Robinson, *Deputy Water Superintendent*; Anthony Teso, *Principal, Veterans Memorial Elementary School*; Eileen Thomas, *Cape End Manor Administrator*; Dr. Colette Traylor, *Superintendent of Schools*.

Motion Passed.

(3) Mary-Jo Avellar moved that on all matters to come before the April 7, 2004 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.

COMMUNITY HOUSING PROPOSALS

Article 1. General By-law Amendment: Establish Community Preservation Committee.

To see if the Town will vote to amend the General By-laws by adding a new section 5.14, as follows:

5-14. Community Preservation Committee By-law

5-14-1. Membership of the Committee. There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to the provisions of [G.L., c.44B, §5](#). The composition of the committee, the appointing authority and the term of office for the committee members shall be as follows: one member of the Conservation Commission as designated by said Commission; one member of the Historical Commission as designated by said Commission; one member of the Planning Board as designated by said

Board; one member of the Recreation Commission, as designated by the Commission; one member of the Provincetown Housing Authority as designated by said Authority; one member of the Provincetown Housing Partnership as designated by said Partnership; one member of the Open Space Committee as designated by said Committee; and two individuals to be appointed by the Board of Selectmen. Each member of the Committee shall serve for a term of three years or until the person no longer serves in the position or on the board or committee as set forth above, whichever is earlier; provided, however, that two of the Board of Selectmen's appointees shall be appointed for initial terms of three years, one appointee shall be appointed for an initial term of two years, and the final appointee shall be appointed for an initial term of one year. Should any of the officers and commissions, boards, or committees who have appointing authority under this by-law be no longer in existence for whatever reason, the Board of Selectmen shall appoint a suitable person to serve in their place. Any member of the Committee may be removed for good cause in accordance with Section 10-2-1 of the Town Charter.

5-14-2. Duties

5-14-2-1. The community preservation committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the department of public works, and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one annual public informational hearing, or more at its discretion, on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

5-14-2-2. The community preservation committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

5-14-2-3. The community preservation committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

5-14-2-4. In every fiscal year, the community preservation committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund in each of the following areas for (a) open space (not including land for recreational use), (b) historic resources; and (c) community housing.

5-14-3. Requirement for a quorum and cost estimates. The community preservation committee shall comply with the provisions of the Open Meeting Law, G.L. c.39, §23B. The committee shall not meet or conduct business without the presence of a majority of the members of the community preservation. The community preservation committee shall

approve its actions by majority vote. Recommendations to the Town Meeting shall include the committee's anticipated costs.

5-14-4. Amendments. This by-law may be amended from time to time by a majority vote of the Town Meeting, consistent with the provisions of G.L. c.44B.

5-14-5. Severability. In case any section, paragraph or part of this by-law is for any reason declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force and effect.

5-14-6. When Effective. Provided that the Community Preservation Act, MGL c. 44B, is accepted at the [2004 Annual Town election](#), this section shall take effect upon approval by the Attorney General of the Commonwealth and after all requirements of MGL .c. 40, section 32 have been met. Each appointing authority shall have thirty (30) days after the effective date to make its appointments.

or to take any other action relative thereto.

[Requested by the Board of Selectmen, Town Manager, Housing Authority, Housing Partnership, and Open Space Committee]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 5-2-0

PLANNING BOARD RECOMMENDS: 3-0-0

CONSERVATION COMMISSION RECOMMENDS: 4-0-0

OPEN SPACE COMMITTEE RECOMMENDS: 3-0-0

HOUSING PARTNERSHIP RECOMMENDS: 4-0-0

HOUSING AUTHORITY RECOMMENDS: 4-0-0

Richard Olson moved that the Town vote to amend the General By-laws by adding a new section 5.14, as printed in the warrant, with the following amendment:

Amend §5-14-2-4 to read as follows: "In every fiscal year, the community preservation committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for open space (not including land for recreational use), not less than 10% of the annual revenues in the Community Preservation Fund for historic resources; and not less than 80% of the annual revenues in the Community Preservation Fund for community housing."

Anne Lord Malicoat moved to amend the motion as presented on Article 1 to read as printed in the warrant (section 5-14-2-4 to read as printed in the warrant). **Amendment Does Not Pass.**

Motion Passed.

Article 2. Zoning By-law Amendment: Affordable Accessory Apartments; Amnesty. To see if the Town will vote to amend the Zoning By-law as follows:

I. Add SECTION 4800, AFFORDABLE HOUSING BY-LAW, as follows.:

SECTION 4800, AFFORDABLE HOUSING BY-LAW

1. Accessory Apartments. One (1) accessory dwelling unit per lot may be allowed in any residential or commercial zoning district by special permit from the Zoning Board of Appeals, notwithstanding any provisions in the Zoning By-law that may restrict the total number of dwelling units per lot, subject to the requirements, standards and conditions listed below, unless the proponent obtains a special permit from the Zoning Board of Appeals.

2. Requirements and Standards

A. The accessory dwelling unit shall be subject to an affordable housing restriction, for a term of perpetuity or the longest period allowed by law, that limits rental rates and resale prices, limits eligibility for occupancy and purchase, and provides a right of first refusal to the Town of Provincetown. Accessory dwelling units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 80% of the Barnstable County median income; or available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 80% of the Barnstable County median income. Eligibility for occupancy shall be limited to households whose income is at or below 80% of Barnstable County median income.

B. The accessory dwelling unit shall be located within the principal structure or a garage or other existing freestanding structure.

C. The Inspector of Buildings and Health Agent shall have inspected the premises for compliance with public safety and public health codes.

