

Town Warrant

Special Town Meeting – Wednesday, November 9, 2022

Commonwealth of Massachusetts Barnstable, ss.

To either of the Constables of the Town of Provincetown, Greetings:

In the Name of the Commonwealth of Massachusetts and in the manner prescribed in the Charter and Bylaws of said Town, you are hereby directed to notify the inhabitants of the Town qualified by law to vote in Town affairs to meet and assemble at **Provincetown Town Hall, 260 Commercial Street, on Wednesday, the ninth day of November, A.D. 2022 at 6 o'clock in the evening**, then and there to act on the following articles, to wit:

ARTICLES

Article 1. Water Department Lead Service Line Inventory. To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of \$145,000 to be expended under the direction of the Town Manager and the Water Superintendent for the development of a lead service line inventory, and including without limitation all costs related thereto; and further, to authorize the Town Manager and the Select Board to take all actions necessary to carry out such project and apply for, accept, and expend grant funds for such projects; or to take any other action relative thereto.

[Requested by the Town Manager]

Explanation of Article 1: *New EPA Lead & Copper Rule Revisions require all Public Water Systems (PWSs) to complete a Lead Service Line (LSL) inventory by October 16, 2024. Provincetown Water Department conducted an inspection/survey of all properties within the water system in 2010 and 2011 which included documenting the pipe material entering homes or water meter pits/vaults. This information is far above many PWSs who must begin compiling this information over the next year. Although Provincetown Water Department is not aware of any full lead service lines within the system, "lead gooseneck" connections exist within the system and must be accounted. The lead gooseneck was used as a connection at the water main primarily to iron service lines.*

Starting July 1, 2022, the State Revolving Fund (SRF) is offering \$20 million in loans with 100% loan forgiveness for LSL inventories. This funding request is to take advantage of the 100% loan forgiveness program and work with our consulting engineers to compile the required inventory. In order to apply for the loan forgiveness program, the Water Department requires an appropriation/borrowing authorization prior to submission. **[2/3rds Vote Required]**

Article 2. Open Space Committee - Land Bank – Acquisition of the Property at 806, 820, 820A, 824, 828 and 832 Commercial Street. To see if the Town will vote to authorize the Select Board to acquire, by purchase, gift, and/or eminent domain, on such terms and conditions as the Select Board deems in the best interests of the Town, all or portions of the parcels of land located at 806, 820, 820A, 824, 828, and 832 Commercial Street, containing 1.90 acres, more or less, and being the premises described in a deed recorded with the Barnstable Registry of Deeds in Book 35039, Page 91, for conservation and passive recreation purposes under the provisions of G.L. c. 40, §8C, as the same may be amended, to be managed and controlled by the Conservation Commission; and to raise and appropriate, transfer from available funds, including, without limitation, the Cape Cod Land Bank Act, and/or

borrow, **\$1,750,000** for the purpose of said acquisition and costs incidental and related thereto; to authorize the Select Board to enter into all agreements and execute on behalf of the Town any and all instruments as may be necessary or convenient to effectuate said acquisition; and further, to authorize the Select Board and the Conservation Commission to convey to a qualified organization a conservation restriction on said land meeting the requirements of G.L. c. 184, §§31-33, in accordance with said Land Bank Act, limiting the use of said land to the aforesaid purposes in perpetuity; or to take any other action relative thereto.

[Requested by the Open Space Committee]

Explanation of Article 2: *The Open Space Committee recommends this article to the Town to acquire the property at 806, 820, 820A, 828 and 832 Commercial Street (approximately 1.90 acres) for conservation and public passive recreational use. The site is forested and undeveloped and contains an isolated wetland, steep slopes, and the ridge of a hill, which affords views of Provincetown Harbor. It is adjacent to the Maple Grove Bird Sanctuary and directly abuts the Old Colony Nature Trail. This acquisition will prevent private development of the lots, which would not only destroy critical habitat and the fragile forest landscape of the Provincetown Greenway, but also greatly detract from the public's experience of the trail. The property includes a dirt driveway which can offer a new public access route from Commercial Street to the Old Colony Trail. Land Bank funds would be used for the purchase; there are sufficient funds in the Land Bank to acquire this parcel without need to finance the purchase. This purchase will expend most of the remaining balance of Land Bank funds, but it will be a significant capstone for the Town's open space preservation efforts under the 20-year Land Bank program.*

[2/3rds Vote Required]

