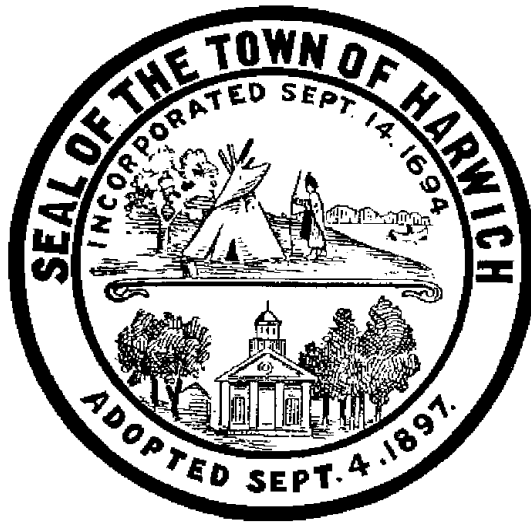


COMPLETE
SPECIAL TOWN MEETING
WARRANT



SPECIAL TOWN MEETING
WARRANT



FEBRUARY 5, 2009
with
RECOMMENDATIONS

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FEBRUARY 5, 2009

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VOTING PROCEDURES

- I A quorum, 150 registered voters, must be present in order to conduct business. The only motion in order when no quorum is present is a motion to adjourn.
- II A two-thirds majority of the Town Meeting shall be required for inclusion of any Capital Outlay, unless it was included in the Capital Outlay Plan adopted at the preceding Town Meeting.
- III All motions introduced at the Town Meeting shall be in writing when required by the Moderator.
- IV Voters are limited to two times speaking on any one question; the total time speaking not to exceed 10 minutes.
- V Only registered voters shall occupy the meeting “floor”.
- VI No voter will be allowed to speak until he or she is recognized by the Moderator.
- VII Motion requiring more than a simple majority to pass:
 - A. To reconsider a vote on a motion – 3/4 majority (this motion must be made prior to the next adjournment of the meeting).
 - B. To consider articles in an order other than as appears on the warrant – 3/4 majority.
 - C. To pay unpaid bills –4/5 majority at the Annual Town Meeting, 9/10 majority at a Special Town Meeting.
 - D. To move the previous question (terminate debate) - 3/4 majority.
- VIII Quorum cannot be questioned after a motion has been made and seconded.

MOTION CHART Section 1-211
(Application of Rules is Indicated by an X)

Motions	Debatable	Non Debatable	Amendable	Non Amendable	Second Required	Second Not Required	Majority Vote	2/3 Vote	¾ Vote	May Reconsider	Cannot Reconsider
Adjourn		X		X	X		X				X
Adjourn (in a time certain)	X		X		X		X			X	
Amendment	X		X		X		X			X	
Adopt a Resolution	X		X		X		X				X
Accept & Adopt	X		X		X		X ¹			X	
Postpone Indefinitely	X			X	X		X			X	
Previous Question Terminate Debate		X		X	X				X		X
Reconsider ²	X			X	X				X		X
Consider Articles Out of Order	X		X		X				X		X
Point of Order		X								X	
1. Unless a greater than simple majority required by General Laws of Town of Harwich by-laws.											
2. See section 1.207											

TAX RATE CHART

THE CHART BELOW SHOWS THE AMOUNT OF MONEY REQUIRED TO CHANGE THE FY 2009 TAX RATE.

TAX RATE CHANGE IN \$/1000	DOLLARS REQUIRED
\$ 0.01	\$52,393
\$ 0.05	\$261,966
\$ 0.10	\$523,932
\$ 0.15	\$785,898
\$ 0.20	\$1,047,863
\$ 0.25	\$1,309,829
\$ 0.30	\$1,571,795
\$ 0.35	\$1,833,761
\$ 0.40	\$2,095,727
\$ 0.45	\$2,357,693
\$ 0.50	\$2,619,659
\$ 0.55	\$2,881,624
\$ 0.60	\$3,143,590
\$ 0.65	\$3,405,556
\$ 0.70	\$3,667,522
\$ 0.75	\$3,929,488
\$ 0.80	\$4,191,454
\$ 0.85	\$4,453,420
\$ 0.90	\$4,715,385
\$ 0.95	\$4,977,351
\$ 1.00	\$5,239,317

MUNICIPAL FINANCE TERMS

APPROPRIATION: An authorization granted by the Town Meeting to make expenditures and to incur obligations for specific purposes.

AVAILABLE FUNDS: Available funds refer to other funds available for appropriation by the Town Meeting, such as Wetland Protection funds, Cemetery Lot sales and Perpetual Care Interest and old article balances returned to revenue.

OVERLAY, ALSO CALLED ALLOWANCE FOR ABATEMENTS AND EXEMPTIONS: The overlay is the amount raised by the Assessors in excess of appropriations and other charges for the purpose of creating a fund to cover tax abatements granted and avoiding fractions in the tax rate. It cannot exceed 5% of the levy.