D. A special permit application shall include a certification of the amount of rent to be charged or the sale price, as applicable, for each accessory dwelling unit and the income of each occupant household. For rental accessory dwelling units, each year thereafter on the first of July, holders of special permits granted pursuant to this section shall submit to the Zoning Board of Appeals or its agent as designated in the special permit a certification of annual rents charged and the income of occupant household(s) for the most recently completed fiscal year of the holder and as of July first. Forms for this purpose shall be provided by the Town or its agent. Rents may be adjusted annually in accordance with Department of Housing and Community Development Local Initiative Program Regulations and Guidelines, or regulations and guidelines or a similar state program having the same purpose.

3. Amnesty. Owners of lots containing a dwelling unit (i) for which there does not exist a validly-issued variance, special permit, building permit or occupancy permit, (ii) that is/are not legally pre-existing, non-conforming use(s) or structure(s), or (iii) is/are not otherwise in compliance with the Zoning By-law shall apply for a special permit under this section within one (1) year of the effective date of this section; otherwise the provisions of this section shall not apply to such lots.

4. Procedure.

A. The property owner shall complete and submit an application for a special permit to the Zoning Board of Appeals in accordance with the Provincetown Zoning Board of Appeals Rules and Procedures.

B. The property owner shall obtain a compliance certification as provided by Section 5120 to allow the change in use.

C. The property owner shall obtain a certificate of occupancy prior to occupancy of the accessory dwelling unit.

D. The property owner shall deliver to the Provincetown Local Housing Partnership an executed and acknowledged affordable housing restriction or, for ownership accessory dwelling unit an executed and acknowledged covenant whereby the property owner agrees to convey the accessory dwelling unit subject to a certain affordable housing restriction attached as an exhibit to the covenant, in either case approved as to form by town counsel, before a compliance certification pursuant to Section 5120 may issue for the accessory dwelling unit. If the compliance certification is denied, the instrument shall be returned to the property owner; if the compliance certification is granted, the instrument shall be recorded by the Board of Selectmen. No occupancy permit shall be issued for any accessory dwelling unit without evidence of recordation of the affordable housing restriction and the subordination of all mortgages.

E. Failure to comply with any provision of this Section 4800 may result in fines established in Section 5140 of the Provincetown Zoning By-laws.

5. Scope and Validity of the Bylaw.

Nothing in this Section 4800 shall nullify or exempt any property or use from any other provisions of these By-laws or other Town regulations. The invalidity of any provision of this Section 4800 shall not invalidate any other section or provision hereof, nor shall it invalidate any building permit, occupancy permit or special permit issued in reliance on said section or provision prior to the determination of its invalidity.”

II. Amend Article 1 Definitions:

(a) Delete the definition of “Affordable Housing” and replace it with the following definition:

“**Affordable Housing:** Dwelling units subject to affordable housing restrictions based on the Barnstable County median income as is periodically defined by United States Department of Housing and Urban Development adjusted for household size, as further defined below.

(a) **Low Income Community Housing.** Dwelling units, subject to an affordable housing restriction, for a term of perpetuity or the longest period allowed by law, that limits rental rates, limits eligibility for occupancy and purchase, and provides a right of first refusal to the Town of Provincetown. Low Income Community Housing units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 60% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 60% of the Barnstable County median income. Occupancy shall be limited to households whose income is at or below 60% of Barnstable County median income.

(b) **Moderate Income Community Housing.** Dwelling units, subject to an affordable housing restriction, for a term of perpetuity or the longest period allowed by law, that limits rental rates and resale prices, limits eligibility for occupancy and purchase, and provides a right of first refusal to the Town of Provincetown. Moderate Income Community Housing units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 80% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 80% of the Barnstable County median income. Eligibility for occupancy shall be limited to households whose income is at or below 80% of Barnstable County median income.

III. Amend SECTION 2440, PERMITTED PRINCIPAL USES as follows:

Amend use category “A. Residential” by inserting as use item “A7” the words “Dwelling, Accessory Apartment” and inserting in each of the “Res1”, “Res2”, “Res3/ResB”, “TCC”, and “GC” columns, the letters “BA”.

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

[Requested by the Board of Selectmen, Town Manager, Housing Authority, and Housing Partnership]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

PLANNING BOARD RECOMMENDS: 3-0-0

HOUSING AUTHORITY RECOMMENDS: 4-0-0

HOUSING PARTNERSHIP RECOMMENDS: 4-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

Zoning Amendment: 2/3’s vote required under MGL C.40A

[Sarah Peake moved that the Town vote to approve Article 2 as printed in the warrant with the following amendments:](#)

- I. In “**SECTION 4800, AFFORDABLE HOUSING BY-LAW** Paragraph 1, Accessory Apartments, by deleting the words, “unless the proponent obtains a special permit from the Zoning Board of Appeals.”
- II. In the proposed amendments to Article 1 Definitions, to amend to proposed new definition of “Affordable Housing” to read as follows:

“Affordable Housing: Dwelling units subject to affordable housing restrictions based on the Barnstable County median income as is periodically defined by United States Department of Housing and Urban Development adjusted for household size, as further defined below.

 - (a) **Low Income Community Housing.** Dwelling units, subject to an affordable housing restriction, for a term of perpetuity or the longest period allowed by law, that limits rental rates, limits eligibility for occupancy and purchase, and provides a right of first refusal to the Town of Provincetown. Low Income Community Housing units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 50% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 50% of the Barnstable County median income. Occupancy shall be limited to households whose income is at or below 65% of Barnstable County median income.
 - (b) **Moderate Income Community Housing.** Dwelling units, subject to an affordable housing restriction, for a term of perpetuity or the longest period allowed by law, that limits rental rates and resale prices, limits eligibility for occupancy and purchase, and provides a right of first refusal to the Town of Provincetown. Moderate Income Community Housing units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 65% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 65% of the Barnstable County median income. Eligibility for occupancy shall be limited to households whose income is at or below 80% of Barnstable County median income.