Article 3. Wastewater Infrastructure Replacement and Modernization Project – Borrowing Authorization. To see if the Town will vote to appropriate a sum of money to be expended under the direction of the Town Manager and the Select Board, for the development of plans and specifications and for construction of infrastructure replacement and modernization of the Town's sewer system, including without limitation all costs defined under Chapter 29C, Section 1 of the General Laws and all other costs incidental and related thereto; and to raise and appropriate, transfer from available funds or borrow said sum of money under and pursuant to Chapter 44, Section 7(1) and/or Chapter 29C of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor; and to the extent that any State, Federal or other funds are or become available for the purposes set forth above, the Select Board is authorized to apply for and accept such funds; or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 3: *Explanation of Article: This article is the same to an article at the 2022 Annual Town Meeting. It authorizes borrowing an additional \$2.2 million to be repaid from the remaining funds to be received from the Cape Cod and Islands Water Protection Fund over the next 10 years for replacement and modernization of the existing wastewater infrastructure, to be used for improvements to the Central Vacuum Station to include:*

- *New vacuum pumps and new sewage pumps*
- *New motor operated plug valves and new magnetic flow meter*
- *New electrical distribution equipment, to be located on a new 2nd floor of the Central Vacuum Station*
- *New emergency generator*
- *Other mechanical and/or building upgrades*

[2/3rds Vote Required]

Article 4. Home Rule Petition - Repeal the Town's Special Sewer Act. To see if the Town will vote to authorize the Select Board to petition the General Court for special legislation to provide as set forth below; provided, however, that the General Court may make clerical or editorial changes of form only to the bill so submitted, unless the Select Board approves amendments to the bill before enactment by the General Court; and further that the Select Board is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition.

An Act Relative to Wastewater Treatment and Disposal in the Town of Provincetown
Be it enacted by the Senate and the House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. The Town of Provincetown is hereby authorized to extend its sewer system to allow for new connections and expanded treatment capacity and to make assessments on properties benefited by such expansion pursuant to chapters 80 and 83 of the general laws.

Section 2. The town may make equitable adjustments to the annual charges established pursuant to section 16 of said chapter 83 for the use of common sewers by owners of land who connect to the Town's sewer system for the purpose of ensuring an equitable distribution of the total sewer system costs, including assessments and sewer use charges.

Section 3. Chapter 157 of the Acts of 2000 is hereby repealed.

Section 4. This act shall take effect upon passage.

Or take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 4: *Town Counsel has proposed this article since in the future, assessments will be made under G.L. c. 83 and 80, rather than the Town's existing Special Sewer Act, which will be repealed since it will no longer be needed. This article will end the so-called "checkerboard" sewer district process that has been in place for more than 20 years, whereby only properties that connected were included in the sewer district. In the future, all abutters to a sewer main will be considered to be in the sewer district, as is the case in other towns in Massachusetts.*

While this article will also end the current "public service use exemption", additional flows including from economic development permits or other growth will continue to be managed in the future as they are now by the Town's Growth Management By-Law and the requirement that the Water & Sewer Board approve that capacity is available for the additional flows. With the repeal of the Special Act, there will be no changes for allowable annual managed growth allocations for Growth Management Categories 1, 2 and 4A that are currently designated as "public service uses" under the Special Act.

The repeal of the Special Act will correct a longstanding inequity whereby properties on septic could apply for allocations under Categories 3 and 4, but they could not apply for such Growth Management allocations if they were on sewer because these categories were not "public service uses".

[Majority Vote Required]

Article 5. Wastewater Expansion Authorization. To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be expended under the direction of the Town Manager and the Select Board, 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 and disposal capacity of the wastewater system and further extensions of the Town's sewer system, including without limitation all costs defined under Chapter 29C, Section 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 Chapter 44, Section 7(1) and/or Chapter 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 Select Board is authorized to apply for and accept such funds; and, further, 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; and further to authorize the Water and Sewer Board to set the method of sewer assessments for future connections to the Town's sewer system as a sewer privilege fee pursuant to G.L. c. 83, §17, to be paid at the time of actual connection to the Town's sewer system for properties that have a Title 5 compliant septic system installed after January 1, 2000 according to the records of the Health Department, with all other properties that abut a sewer main to be assessed a betterment pursuant to G.L. c. 83, §15; provided further that the Water and Sewer Board shall equitably adjust the amount of assessments made pursuant to this vote to take into account the need for the homeowner to pay for and install a grinder pump for connection to low pressure lines; or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 5: *The main sewer article requests \$75 million funding authorization to extend gravity sewers to the remaining properties in town and improvements to the treatment and disposal capacity of the wastewater system to increase the capacity by 50% to serve the remaining properties in town and 20 years of managed growth, with an estimated 40% to come from grants, subsidies, and other revenue sources including Chapter 90 paving funds and the Rooms Tax receipts, and the remaining \$45 million from betterments to be assessed on those properties that are not presently served by the sewer.*