FREE CASH: Certified each year by the Director of State Bureau of Accounts, this is the portion of the fund balance which is available for appropriation by a Vote of Town Meeting. It is not cash, but rather is the approximate total of cash and receivables less current liabilities and earmarked reserves.

TRANSFER: The authorization to use an appropriation for a different purpose; in most cases only the Town Meeting may authorize a transfer.

RESERVE FUND: This fund is established by the voters at an Annual Town Meeting only and is composed of an appropriation (not exceeding 5% of the tax levy of the preceding year). Transfers from the Reserve Fund are within the exclusive control of the Finance Committee, and are for "extraordinary or unforeseen" situations, normally emergencies.

STABILIZATION FUND: This is a special reserve for future expenditures. The aggregate amount in the fund shall not exceed, at any time, 10% of the valuation in the preceding year. Money may be voted into the fund by a majority vote at Town Meeting. Money may be appropriated from the fund only by a two-thirds vote at Town Meeting for any municipal purpose.

CHERRY SHEET: An annual statement received from the State Department of Revenue detailing estimated receipts for the next fiscal year from various State Aid accounts and estimated charges payable by the assessors in setting the tax rate. Named for the cherry colored paper, which the State traditionally has printed it on.

PROPOSITION 2 ½ TERMS

Chapter 59, Section 21C of the Massachusetts General Laws commonly referred to as Proposition 2 ½ (Prop. 2 ½) or the Tax Limiting Law for Cities and Towns in Massachusetts.

LEVY: The property tax levy is the revenue a Town can raise through real and personal property taxes. The property tax levy is the largest source of revenue for the Town.

LEVY CEILING: This is the maximum the levy limit can be. The ceiling equals 2.5% of the Town's full and fair cash value.

LEVY LIMIT: The Maximum the levy can be in a given year. The limit is based on the previous year's levy limit plus certain allowable increases.

LEVY LIMIT INCREASE: The levy limit automatically increases each year by 2.5% of the previous year's levy limit.

NEW GROWTH: New construction and new parcel subdivision may also increase the Town's levy limit.

OVERRIDE: A community can permanently increase its levy limit by successfully voting at a referendum to exceed the limits. A community may take this action as long as it is below the levy ceiling.

GENERAL OVERRIDE: A general override ballot question can be placed on a referendum if a majority of the Board of Selectmen vote to do so. If the ballot question is approved by a majority of the voters, the Town's levy limit is permanently increased by the amount voted at the referendum. The levy limit increase may not exceed the Town's levy ceiling. Override questions must be presented in dollar terms and specify the purpose.

DEBT EXCLUSION: This override ballot question can be placed on a referendum by a two-thirds vote of the Board of Selectmen. If a majority of the voters approve the ballot question the Town's levy limit is increased only for the amount voted at the referendum for the life of that debt only. The levy limit increase may exceed the Town's levy ceiling.

CAPITAL OUTLAY EXPENDITURE EXCLUSION: This override ballot question can be placed on a referendum by a two-thirds vote of the Board of Selectmen. If a majority of the voters approve the ballot question the additional amount for the payment of the capital project cost is added to the levy limit or levy ceiling only for the year in which the project is being undertaken.

CONTINGENT VOTES: Chapter 634 of the Acts of 1989 permits a Town Meeting to appropriate funds contingent upon passage of a referendum question (**OVERRIDE**). A contingent vote does not automatically result in an override referendum. An override referendum can only be called by the Board of Selectmen. If a referendum is called by the Selectmen it must take place within forty-five days of the Town Meeting vote.

**COMMONWEALTH OF MASSACHUSETTS
TOWN OF HARWICH
SPECIAL TOWN MEETING
FEBRUARY 5, 2009**

BARNSTABLE, ss:

To either of the Constables of the Town of Harwich in said county,

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in elections and Town affairs to meet in the Community Center Gymnasium, 100 Oak Street in said Town on Monday, February 5, 2009, at 7:00 P.M., then and there to act on the following articles:

Hereof fail not to make return of the Warrant with your doings thereon at the time and place of said meeting.

Given under our hands this 22nd day of December, 2008

s/Robin D. Wilkins, Chairman
s/David W. Marsland
s/Lawrence P. Cole
s/Edward McManus
s/Angelo S. LaMantia
BOARD OF SELECTMEN

A true copy Attest:
s/Oliver E. Pelton
Constable

January 16, 2009

By virtue of this Warrant I have this day notified and warned the inhabitants of the Town of Harwich, qualified to vote in elections and town affairs, to meet in the Community Center, 100 Oak Street in said Town on the 5th day of February, 2009 at the time and place for the purpose herein named by posting up attested copies hereon in the four (4) Post Office buildings and in Town Hall in the Town of Harwich, which covers all four precincts, at least fourteen (14) days before the time of said meeting as within directed, and causing an attested copy thereof to be published in the Cape Cod Chronicle published in Barnstable County and having its circulation in the Town of Harwich.

s/Oliver E. Pelton
Constable

On Monday, February 2nd the Chairman of the Board of Selectman, Robin Wilkins as the Acting Town Moderator and the Town Clerk, Anita N. Doucette went to at the Community Center, and Robin Wilkins read the following statement:

It has come to my attention that the warrant for the February 5, 2009 meeting incorrectly refers to the meeting being held on a Monday, rather than on Thursday. It is my opinion that the reference in the warrant to "Monday" does not mean that the meeting should begin tonight, Monday, February 2, 2009, and that instead the meeting should take place in due course on February 5, 2009 as scheduled. Nevertheless, in order to proceed with an abundance of caution, as recommended by Town Counsel the Town Clerk and I have appeared here this evening to "open" the meeting and "continue" it to Thursday, February 5, 2009 at 7:00 p.m. at the Community Center, 100 Oak Street. If I hear no objections, I will consider such motion duly made and approved.