Motion Passed. (2/3rd Vote Required)

Article 3. Zoning By-law Amendment: Growth Management Reallocation for Affordable and Middle-Income Community Housing Units. To see if the Town will vote to as follows: WHEREAS, changes in use have led to a decrease in the Title 5 design flow of certain properties in Provincetown; and WHEREAS, the Town desires to reallocate such decreases in flow for affordable and middle income community housing, THEREFORE, the Town votes to amend the Zoning By-law as follows:

I. Amend ARTICLE 1 DEFINITIONS by adding the definition of “Community Housing” as follows:

“Community Housing: Dwelling units subject to community housing restrictions based on the Barnstable County median income as is periodically defined by United States Department of Housing and Urban Development adjusted for household size, as further defined below.

- (a) **Middle Income Community Housing.** Dwelling units, subject to a housing restriction, for a term of perpetuity or the longest period allowed by law, that limits rental rates and resale prices, limits eligibility for occupancy or purchase, and provides a right of first refusal to the Town of Provincetown. Middle income community housing dwelling units shall be available

for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 150% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 150% of the Barnstable County median income. Eligibility for occupancy shall be limited to households whose income is at or below 150% of Barnstable County median income.”

II. Amend Section 6500, Table of Use Categories and Priorities, GENERAL USE CATEGORY 1 by changing "1. Affordable Housing Units" to "1a Affordable Housing Units" and adding the following: "1b Community Housing Units."

III. Amend Section 6600, by adding to the end of paragraph 1 the following: “On the effective date of this zoning by-law amendment and on the anniversary thereof in 2005, 2006, 2007 and 2008, 1,650 gallons per day shall be added to the allotment for Use Category 1a, provided that prior to each such anniversary, the Board of Selectmen shall have made a finding that the Town is in compliance with the water withdrawal permit issued by the Department of Environmental Protection (“DEP”) pursuant to 310 CMR 36.00 and all applicable rules and regulations promulgated by DEP with respect thereto.”

IV. Amend Section 6600 by adding a new paragraph 1A. “On the effective date of this zoning by-law amendment and on the anniversary thereof in 2005, 2006, 2007 and 2008, 550 gallons per day shall annually be added to the allotment for Use Category 1b, provided that prior to each such anniversary, the Board of Selectmen shall have made a finding that the Town is in compliance with the water withdrawal permit issued by the Department of Environmental Protection (“DEP”) pursuant to 310 CMR 36.00 and all applicable rules and regulations promulgated by DEP with respect thereto.”

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

[Requested by the Board of Selectmen, Town Manager, Housing Authority, and Housing Partnership]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

PLANNING BOARD RECOMMENDS: 4-0-0

HOUSING AUTHORITY RECOMMENDS: 3-0-1

HOUSING PARTNERSHIP RECOMMENDS: 4-0-0

Zoning Amendment: 2/3’s vote required under MGL C.40A

Michele Couture moved that the Town vote to approve Article 3 as printed in the warrant with the following amendments:

1. Revise the proposed definition of Community Housing by changing (a) to (b) and inserting as a new (a) the following:

(a) “ Median Income Community Housing. Dwelling units, subject to a housing restriction, for a term of perpetuity or the longest period allowed by law, that limits rental rates and resale prices, limits eligibility for occupancy or purchase, and provides a right of first refusal to the Town of Provincetown. Median Income Community Housing dwelling units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 80% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 80% of the Barnstable County median income. Eligibility for occupancy shall be limited to households whose income is

at or below 100% of Barnstable County median income.”

And by amending (b) to read as follows:

(b) Middle Income Community Housing. Dwelling units, subject to a housing restriction, for a term of perpetuity or the longest period allowed by law, that limits rental rates and resale prices, limits eligibility for occupancy or purchase, and provides a right of first refusal to the Town of Provincetown. Middle income community housing dwelling units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 120% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 120% of the Barnstable County median income. Eligibility for occupancy shall be limited to households whose income is at or below 150% of Barnstable County median income.”

2. Revise the number and names of proposed general use categories in General Use Category 1 of Section 6500 by deleting “1b Community Housing Units.” and substituting therefor “1b Median Income Community Housing Units” and “1c Middle Income Community Housing Units.”
3. Revise the proposed number of gallons per day allotment in Section 6600 for Use Category 1a by substituting “550” gallons per day for “1,650” gallons per day.
4. Revise the proposed number of gallons per day allotment in Section 6600 for Use Category 1b by substituting “1,100” gallons per day for “550” gallons per day.
5. Create a gallons per day allotment in Section 6600 for Use Category 1c by adding the following paragraph 1B: “On the effective date of this zoning by-law amendment and on the anniversary thereof in 2005, 2006, 2007 and 2008, 550 gallons per day shall annually be added to the allotment for Use Category 1c, provided that prior to each such anniversary, the Board of Selectmen shall have made a finding that the Town is in compliance with the water withdrawal permit issued by the Department of Environmental protection (“DEP”) pursuant to 310 CMR 36.00 and all applicable rules and regulations promulgated by DEP with respect thereto.”