This article provides that property owners making future connections to existing sewer lines or to new sewer lines installed after the effective date of this vote will be required to pay a betterment at the time that sewer service is made available to them or at the time of construction of the sewer line that serves their property with the following exception: as long as a property has a Title 5 compliant septic system installed since January 1st, 2000 according to the records of the Health Department and is not under an order to connect issued by the Board of Health, the property will not be assessed a privilege fee until they connect to the sewer. Fewer than 10% of the properties in town will need to pay a betterment before they want to or need to connect to the sewer, all of them have onsite systems installed before 2000, and the betterment will give them the right to connect at any time as is the case in all other towns.

Finally, this article provides that the Water and Sewer Board shall assess on an equitable basis a lower amount for property owners who are required to pay for and install a grinder pump to connect to a low-pressure sewer line.

[2/3rds Vote Required]

Article 6. Alteration of Layout of Route 6. To see if the Town will vote to accept the altered layout of a portion of Route 6 as a public way, as heretofore altered by the Select Board, to exclude from the layout of said way the parcel of land shown as "76,006 +/- square feet" on a plan entitled "Prepared for Town of Provincetown, Sheet Title Route 6 Alteration and Parcel Combination Plan, dated September 19, 2022", prepared by Coastal Engineering Co., Orleans, Massachusetts, on file with the Town Clerk, and to transfer the care, custody, and control of the aforesaid discontinued parcel from the Select Board for public way purposes to the Select Board for general municipal purposes, including, without limitation, for wastewater treatment and disposal facilities, and, further, to authorize the Select Board to take said parcel by eminent domain for said purposes and for the purpose of clearing the Town's title thereto, if applicable; or to take any other action relative thereto.

[Requested by the Select Board and the Town Manager]

Explanation of Article 6: *This article will alter the public way of Route 6 to combine two town-owned lots to create the lot needed for the Satellite Treatment Facility at the current Soccer Field site. This article is similar to the article at the 2022 Annual Town Meeting for the new Police Station lot.* **[Majority vote required]**

Article 7. Home Rule Petition – Use of Motta Field for Wastewater Disposal. To see if the Town will vote to transfer the care, custody and control of the Manuel V. Motta Athletic Fields, which consist of the parcel of land identified by the Assessor's as Parcel 8-2-23-0 and described in deeds recorded with the Barnstable Registry of Deeds in Book 842, Page 128; Book 617, Page 257; Book 1010, Page 152; and Book 531, Page 45, from the Select Board for playground and recreation purposes to the Select Board for said playground and recreation purposes and for the incidental purpose of wastewater disposal, including the installation of subsurface disposal beds, and, further, to authorize the Select Board to file a home rule petition with the General Court to authorize the foregoing transfer, which petition reads as follows:

SECTION 1. Notwithstanding the provisions of Chapter 270 of the Acts of 1953 or any other general or special law to the contrary and Article 97 of the Amendments to the Massachusetts Constitution, and the restriction in the deed recorded with the Barnstable registry of deeds in book 843, page 128, the town of Provincetown is hereby authorized to use the Manuel V. Motta Athletic Fields, described more particularly in section 2 and dedicated to playground purposes, for incidental wastewater treatment and disposal purposes, including the installation of subsurface disposal beds, provided that at the completion of said installation, said Manuel V. Motta Athletic Fields shall be restored to and continue to be dedicated to and used for playground and recreational purposes in perpetuity.

SECTION 2. The Manuel V. Motta Athletic Fields is identified by the Provincetown Assessor's as Parcel 8-2-23-0 and described in deeds recorded with the Barnstable registry of deeds in book 842, page 129; book 617, page 257; book 1010, page 152; and book 531, page 45.