On Thursday, February 5, 2009, the Moderator, Michael D. Ford, Esq., called the meeting to order at 7:00 PM when a quorum of 150 was met, having 275 registered voters in attendance. Before town business began, Town Clerk, Anita N. Doucette read the Warrant and Return of Warrant. The Harwich Special Town Meeting was held in the Community Center on 100 Oak Street, the Town Meeting began with:

SUPPLEMENT RESERVE FUND

ARTICLE 1 To see if the Town will vote to transfer from available funds a sufficient sum of money to supplement the Reserve Fund and to act fully thereon. By request of the Finance Committee.

THE FINANCE COMMITTEE WILL MAKE A RECOMMENDATION AT TOWN MEETING. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted and that \$50,000.00 be transferred from Free Cash for this purpose.

Duly seconded

ACTION: Motion carried

FOUNDATION RESERVE AWARD

ARTICLE 2 To see if the Town will vote to transfer from available funds the amount of \$80,000 awarded from the Massachusetts Department of Elementary and Secondary Education to be used for School technology, and to act fully thereon. By request of the Harwich School Department.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED AND FUNDED FOR \$80,000 AND RESTRICTED TO SCHOOL TECHNOLOGY UPON RECEIPT OF FUNDS FROM THE STATE. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted and that \$80,000.00 be transferred from the Department of Education Pothole Reserve Grant account for School technology.

Duly seconded

ACTION: It was so voted.

APPROVE WATER ENTERPRISE FUND TRANSFER

ARTICLE 3 To see if the Town will vote to transfer \$186,793.06 from the Water Enterprise fund to the FY 09 Water Department operating budget in order for the Water Department to meet Fiscal Year 2009 financial obligations, and to act fully thereon. By request of the Water Superintendent and Water Commissioners. Estimated Cost: \$186,793.06

Electric Utility	\$ 55,696.55
Energy Supplies (Propane)	\$ 12,844.51
Direct/Indirect Costs	\$105,752.00
Chemicals	<u>\$ 12,500.00</u>
	\$186,793.06

THE FINANCE COMMITTEE WILL MAKE A RECOMMENDATION AT TOWN MEETING. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted and the sum of \$186,793.06 be transferred from the Water Enterprise Fund to the FY09 Water Department Operating Budget as follows:

Electric utility	\$ 55,696.55
Energy supply (propane)	\$ 12,844.51
Direct/Indirect costs	\$105,752.00
Chemicals	\$ 12,500.00
Total	\$186,793.06

Duly seconded

ACTION: It was so voted

FUND NEW HEATING SYSTEM AT FIRE STATION 2

ARTICLE 4 To see if the Town will vote to transfer from available funds, or borrow a sufficient sum of money to replace the heating system at Fire Station 2 in East Harwich and to act fully thereon. By request of the Fire Chief. Estimated Cost: \$30,000.

THE FINANCE COMMITTEE WILL MAKE A RECOMMENDATION AT TOWN MEETING. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted and the sum of \$20,000.00 be transferred from Free Cash for this purpose.

Duly seconded

ACTION: It was so voted.

DESIGN/ENGINEERING FEES FOR RTE. 137 CORRIDOR

ARTICLE 5 To see if the Town will vote to transfer from available funds, and/or borrow in accordance with Chapter 44 of the M.G.L. or any other enabling authority, a sufficient sum of money for Design/Engineering fees to design the Route 137 corridor from the Brewster town line to the Chatham town line in accordance with Mass Highway standards and to act fully thereon. By request of the DPW Director. Estimated Cost: \$ 327,800.

THE FINANCE COMMITTEE WILL MAKE A RECOMMENDATION AT TOWN MEETING. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted and the sum of \$327,800.00 be transferred from Chapter 90 for this purpose.

Duly seconded

ACTION: Motion carried

**RESERVE FOR FUTURE APPROPRIATION AMOUNTS FROM FY 2009
COMMUNITY PRESERVATION FUND ESTIMATED ANNUAL REVENUES**

ARTICLE 6 To see if the Town will vote to reserve for future appropriation amounts from FY 2009 Community Preservation Fund estimated annual revenues as recommended by the Community Preservation Committee as follows:

1. a sum of money for the acquisition, creation and preservation of open space excluding land for recreational use;
2. a sum of money for the acquisition, preservation, restoration and rehabilitation of historic resources;
3. a sum of money for the acquisition, creation, preservation and support of community housing; and
4. a sum of money for the Community Preservation Fund FY 2009 Budgeted Reserve;

and to act fully thereon. By request of the Community Preservation Committee.