Motion Passed. (2/3rd Vote Required)

FINANCIAL MATTERS

Article 4. Cape End Manor FY 2004 Supplemental Appropriation. To see if the Town will vote to raise and appropriate the sum of \$224,353 to increase the 525 Cape End Manor budget for Fiscal Year 2004 established under Article 2 of the April 7, 2003 Annual Town Meeting as follows:

525 Cape End Manor	<i>Original</i>	<i>Revised</i>	<i>Difference</i>
Personal Services	\$2,016,869	\$2,065,228	+48,359
Expenses	974,361	1,150,355	+175,994
Total	\$2,991,230	\$3,215,583	+224,353

or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 4-0-1

FINANCE COMMITTEE RECOMMENDS: 8-0-0

Mary-Jo Avellar moved that the Town vote to approve Article 4 as printed in the warrant.

Motion Passed.

Article 5. *Cape End Manor Care Campus Options.* To see if the Town will vote to raise and appropriate or borrow the sum of \$20,000 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](#), including but not limited to a same-site scenario involving the potential transfer of the Manor property at 100 Alden Street, and other properties to be determined, to a non-profit health care entity which would design, build, and operate a Cape End Manor Care Campus providing at a minimum skilled nursing home care, out-patient rehabilitation therapies, and affordable assisted living thereat; and to present the results of said study to a special town meeting to be held during the Fall of 2004, or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 4-0-1

FINANCE COMMITTEE RECOMMENDS: 8-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

[Mary-Jo Avellar moved that the Town vote to raise and appropriate the sum of \\$20,000 for Article 5.](#)
Motion Passed.

Article 6. *Recreational Facility Improvements Planning.* To see if the Town will vote to raise and appropriate or borrow the sum of \$20,000 to be expended under the direction of the Board of Selectmen and the School Committee to fund the preparation of design plans and specification for improvements to recreational facilities at Motta Field, including the potential relocation of the tennis courts, and costs related thereto; or to take any other action relative thereto.

[Requested by the Board of Selectmen and the School Committee]

BOARD OF SELECTMEN RECOMMENDS MOTION: 4-0-1

FINANCE COMMITTEE RECOMMENDS MOTION: 8-0-0

[Mary-Jo Avellar moved that the Town vote to indefinitely postpone action on Article 6.](#)
Motion Passed.

Article 7. *Capital Improvements.* To see if the Town will vote to borrow or transfer from available funds the following sums to defray the costs of the certain capital improvements submitted in accordance with Chapter 9, section 2 of the Provincetown Charter, which commence prior to July 1, 2004, as follows:

1. *SBA-Reimbursable Repairs to Provincetown High School:* to appropriate and borrow the sum of \$495,000 to supplement the amount previously appropriated under Article 7 of the April 1, 2002 Special Town Meeting for SBA-reimbursable repairs to Provincetown High School on Winslow Street and costs 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 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 Committee and the Superintendent of Schools to apply for and accept such funds;
2. *Parking Vehicle:* \$14,200 to be expended under the direction of the Town Manager and the Parking Administrator for replacement of one parking vehicle, and costs related thereto;

3. Transfer Station Hauling Trailers: \$90,000 to be expended under the direction of the Town Manager and the Director of Public Works for the replacement of hauling trailers for the Transfer Station for the Department of Public Works, and costs related thereto;
4. MacMillan Pier Reconstruction: to see what sum the Town will vote to appropriate and borrow to supplement the amounts previously appropriated under Article 3 of the April 5, 1999 Special Town Meeting and Article 1 of the June 26, 2000 Special Town Meeting for the rehabilitation of MacMillan Pier and costs related thereto; and that the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Sections 7 and 8, 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;

or to take any other action relative thereto.

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

1. SBA-Reimbursable Repairs to Provincetown High School:

BOARD OF SELECTMEN RECOMMENDS \$250,000: 5-0-0

FINANCE COMMITTEE RECOMMENDS \$250,000: 8-0-0

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

Richard Olson moved that the Town vote to approve Article 7, Item 1 as printed in the warrant, in the amount of \$250,000.

Kerry Adams motioned to amend the motion to the limit of \$495,000 requested by the School Committee. **Amendment Does Not Pass.**

Motion Passed. (2/3rd Vote Required)

2. Parking Vehicle:

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Richard Olson moved that the Town vote to transfer from the Police Revolving Fund the sum of \$14,200 to be expended under the direction of the Town Manager and the Parking Administrator for replacement of one parking vehicle, and costs related thereto.

Motion Passed.

3. Transfer Station Hauling Trailers:

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 4-2-1

Borrowing: 2/3's vote required under MGL C.4

Richard Olson moved that the Town vote to appropriate and borrow the sum of \$90,000 to be expended under the direction of the Town Manager and the Director of Public Works for the replacement of hauling trailers for the Transfer Station for the Department of Public Works, and

costs related thereto; and that the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 7(9), of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor.

Motion Passed.

4. MacMillan Pier Reconstruction:

**BOARD OF SELECTMEN RESERVES RECOMMENDATION
FINANCE COMMITTEE RECOMMENDATION**

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

- Richard Olson moved that the Town vote to indefinitely postpone action on Article 7, Item 4.

Motion Passed.

Article 8. Acceptance of MGL C.90,§20A – Increase Parking Fines. To see if the Town will vote to rescind its acceptance of MGL C.90,§20A½ and to accept instead MGL C.90,§20A, effective May 1, 2004, which authorizes parking ticket fines of \$25 if paid within 21 days, \$35 if paid thereafter but before the parking clerk reports to the registrar as provided below, and \$50 if paid thereafter; 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: 8-0-0

Sarah Peake moved that the Town vote to rescind its acceptance of MGL C.90,§20A½ and to accept instead MGL C.90,§20A, effective May 1, 2004, which authorizes parking ticket fines of \$25 if paid within 21 days, \$35 if paid thereafter but before the parking clerk reports to the registrar as provided below, and \$50 if paid thereafter.

Motion Passed.