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 Select Board approves amendments to the bill before enactment by the general court. The Select Board 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 Select Board and the Town Manager]

Explanation of Article 7: *This article will alter the allowed uses within Motta Field to include subsurface wastewater disposal. Based on Town Counsel's review of the deeds to the various portions of Motta Field, and, in particular, on the deed from the Commonwealth, restricting the use the property to playground purposes only, it is their opinion that a Special Act is required to use Motta Field for subsurface wastewater disposal purposes.*

While the Town will continue using Motta Field for playground/recreational purposes, it is their opinion that wastewater disposal is a purpose that is not related to the use of the property for recreational purposes, and it would be prudent for the General Court to authorize this different, though incidental, use. While the state usually requires mitigation land in exchange, mitigation may not be necessary in this instance given that the fields will be restored to an equal or better condition and the recreational use will continue unabated. **[2/3rds Vote Required]**

Article 8. Zoning Bylaw Amendment: Inclusionary and Incentive Zoning Bylaw. Incentives for Development of dormitory / employee housing. *(Deletions shown in strike-through and new text shown as underlined.)* To see if the Town will vote to amend the

Provincetown Zoning Bylaws, Article 4 Special Regulations, Section 4180 Inclusionary and Incentive Zoning Bylaw as follows:

5. Incentives for the Construction or Rehabilitation of Affordable or Community Housing Units Any residential development project that meets or exceeds the minimum one-sixth (16.67%) Affordable/Community Housing requirement through the on-site or off-site construction or rehabilitation of the required number of Affordable or Community Housing units, or the creation of at least 20% of the overall floor area of a development dedicated to dormitory/employee housing, may, at the discretion of the Planning Board and in accordance with Special Permit criteria, take advantage of any or all of the incentives as set forth below. Incentives shall not be applied to projects that meet the Affordable/Community Housing requirement through a Payment in Lieu or Land Donation in Lieu of constructing Affordable or Community Housing units.

[Requested by the Planning Board]

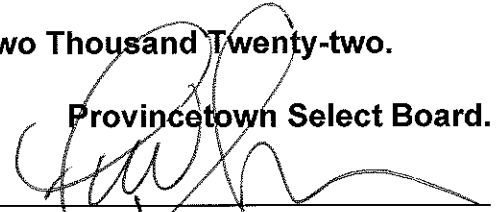
Explanation of Article 8: *This article intends to incentivize the creation of dormitory or employee housing units through the inclusionary bylaw by allowing the Planning Board to waive certain dimensional regulations, including building stories and building height, for projects that include the creation of at least 20% of the development floor area to dormitory/employee housing uses.*

[2/3rds Vote Required]

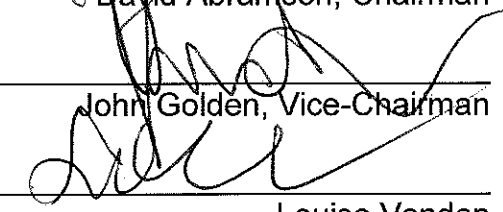
HEREOF FAIL NOT and make a due return of this WARRANT with your doings thereon to the TOWN CLERK, at the time and place of the meeting aforesaid.

Given unto our hands the 7th day of October in the year Two Thousand Twenty-two.

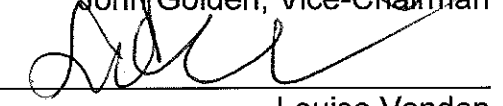
Provincetown Select Board.



David Abranson, Chairman



John Golden, Vice-Chairman



Louise Venden

Robert Anthony



Leslie Sandberg

A TRUE COPY, ATTEST:



Emmett Catanese
Town Clerk

Date of publishing: www.provincetown-ma.gov October 7, 2022
Provincetown Independent October 20, 2022



Public Hearings

Articles in the November 9, 2022 Special Town Meeting

Warrant

In accordance with §2-3-g of the Provincetown Charter, the following committees will hold public hearings on the warrant:

Select Board on Monday, October 24, 2022 at 6:00 pm
Conservation Commission on Tuesday, October 18, 2022 at 6:00 pm
Board of Health on Thursday, October 20, 2022 at 4:00 pm
Finance Committee on Tuesday, October 25, 2022 at 1:00 pm
Open Space Committee on Thursday, October 20, 2022 at 2:00 pm
Planning Board on Thursday, November 3, 2022 at 5:00 pm

In accordance with Chapter 107 of the Acts of 2022, these meetings will be conducted in person and, as a courtesy via remote means, in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless otherwise required by law.

A link to the agenda for these meetings can be found on the Town's website www.provincetown-ma.gov