THE FINANCE COMMITTEE WILL MAKE A RECOMMENDATION AT TOWN MEETING. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be indefinitely postponed.

Duly seconded

ACTION: This article was indefinitely postponed.

COMMUNITY PRESERVATION ACT LEGISLATIVE AMENDMENT

ARTICLE 7 To see if the Town will vote to support a Legislative amendment to the Community Preservation Act which was limited by the Seidman v. Newton case, that will allow CPA Funds to be used to rehabilitate existing outdoor parks and other recreational resources, and to act fully thereon. By request of the Community Preservation Committee.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED FOR MAINTENANCE ON CPC PROJECTS. VOTE: YES-6, NO-1

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted

Duly seconded

ACTION: It was a unanimous vote, so declared.

AUTHORIZE USE OF TEXEIRA PROPERTY FOR AGRICULTURAL PURPOSES

ARTICLE 8 To see if the Town will authorize the Board of Selectmen to file a home rule petition in the following form, provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

AN ACT AUTHORIZING THE TOWN OF HARWICH TO USE CERTAIN LAND FOR AGRICULTURAL PURPOSES.

Section 1. Notwithstanding the provisions of Section 7 of Chapter 293 of the Acts of 1998 entitled “An Act Relative to the Establishment of the Cape Cod Open Space Land Acquisition Program,” the Town of Harwich is hereby authorized to use the parcel of land described in section 3 of this act for agricultural purposes.

Section 2. Pursuant to Article 97 of the Amendments to the Massachusetts Constitution, agricultural use of said land is hereby authorized.

Section 3. The land subject to the act is described as follows: the property situated at 525 and 527 Queen Anne Road and shown on Harwich Assessors Map 71 as Parcels A1-1, containing 7.61 acres more or less, and A1-2, containing 9.02 acres more or less, being formerly owned by Arthur J. Texeira, and having been acquired by the Town as authorized by Article 10 of the Special Town Meeting held May 2, 2000 for the purposes of preservation, open space, conservation and passive recreation.

Section 4. This act shall take effect upon passage.

and to act fully thereon. By request of the Agricultural Commission.

THE FINANCE COMMITTEE WILL MAKE A RECOMMENDATION AT TOWN MEETING. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be indefinitely postponed.
Duly seconded

ACTION: This article was indefinitely

GENERAL BYLAW – HARBOR DREDGING BETTERMENT COST ALLOCATION ARTICLE 9 To see if the Town will vote to amend the general bylaws of the Town by adding a new section to Article II, Part 15 as follows:

Harbor Dredging Betterment Assessment Cost Allocation

Pursuant to chapter 80 of the General Laws of Massachusetts, the Board of Selectmen may establish a betterment program whereby those properties that benefit directly from the dredging of inner harbors or rivers in the Town of Harwich shall be assessed their proportionate share of the project’s total cost. Once the Board of Selectmen has declared that it is prepared to begin the permitting process for the particular dredging operation, the betterment program may be initiated by a petition signed by the direct abutters that are entitled to the dredging permits that cover a majority of the area to be dredged. The Town will be considered a direct abutter for any Town owned dock space or mooring fields as well as for the channels. The Board of Selectmen will determine the appropriate cost for each abutter, including the Town, based on the percentage of the total dredged area covered by the specific abutter’s dredging permit and will cause the appropriate assessment to be applied to individual tax bills annually pursuant to said chapter 80.

The Board of selectmen is hereby authorized to enact regulations to carry out the purposes of this bylaw, and to act fully thereon. By request of the Board of Selectmen.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted
Duly seconded

ACTION: It was a unanimous vote, so declared.

CALEB CHASE LEGISLATION

ARTICLE 10 To see if the Town will vote to petition the General Court for special legislation to establish Caleb Chase Revenue Account for the Town of Harwich, provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

AN ACT AUTHORIZING THE TOWN OF HARWICH TO ESTABLISH THE CALEB CHASE REVENUE ACCOUNT

Notwithstanding any general or special law to the contrary, the Town of Harwich, shall be authorized to design and designate a place on its municipal real estate tax bills whereby taxpayers of Harwich may voluntarily check off, donate and pledge an amount not less than \$1 or such other designated amount which shall increase the amount otherwise due, and said amount to be deposited in the Caleb Chase Gift Account to be used for the support of the poor.

Any amounts donated to the Caleb Chase Gift Account shall be deposited into a special account in the general treasury and shall be in the custody of the Town Treasurer. The Treasurer shall invest said funds subject to the same provisions and limitations of the Massachusetts General Laws as applicable to trust fund investments. The Caleb Chase Gift Account, together with the interest earned thereon, shall be used for the purpose specified in this section without further appropriation.