Article 9. Acceptance of MGL C.40,§42J: Deferral of Water Charges for Low Income Elderly Taxpayers. To see if the Town will vote to accept the provisions of [Chapter 40, section 42J of the General Laws](#), which authorizes the deferral of water use charges for low income property owners aged 65 years old and older; or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Michele Couture moved that the Town vote to accept the provisions of Chapter 40, section 42J of the General Laws, which authorizes the deferral of water use charges for low income property owners aged 65 years old and older.

Motion Passed.

Article 10. FY 2004 Water Enterprise Fund. To see if the Town will vote to amend its vote under Article 3, Item 2 of the April 7, 2003 Annual Town Meeting to read as follows: “that \$1,717,334 be appropriated to operate the Water Enterprise fund, for \$1,387,334 to come from Water Enterprise

fund revenues, \$50,000 to come from Water Enterprise fund balance, and further, \$280,000 to be appropriated in the general fund and funded from Water Enterprise revenues;” or to take any other action relative thereto.

[Requested by the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

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

Motion Passed.

Article 11. *FY 2004 Wastewater Enterprise Fund.* To see if the Town will vote to amend its vote under Article 3, Item 1 of the April 7, 2003 Annual Town Meeting to read as follows: “that \$2,436,150 be appropriated to operate the Wastewater Enterprise Fund, for \$1,124,210 to come from enterprise fund revenues, \$1,031,940 to come from Wastewater Enterprise retained earnings, and further, \$280,000 to be appropriated in the general fund and funded from Wastewater Enterprise revenues” or to take any other action relative thereto.

[Requested by the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Keith Bergman moved that the Town vote to approve Article 11 as printed in the warrant.

Motion Passed.

Article 12. *FY 2004 Budget Adjustments.* To see if the Town will vote as follows relative to the Fiscal Year 2004 operating budgets established under Article 2 of the April 7, 2003 Annual Town Meeting:

(1) to reduce total FY 2004 spending by \$50,000, by reducing the appropriations for the following Fiscal Year 2004 budgets, by the following amounts:

135-B Accountant – Expenses	\$2,000	
136-B Information Systems - Expenses		10,000
145-B Treasurer – Expenses	2,000	
192-B DPW Buildings & Grounds – Expenses		10,000
210-A Police – Personal Services	1,000	
220-B Police - Expenses	5,000	
421-B DPW Administration	<u>20,000</u>	
<i>Sub-total</i>	\$50,000	

(2) to transfer \$27,000 from Overlay Surplus to increase the Fiscal Year 2004 budget for 151-B Legal Services – Expenses by \$27,000; or to take any other action relative thereto.

[Requested by the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

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

Motion Passed.

Article 13. *Fund Collective Bargaining Agreements.* To see what sums the Town will vote to raise and appropriate or transfer from available funds to fund collective bargaining agreements

reached with AFSCME Council 93, Local 1462, Town-wide Unit "A" and the Provincetown Police Labor Federation, for FY 2004, or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 4-0-1

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Cheryl Andrews moved that the Town vote to transfer from the FY 2004 210-A Police budget the sum of \$20,573 to fund for FY 2004 the collective bargaining agreement reached with AFSCME Council 93, Local 1462, Town-wide Unit "A".

Motion Passed.

Article 14. Use of Parking Fund to Reduce the FY 2004 Tax Levy. To see if the Town will vote to amend its vote under Article 33 of the April 7, 2003 Annual Town Meeting to read as follows: "to transfer the sum of 1,000,000 from the Parking Fund to reduce the Fiscal Year 2004 property tax levy, as provided by Chapter 790 of the Acts of 1981," or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Michele Couture moved that the Town vote to approve Article 14 as printed in the warrant.

Motion Passed.

Article 15. Use of Free Cash to Reduce FY 2004 Property Tax. To see what sum the Town will vote to transfer from Free Cash to reduce the Fiscal Year 2004 property tax levy; or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RESERVES RECOMMENDATION

Mary-Jo Avellar moved that the Town vote to transfer from Free Cash the sum of \$700,000 to reduce the Fiscal Year 2004 property tax levy.

Motion Passed.

Article 16. Massachusetts Highway Department Chapter 90 Funds for Road and Sidewalk Construction and Repairs. To see if the Town will vote to appropriate from funds available from the Massachusetts Highway Department the sum of \$67,550 for the undertaking of road and sidewalk construction and repairs under the provisions of Section 34(2)(a) of Chapter 90 of the General Laws, or to take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Sarah Peake moved that the Town vote to appropriate from funds available from the Massachusetts Highway Department the sum of \$67,550 for the undertaking of road and sidewalk construction and

repairs under the provisions of Section 34(2)(a) of Chapter 90 of the General Laws.

Motion Passed.

10:00 pm - Special Town Meeting Adjourned until Monday, April 12, 2004 at 6:00 p.m.

Monday, April 12, 2004

Special Town Meeting

Town Moderator Elizabeth Steele-Jeffers called the meeting to order at 6:00 p.m.

Article 17. *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 \$25,000 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, and other costs associated therewith; or take any other action relative thereto.

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

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-1

OPEN SPACE COMMITTEE RECOMMENDS: 3-0-0

CONSERVATION COMMISSION RECOMMENDS: 4-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

Keith Bergman moved that the Town vote to transfer from the Land Bank Fund established under Chapter 293 of the Acts of 1998 the sum of \$25,000 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, and other costs associated therewith.

Howard Burchman proposed an amendment to substitute the sum of \$10,000.00 where the article as proposed states \$25,000.00. Also to add the following language: The pre-acquisition fund shall be established as a revolving fund. Loans at no interest shall be advanced to cover pre-acquisition expenses. When an open space acquisition is approved, the funds advanced for pre-acquisition expenses will be reimbursed to the Pre-Acquisition Loan Fund. **Amendment Does Not Pass.**

Motion Passed.

Article 18. *Land Bank - Open Space Acquisition – 82 Harry Kemp Way.* To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise the fee interest in a certain parcel of real estate at 82 Harry Kemp Way owned by Ray M. Wells, containing 2.09-acres, more or less, shown as Assessors Map 13-2-034-A, a copy of which is on file in the Office of the Town Clerk, together with and subject to all rights, restrictions and easements of record, on such terms and conditions as the Selectmen may determine; and to appropriate and borrow the sum of \$125,000 for such acquisition and all expenses incidental and related thereto, pursuant to Chapter 293 of the Acts of 1998 entitled, "An Act Relative to the Establishment of the Cape Cod Open Space Land Acquisition Program" (the so-called "Land Bank"); provided that said land is to be conveyed to the Town of Provincetown under the provisions of Massachusetts General

Laws, Chapter 40, Section 8C, and as it may be hereafter amended, and other Massachusetts statutes relating to conservation and passive recreation, to be managed and controlled by the Provincetown Conservation Commission, and, to the extent that any federal, state or other funds are or become available for the purposes outlined in this Article, to authorize the Board of Selectmen or other applicable boards or commissions to apply for and accept such funds; and further provided that the Board of Selectmen and the Conservation Commission be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Provincetown to effect said acquisition or purchase or grants, or to take any other action relative thereto; and further, to authorize the Board of Selectmen and the Conservation Commission to convey to the Trustees of the Provincetown Conservation Trust, for no consideration, a perpetual conservation restriction on said land as authorized by Massachusetts General Laws, Chapter 184, Sections 31-33, allowing 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]

BOARD OF SELECTMEN RECOMMENDS: 3-1-1

FINANCE COMMITTEE RECOMMENDS: 4-3-1

OPEN SPACE COMMITTEE RECOMMENDS: 3-0-0

CONSERVATION COMMISSION RECOMMENDS: 4-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

Land, Borrowing: 2/3's vote required under MGL C.40, C.44

Keith Bergman moved that the Town vote that the Board of Selectmen is hereby authorized to acquire by purchase, gift, eminent domain, or otherwise the fee interest in a certain parcel of real estate at 82 Harry Kemp Way owned by Ray M. Wells, containing 2.09-acres, more or less, shown as Assessors Map 13-2-034-A, 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 that the sum of \$125,000 is hereby appropriated to pay for the costs of this acquisition and for the payment of all other costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is hereby authorized to borrow said sum, under and 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 shall be conveyed to the Town of Provincetown under the provisions of Massachusetts General Laws, Chapter 40, Section 8C, and as it may be hereafter amended, and other Massachusetts statutes relating to conservation and passive recreation, to be managed and controlled by the Provincetown Conservation Commission, and, to the extent that any federal, state or other funds are or become available for the purposes outlined in this Motion, the Selectmen or any other applicable boards or commissions are hereby authorized to apply for and accept such funds; and further provided that the Board of Selectmen and the Conservation Commission are hereby authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Provincetown to effect said acquisition or purchase or grants; and further, that the Board of Selectmen and the Conservation Commission are each hereby authorized 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.

Keith Bergman moved to amend the motion to read that the sum of \$125,000.00 is hereby appropriated from the Land Bank Fund to pay for the costs of this acquisition and for payment of all other incidental and related thereto. **Amendment Passed (For 114 Against 104)**

Motion as Amended Passed. (2/3rd Vote Required)

Austin Knight moved that it be the sense of the meeting that the Town name this area as "Ray and Nickie Well's Conservation Area." **Motion Passed.**

Article 19. Land Bank - Open Space Acquisition – 290F Bradford Street. To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift or otherwise the fee interest in a certain parcel of real estate at 290F Bradford Street owned by Aaron L. Curtis, containing 1.5-acres, more or less, shown as Assessors Map 15-3-105, a copy of which is on file in the Office of the Town Clerk, together with and subject to all rights, restrictions and easements of record, on such terms and conditions as the Selectmen may determine; and to appropriate and borrow the sum of \$100,000 or any greater or lesser sum for such acquisition and all expenses incidental and related thereto, pursuant to Chapter 293 of the Acts of 1998 entitled, "An Act Relative to the Establishment of the Cape Cod Open Space Land Acquisition Program" (the so-called "Land Bank"); provided that said land is to be conveyed to the Town of Provincetown under the provisions of Massachusetts General Laws, Chapter 40, Section 8C, and as it may be hereafter amended, and other Massachusetts statutes relating to conservation and passive recreation, to be managed and controlled by the Provincetown Conservation Commission, and, to the extent that any federal, state or other funds are or become available for the purposes outlined in this Article, to authorize the Board of Selectmen or other applicable boards or commissions to apply for and accept such funds; and further provided that the Board of Selectmen and the Conservation Commission be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Provincetown to effect said acquisition or purchase or grants, or to take any other action relative thereto; and further, to authorize the Board of Selectmen and the Conservation Commission to convey to the Trustees of the Provincetown Conservation Trust, for no consideration, a perpetual conservation restriction on said land as authorized by Massachusetts General Laws, Chapter 184, Sections 31-33, allowing 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]

BOARD OF SELECTMEN RECOMMENDS: 4-1-0

FINANCE COMMITTEE DOES NOT RECOMMEND: 5-0-3

OPEN SPACE COMMITTEE RECOMMENDS: 3-0-0

CONSERVATION COMMISSION RECOMMENDS: 4-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