The Gift Account shall only be expended to the terms identified in the Caleb Chase Board of Selectmen Policy. The Board of Selectmen, shall adopt rules and regulations to carry out the provisions of this section and to identify the receipts of such aid. The Town Accountant shall provide an annual financial report of the activities of the Caleb Chase Gift Account to the Board of Selectmen.

and to act fully thereon. By request of the Board of Selectmen.

THE FINANCE COMMITTEE WILL MAKE A RECOMMENDATION AT TOWN MEETING. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted
Duly seconded

ACTION: It was a unanimous vote, so declared.

**ACCEPT MASSACHUSETTS GENERAL LAWS CHAPTER 59 SECTION 57C
QUARTERLY TAXES**

ARTICLE 11 To see if the Town will vote to accept Massachusetts General Laws Chapter 59 Section 57C, said change to take effect FY 2010 and to act fully thereon. By request of the Board of Selectmen.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-6, NO-1

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted
Duly seconded

ACTION: A standing count was taken, 148YES, 80 NO, the motion carried.

**ACCEPT THE PROVISIONS OF M.G.L. CH. 59 SUBSECTION 2A(A) -
CHANGE GROWTH DATE FROM JANUARY 1 TO JUNE 30**

ARTICLE 12 To see if the Town will vote to accept the provisions of Section 40 of Chapter 653 of the 1989 (amending M.G.L. Ch. 59 subsection 2A(a)), "In any city or town which accepts the provisions of this sentence, buildings and other things erected on or affixed to land during the period beginning on January second and ending on June thirtieth of the fiscal year preceding that to which the tax relates shall be deemed part of such real property as of January first." Said change to take effect FY 2010 and to act fully thereon. By request of the Board of Selectmen.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted, effective FY2011.

Duly seconded

ACTION: The motion carried.

MEDICARE EXTENSION PLANS; MANDATORY TRANSFER OF RETIREES

ARTICLE 13 To see if the Town will vote to accept M.G.L. Ch. 32B Section 18A that requires all retirees, their spouses and dependents who are enrolled in Medicare Part A at no cost to a retiree, their spouse or dependents, be required to enroll in a Medicare health benefits supplement plan offered by the town, and to act fully thereon. By request of the Board of Selectmen.

Explanation: The new Section 18A allows communities to enroll only those who retire after the community adopts the provision – without any affect on those who had retired previously, and without having to pay a federal penalty.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be indefinitely postponed.
Duly seconded

ACTION: This article was indefinitely postponed.

SPECIAL LEGISLATION / ROOMS OCCUPANCY TAX

ARTICLE 14 To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special Home Rule legislation which will:

Notwithstanding any general or special law to the contrary, the town of Harwich may impose a room occupancy tax, in addition to any such occupancy tax currently allowed by law, on any vacation or leisure accommodation, including but not limited to apartments, single or multiple family housing, cottages, condominiums and time share units or any other such temporary occupancy not currently defined in Massachusetts General Laws, chapter 64G. Vacation or leisure accommodation is defined as occupancy for a price to be paid and intended at the time of contract to be for a period of sixty consecutive days or less regardless of whether such use and possession is as a lessee, tenant, guest or licensee. The maximum room occupancy tax for such occupancy shall be at the same rate as the municipal portion of the room occupancy for the town of Harwich under Massachusetts General Laws, chapter 64G, and to act fully thereon. Before enactment this tax will require a subsequent Town Meeting approval. By request of the Board of Selectmen.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-5, NO-2

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted.
Duly seconded

After much discussion a motion was made and seconded to terminated debate, this vote required a 4/5 majority vote to pass, it was a unanimous vote, so declared.

ACTION: The motion did not carry.

SPECIAL LEGISLATION / HOTEL TAX

ARTICLE 15 To see if the Town will vote to ask the Legislature to enact Section 28 of the Governor's Municipal Partnership Act which would increase the maximum local option hotel tax from 4 percent to 5 percent of the rent for occupancy, and to act fully thereon. Before enactment this tax will require a subsequent Town Meeting approval. By request of Board of Selectmen.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-4, NO-3

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted.
Duly seconded

ACTION: The motion did not carry.

SPECIAL LEGISLATION / MEALS TAX

ARTICLE 16 To see if the Town will vote to ask the Legislature to enact Section 29 of the Governor's Partnership Act which would allow cities and towns by local option to impose a meals tax of up to 2 percent of gross receipts. Before enactment this tax will require a subsequent Town Meeting approval. Twenty-five percent of the amount collected under this section and of new amounts collected under Section 28 (hotel tax) would be deposited in a reserve fund in the executive office for administration and finance to be used for the purpose of

reimbursing cities and towns for property taxes abated for qualifying senior citizens. The balance would be distributed to each city or town that adopts this tax in proportion to the amount received in that city or town and to act fully thereon. By request of the Board of Selectmen

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE INDEFINITELY POSTPONED. VOTE: YES-7, NO-0

MOTION: (Robert Weisner) I move that this article accepted and adopted.

Duly seconded

After much discussion a motion was made and seconded to terminated debate, this needed a 4/5 majority vote to pass, it was a unanimous vote, so declared.

ACTION: This motion did not carry.

CAPE & VINEYARD ELECTRIC COOPERATIVE MEMBERSHIP

ARTICLE 17 To see if the Town will vote to apply for membership in the Cape & Vineyard Electric Cooperative, Inc. (the “Cooperative”), and further to authorize the Board of Selectmen to negotiate terms and conditions of its membership in the Cooperative, and to act fully thereon. By request of Utility and Energy Conservation Commission.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-4, NO-3

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted

Duly seconded

ACTION: It was a unanimous vote, so declared.

AMEND ZONING BY LAWS - DRIVEWAY WIDTH CHANGE

ARTICLE 18 To see if the Town will vote to delete and rewrite Section IX (Off-Street Parking and Loading Requirements), paragraph 9.3.5 (Design Requirements), sub-paragraph 9.3.5.8 to change the maximum width of a driveway in a commercial or industrial zone from 30 feet to 50 feet, differentiate between residential and non-residential uses, and allow for greater width with justification, so that it reads:

“Any entrance or exit driveway for a single or two-family residential use shall not exceed twenty four (24) feet in width at its intersection with the front lot line. For any multi-family, commercial, industrial use, any entrance or exit driveway shall not exceed fifty (50) feet in width when measured in the aforesaid manner. Should a driveway for a multi-family, commercial or industrial use require a width in excess of 50 feet, justification for this increase in width shall be provided by the applicant to the Planning Board for review as part of the Site Plan review process.”

And to act fully thereon. By request of the Planning Board.

Explanation: Several projects have been brought before the Board of Appeals in the last year seeking additional driveway width for commercial and industrial projects. With the changes over time in the size and design of trucks that deliver to commercial and industrial uses, it is a matter of public safety to amend the by-law.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-6, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted.
Duly seconded

Planning Board Report was read by Matthew McCaffery:

**TOWN OF HARWICH
PLANNING DEPARTMENT**

February 4, 2009

To: Board of Selectmen

From: Planning Board

RE: Planning Board Report to Town Meeting
Article 18 – Driveway Width Change

On December 23, 2008, the Planning Board held a public hearing on the proposed amendment to proposed zoning amendment for Article 18 – Driveway Width Change. During the public discussion a request was made to amend the second part of the last sentence so that it reads –

“...justification for this increase in width shall be provided by the applicant to the Planning Board for review, ~~and~~ **approval or denial** as part of the Site Plan review process.”

The Planning Board unanimously voted in favor with 7 votes (MCCAFFERY, FOLLAS, MCPARLAND, KLINK, NORDSTROM, DE BAKKER, ATKINSON) to recommend the article as amended to Town Meeting.

AMEND THE MAIN MOTION: (Matthew McCaffery-Planning Board) I move that the article be accepted and adopted as printed in the warrant with the following changes: in the last sentence insert the words “approval or denial” after the word “review” so that it reads-

“...justification for this increase in width shall be provided by the applicant to the Planning Board for review, ~~and~~ **approval or denial** as part of the Site Plan review process.”

Duly seconded

ACTION ON AMENDMENT: It was a unanimous vote, so declared.

ACTION ON MAIN MOTION AS AMENDED: It was a ruled to have received the necessary 2/3 vote, this motion passed.

LEASE PAYMENT – TOWN OWNED LAND ON SISSON ROAD

ARTICLE 19 To see if the Town will vote to authorize the Board of Selectmen to reserve for future appropriation any lease payment and/or contribution by the Affordable Housing Developer (for new construction) to support work for the existing building (Recreation Building) shown on Assessor’s Map 40 as Parcel Z5, located at 265 Sisson Road, Harwich Center for the purposes and upon the terms and conditions set out in the vote under Article 59 of the 2006 Annual Town meeting, as amended by the vote under Article 13 of the February 11, 2008 Special Town meeting, as amended by the vote under Article 11 of the May 8, 2008 Special

Town meeting and on such other terms and conditions as the Selectmen may determine and to act fully thereon. By Request of the Harwich Housing Committee.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-5, NO-2

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted
Duly seconded

ACTION: The motion carried.

LEASE PAYMENT – TOWN OWNED LAND IN WEST HARWICH

ARTICLE 20 To see if the Town will vote to authorize the Board of Selectmen to reserve for future appropriation any lease payment and/or contribution by the Affordable housing Developer (for new construction) to support work for the existing building (West Harwich School) shown of Assessors Map10 as Parcel G1, located at 5 Bells Neck Road, West Harwich for the purposes and upon the terms and conditions set out in the vote under Article 60 of the 2006 Annual Town Meeting, as amended by the vote under Article 13 of the February 11, 2008 Special Town Meeting, as amended by the vote under Article 12 of the May 8, 2008 Special Town meeting and on such other terms and conditions as the Selectmen may determine and to act fully thereon. By Request of the Harwich Housing Committee.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-4, NO-3

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted
Duly seconded

ACTION: The motion carried

AMEND ARTICLE 59 AND ARTICLE 60 OF THE 2006 ANNUAL TOWN MEETING

ARTICLE 21 To see if the Town will vote to amend Article 59 – lease Property for Multi-Purpose Use in Harwich Center, and Article 60 – Lease Property for Multi-Purpose Use in West Harwich of the May 2006 Annual Town Meeting and insert “Affordable Housing” between “Educational” and “or other” in paragraph 2 which would now read as follows:

“2. The existing Building for Arts, Cultural, Educational, Affordable Housing or other use as deemed appropriate by the Board of Selectmen.”

and to act fully thereon. By Request of the Harwich Housing Committee.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-6, NO-1

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted.
Duly seconded

ACTION: A standing count was taken; YES 62 NO 89, the motion did not carry.