Land, Borrowing: 2/3's vote required under MGL C.40, C.44

Keith Bergman moved that the Board of Selectmen is hereby authorized to acquire by purchase, gift or otherwise the fee interest in a certain parcel of real estate at 290F Bradford Street owned by Aaron L. Curtis, containing 1.5-acres, more or less, shown as Assessors Map 15-3-105, 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 that the sum of \$89,000

is hereby appropriated from the Land Bank Fund to pay for the costs of this acquisition and for the payment of all other costs incidental and related thereto, provided that said land shall be conveyed to the Town of Provincetown under the provisions of Massachusetts General Laws, Chapter 40, Section 8C, and as it may be hereafter amended, and other Massachusetts statutes relating to conservation and passive recreation, to be managed and controlled by the Provincetown Conservation Commission, and, to the extent that any federal, state or other funds are or become available for the purposes outlined in this Article, the Board of Selectmen or any other applicable boards or commissions are hereby authorized to apply for and accept such funds; and further provided that the Board of Selectmen and the Conservation Commission are authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of the Town of Provincetown to effect said acquisition or purchase or grants, and further, that the Board of Selectmen and the Conservation Commission are hereby authorized 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.

Motion Passed. (2/3rds Vote Required)

HOME RULE PETITIONS

Article 20. *Home Rule Petition: Local Option Meals Tax.* To see if the Town will vote to instruct its senator and representative in the General Court to file a home rule petition for a special act entitled, "An Act Enabling the Town of Provincetown to Impose a Local Sales Tax Upon the Sale of Meals, " to read as follows:

SECTION 1. The Town of Provincetown may, upon acceptance of the provisions of this act, impose a local sales tax upon the sale of meals as defined in Chapter 64H of the General Laws and further defined in 830 CMR 64H.6.5, of not more than 3 percent of the total price of the meal. The local sales tax imposed under the provision of this act shall be collected and paid by the vendor to the commissioner of revenue at the same time and in the same manner as the sales tax due the Commonwealth. Liability for failure to pay the local sales tax shall be the same as for failure to pay the sales tax due the Commonwealth in accordance with Chapter 64H of the General Laws. All sums received by the commissioner under the provisions of this act as excise, penalties or forfeitures, interest, cost of suit and fines shall at least quarterly be distributed, credited and paid by the state treasurer, upon certification of the commissioner, to the Town of Provincetown in proportion to the amount of such sums received from the sale of meals in the Town of Provincetown.

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 2004 entitled, 'An Act Enabling the Town of Provincetown to Impose a Local Sales Tax Upon the Sale of Meals' 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. The provisions of this act shall take effect on the first day of the first calendar month following such acceptance; provided further, that if such day is less than 15 days after such acceptance, it shall take effect on the first day of the second calendar month following such acceptance. The Town may not revoke or re-impose the local sales tax provided for in this act more often than once in any 12 month period.

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]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RESERVES RECOMMENDATION

[Michele Couture](#) moved that the Town vote to approve Article 20 as printed in the warrant.

Motion Does Not Pass.

Article 21. *Home Rule Petition: Expanding Local Room Occupancy Tax Base.* To see if the Town will vote to instruct its senator and representative in the General Court to file a home rule petition for a special act entitled, "An Act Enabling the Town of Provincetown to Expand the Local Room Occupancy Tax Base in Said Town," to read as follows:

SECTION 1. The local room occupancy excise tax imposed upon the transfer of occupancy of any room or rooms in a bed and breakfast establishment, hotel, lodging house, or motel in this commonwealth pursuant to Chapter 64G of the General Laws shall in the Town of Provincetown also apply to bed and breakfast homes as defined in section 1(b) of said chapter 64G, and other transient accommodations.

SECTION 2. For the purposes of this act, "Other transient accommodation," shall mean "each living quarter or sleeping or housekeeping accommodation in any apartment house, multiple unit structure (e.g. duplex, triplex, quadraplex, condominium), tourist or mobile home court (e.g., trailer court, motor court, recreational vehicle camp, fish camp), single family dwelling, garage apartment, beach house or cottage, cooperatively owned apartment, condominium parcel, timeshare resort, mobile home, or any other house, boat that has a permanent, fixed location at a dock and is not operated on the water away from the dock by the tenant, vehicle or other structure, place, or location held out to the public to be a place where living quarters or sleeping or housekeeping accommodations are provided to transient guests for consideration. Each room or unit within a multiple unit structure is an accommodation."

SECTION 3. 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 2004 entitled, 'An Act Enabling the Town of Provincetown to Expand the Local Room Occupancy Tax Base in Said Town,' be accepted?" If a majority of the votes cast in answer to said question is in the affirmative, then sections 1 through 9 of this act shall thereupon take effect, but not otherwise. The provisions of this act shall take effect on the first day of the first calendar month following such acceptance; provided further, that if such day is less than 15 days after such acceptance, it shall take effect on the first day of the second calendar month following such acceptance.

SECTION 4. Section 3 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.

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 6-0-1

Richard Olson moved that the Town vote to approve Article 21 as printed in the warrant.