GRANT EASEMENT FOR SERVICE TO NEW POLICE STATION

ARTICLE 22 To see if the Town will vote to authorize the Board of Selectmen to grant to Verizon New England Inc. and NStar Electric Company perpetual rights and easements for telephone and electric services to be installed on (1) parcel of land at 175 Sisson Road identified by Assessor's Map 31, Parcel H1-4, being the site of the new police station, on such terms and conditions and for such consideration as the Selectmen may determine, which may be nominal consideration, and to act fully thereon. By request of the Board of Selectmen.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted.
Duly seconded

ACTION: It was a unanimous vote, so declared.

GRANT EASEMENT FOR UNDERGROUND UTILITY SYSTEM FOR SERVICE TO GOMES WAY HOUSING PROJECT

ARTICLE 23 To see if the Town will vote pursuant to G.L. c. 40 §15 to authorize the Board of Selectmen to convey to Verizon New England Inc., NSTAR Electric Company, National Grid, and Comcast Corporation, their successors and assigns, on such terms and conditions and for such consideration as the Selectmen may determine, which may be nominal consideration, for the purpose of providing service to the housing development underway on Gomes Way, perpetual non-exclusive rights and easements for telecommunications, electric, gas, cable and any and all other utility services to be installed over, under or on the roadway shown as "Gomes Way" on a plan entitled "Grading & Drainage Plan, Gomes Way, Harwich, MA," dated February 4, 2008, by J.M. O'Reilly & Associates, Inc., and on file with the Town Clerk, which roadway is a portion of the premises shown as "Parcel 1" and "Proposed 50'Easement" on a plan entitled "Plan of Proposed Land Acquisition, E. Harwich, Mass." dated March 30, 1990, revised July 26, 1990, by Harwich Engineering Department, recorded with Barnstable Registry of Deeds in Plan Book 477, Page 98, as corrected by notice recorded in Book 7435 Page 82, and further described in an Order of Taking by Eminent Domain recorded with said Deed in Book 10319 Page 125, and to act fully thereon. By request of the Board of Selectmen.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted.
Duly seconded

ACTION: It was a unanimous vote, so declared.

SAQUATUCKET HARBOR PARKING LOT LEASE

ARTICLE 24 To see if the Town will vote to authorize the Selectmen to lease a portion of the Saquatucket Harbor Parking Lot in Harwich Port shown as Assessor's Map 15, Parcel T3 for use during the off-season for boat storage purposes. Said lease to be for a term of up to five (5) years, and on such other terms and conditions as the Selectmen deem appropriate, and to act fully thereon. By request of the Board of Selectmen and Harbormaster.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-5, NO-2

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted.
Duly seconded

ACTION: The motion did not carry.

SELL PARCEL FOR AFFORDABLE HOUSING

ARTICLE 25 To see if the Town will vote to transfer the care, custody, control, and management of the following parcels of land from the board or officer that currently has custody of the land for the purpose for which it is currently held to the Board of Selectmen to be held for the purpose of conveyance: a parcel of land located off Driftwood Lane and as shown on Assessor’s Map 53, Parcel G3-1, containing 8.74 acres; subject to all conditions as stated in Article 41 of the 2004 Annual Town Meeting with the exception of the condition that the Town of Harwich maintain ownership of the land, and to further authorize the Board of Selectmen to convey the fee or a lesser interest in said parcel pursuant to the public bidding requirements of the Uniform Procurement Act, Chapter 30B of the General Laws, if applicable, provided that the Board of Selectmen is authorized to negotiate the terms and conditions of the conveyance determined to be in the best interests of the Town including retaining a permanent affordable housing deed restriction in perpetuity in the name of the Town, and provided further that said conveyance shall be subject to the terms of the existing leases on the property, and to act fully thereon. By request of Habitat for Humanity.

THE FINANCE COMMITTEE WILL MAKE A RECOMMENDATION AT TOWN MEETING. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted with the following change: delete the words “and provided further that said conveyance shall be subject to the terms of the existing leases on the property.”

Duly seconded

ACTION: It was a unanimous vote, so declared.

LAND FOR AFFORDABLE HOUSING

ARTICLE 26 To see if the Town would vote to transfer the care, custody, control, and management of the following parcels of land from the board or officer that currently has custody of the land for the purpose for which it is currently held to the Board of Selectmen to be held for the purpose of conveyance; and to further authorize the Board of Selectmen to convey the fee or a lesser interest in said parcel pursuant to the public bidding requirements of the Uniform Procurement Act, Chapter 30B of the General Laws, if applicable, provided that the Board of Selectmen is authorized to negotiate the terms and conditions of the conveyance determined to be in the best interests of the Town including retaining a permanent affordable housing deed restriction in perpetuity in the name of the Town:

Assessor’s Map 10, Parcel X3	70 Willow Street	May 2001 STM – Article 3
Assessor’s Map 30, Parcel A3	7 Old Campground Road	May2001 STM – Article 3
Assessor’s Map 21, Parcel E4-2	109 Sisson Road, Harwich	May 2003 ATM – Article 36

Assessor's Map 66, Parcel A1-91-94	754 Depot Street, Harwich	May 2008 ATM – Article 56
Assessor's Map 85, Parcel S102	13 Haromar Heath	May 2008 ATM – Article 56

and to act fully thereon. By request of the Harwich Housing Committee.

THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE: YES-7, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted.
Duly seconded

ACTION: It was a unanimous vote, so declared.

**FUND SCHOLARSHIP AWARDS FOR PROJECT CONTEMPORARY
COMPETITIVENESS**

ARTICLE 27 To see if the Town will vote to raise and appropriate transfer from available funds for the Board of Selectmen and School Committee to award scholarships which will defray the cost of tuitions and related expenses to seventh, eighth and ninth grade students residing in Harwich to participate in Project Contemporary Competitiveness at Bridgewater State College and the Advanced Studies and Leadership program at Mass Maritime Academy and to act fully thereon. By Petition. Estimated cost: \$15,000.

THE FINANCE COMMITTEE WILL MAKE A RECOMMENDATION AT TOWN MEETING. VOTE: YES-5, NO-0

MOTION: (Linda Cebula-Finance Committee) I move that this article be accepted and adopted and the sum of \$15,000.00 be transferred from Free Cash for this purpose.

Duly seconded

ACTION: This motion did not carry.

At 11:00 PM on February 5, 2009, a motion was made and seconded to adjourn the Special Town Meeting, duly seconded and so voted.

**THE FOLLOWING ARTICLES WERE PASSED AT THE
SPECIAL TOWN MEETING
FEBRUARY 5, 2009**

COMMUNITY PRESERVATION

ARTICLE 7 COMMUNITY PRESERVATION ACT LEGISLATIVE AMENDMENT

GENERAL BY-LAW - AMENDMENT

ARTICLE 9 GENERAL BY-LAW – HARBOR DREDGING BETTERMENT COST ALLOCATION

CALEB CHASE

ARTICLE 10 CALEB CHASE LEGISLATION

ACCEPT MASSACHUSETTS GENERAL LAWS

ARTICLE 11 ACCEPT MASSACHUSETTS GENERAL LAWS CHAPTER 59
SECTION 57C QUARTERLY TAXES

ARTICLE 12 ACCEPT THE PROVISIONS OF M.G.L. CH. 59 SUBSECTION 2A(A) -
CHANGE GROWTH DATE FROM JANUARY 1 TO JUNE 30

CAPE & VINEYARD ELECTRIC COOPERATIVE MEMBERSHIP

ARTICLE 17 CAPE & VINEYARD ELECTRIC COOPERATIVE MEMBERSHIP

ZONING BY-LAW - AMENDMENT

ARTICLE 18 AMEND ZONING BY LAWS - DRIVEWAY WIDTH CHANGE

LEASE

ARTICLE 19 LEASE PAYMENT – TOWN OWNED LAND ON SISSON ROAD

ARTICLE 20 LEASE PAYMENT – TOWN OWNED LAND IN WEST HARWICH

EASEMENTS

ARTICLE 22 GRANT EASEMENT FOR SERVICE TO NEW POLICE STATION

ARTICLE 23 GRANT EASEMENT FOR UNDERGROUND UTILITY SYSTEM FOR
SERVICE TO GOMES WAY HOUSING PROJECT

HOUSING

ARTICLE 25 SELL PARCEL FOR AFFORDABLE HOUSING

ARTICLE 26 LAND FOR AFFORDABLE HOUSING

**APPROPRIATIONS VOTED UNDER ARTICLES
SPECIAL TOWN MEETING
FEBRUARY 5, 2009**

FROM FREE CASH

ARTICLE 1	SUPPLEMENT RESERVE FUND	\$50,000.00
ARTICLE 4	FUND NEW HEATING SYSTEM AT FIRE STATION 2	\$20,000.00

FROM OTHER AVAILABLE FUNDS

ARTICLE 2	FOUNDATION RESERVE AWARD	\$ 80,000.00
ARTICLE 5	DESIGN/ENGINEERING FEES FOR RTE 137 CORRIDOR	\$327,800.00

WATER ENTERPRISE FUND

ARTICLE 3	APPROVE WATER ENTERPRISE FUND TRANSFER	\$186,793.06
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