Winthrop Smith moved to amend the motion by inserting into the article: Section 4. 1) If a third party, i.e. Real Estate broker, is engaged by landlord(s) and tenant(s) to negotiate or draft a lease and should such a lease be accepted by both parties and fully executed, this third party will be authorized to collect and pass on to the proper governmental authority such excise tax; 2) If a third party, i.e. property manager or condominium association, ultimately holds for record keeping purposes a fully executed lease, this third party will be authorized to collect and pass on to the proper governmental authority such excise tax. The actions of those above do not remove the ultimate responsibility for the payment of such excise tax for the landlord(s)/property owner(s). **Amendment Does Not Pass.**

Motion Passed. (For 119 Against 80)

Article 22. Home Rule Petition/Charter Amendment/Historic District Commission as Regulatory Board. To see if the Town will vote to instruct its senator and representative in the General Court to file a home rule petition for a special act to read as follows:

SECTION 1. The Charter of the Town of Provincetown which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws is hereby amended by amending Chapter 3, Article 4, section 3-4-9, to read as follows:

“No person shall serve simultaneously as a member/alternative member of more than one of the following regulatory town boards: conservation commission, board of health, ~~historical commission~~ *historic district commission*, licensing board, planning board or zoning board of appeals.”

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; or to take any other action relative thereto.

[Requested by the Board of Selectmen]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Cheryl Andrews moved that the Town vote to approve Article 22 as printed in the warrant.

Motion Passed.

Article 23. Home Rule Petition/Charter Amendment/Board of Assessors. To see if the Town will vote to instruct its senator and representative in the General Court to file a home rule petition for a special act to read as follows:

SECTION 1. The Charter of the Town of Provincetown which is on file in the office of the Archivist of the Commonwealth as provided in Section 12 of Chapter 43B of the General Laws is hereby amended by amending Chapter 6, Article 4, section 6-4-1, to read as follows:

6-4-1 There shall be a board of assessors as provided by G.L. c. 41, §24, consisting of five regular members and one alternate member. The assessor appointed by the town manager

pursuant to Charter §7-2-5 shall be a regular member of the board of assessors and said assessor shall not be subject to the provisions of Chapter 3, Article 4 of this charter. The remaining members shall be appointed by the board of selectmen for three-year overlapping terms so arranged that the term of at least one regular member shall expire each year.

SECTION 2. Said Charter is further amended by adding to Chapter 6, Article 4 the following new section 6-4-3:

6-4-3. The term limits established by §3-4-4 of this charter shall not apply to members of the board of assessors.

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 Board of Selectmen and the Board of Assessors]

BOARD OF SELECTMEN RECOMMENDS AS PRINTED: 5-0-0

FINANCE COMMITTEE RECOMMENDS AS PRINTED: 6-0-1

[Michele Couture](#) moved that the Town vote to approve Article 23 as printed in the warrant.

Motion Passed.

PROVINCETOWN HARBOR

Article 24. *General By-law Amendment: Non-Criminal Disposition of Pier Corporation Regulations.* To see if the Town will vote to amend the Provincetown General By-laws to include the rules and regulations of the Provincetown Public Pier Corporation, as on file with the Town Clerk, by inserting the following new section to read as follows:

2-3-1-1. Any [rule or regulation of the Provincetown Public Pier Corporation duly enacted as of April 7, 2004](#) shall be deemed a by-law of the Town. Violation of such rules or regulations may be enforced by any available means in law or equity, including but not limited to non-criminal disposition pursuant to G.L. c.40, §21D, and Sections 2-3-1 through 2-3-3 of the General By-laws. For the purposes of this by-law, the following officials shall be enforcing persons: the Harbormaster and his designees and any police officer of the Town of Provincetown.

And further by amending Section 2-1, Schedule A, as follows:

2-3-2-1 Violations of the Provincetown Public Pier Corporation Regulations in Effect on April 7, 2004 (attached as Appendix 1 to Schedule A): 1st offense, \$100.00; 2nd offense, \$200.00; 3rd and subsequent offenses, \$300.00

or to take any other action relative thereto.

[Requested by the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

[Keith Bergman](#) moved that the Town vote to approve Article 24 as printed in the warrant.

Motion Passed.

Article 25. *General By-law Amendment: Personal Water Craft By-law: Move Marked*

Channel From West End Ramp to Good Templar Landing. To see if the Town will vote to amend

the Provincetown General By-laws so that 13-4-2-2 and 13-4-2-3 "Personal Watercraft in Provincetown Harbor" reads as follows:

13-4-2-2 Except as provided in §13-4-2-3 below, the operation of personal watercraft is prohibited in the waters of the Town of Provincetown in the following areas:

(a) Within the boundaries of the Cape Cod National Seashore as set forth in Public Law 87-126, 7 August 1961, 75 Stat. 293, and as most recently surveyed by the U.S. Department of Interior.

(b) On the tidal waters of Provincetown Harbor and any adjoining river, inlet, cove, pond, embayment or harbor westerly of a line running from the Provincetown/Truro town line to Long Point Light, with the exception of a marked channel in which personal water craft may pass through Provincetown Harbor operating at headway speed. Said marked channel shall begin at the ~~West End parking lot~~ *Good Templar Landing* thence to Long Point Buoy marker #3 within Provincetown Harbor, [as shown on a plan on file in the office of the Town Clerk.](#)

13-4-2-3. No personal watercraft shall be launched from any location *or vessel* in Provincetown Harbor except the boat-launching ramp at the ~~West End Beach~~ *Good Templar Landing*, and any personal watercraft using said boat-launching ramps shall be registered with the Provincetown harbormaster.

or to take any other action relative thereto.

[Requested by the Harbor Committee]

BOARD OF SELECTMEN HAS NO RECOMMENDATION
FINANCE COMMITTEE HAS NO RECOMMENDATION
HARBOR COMMITTEE RECOMMENDS: 4-0-1
CONSERVATION COMMISSION RECOMMENDS: 4-0-0

Kerry Adams moved that the Town vote to approve Article 25 as printed in the warrant.
Motion Passed.

Mary-Jo Avellar moved to dissolve Special Town Meeting.
Motion Passed.

Special Town Meeting dissolved at 9:22 p.m. on Monday, April 12, 2004.