

Minutes for the Annual Town Meeting held May 7, 2012

Pursuant to the provisions of the foregoing warrant, the voters assembled at the Nauset Regional High School Auditorium to vote on the following articles with actions as noted. The Moderator called the meeting to order at 7:15 p.m. with a quorum of 206 voters present. The Town Clerk read the call of Town Meeting.

Article 1. A motion was made and seconded by the Board of Selectmen to raise and appropriate \$1,200 for the Greenhead Fly Control as authorized by G.L. C.252 § 24, and authorize the Town Treasurer to pay said appropriation into the State Treasury.

Passed – Declared majority vote by Moderator

A motion was made and seconded by the Board of Selectmen to move Articles 2 through 6 as a consent agenda and for the following purposes:

Article 2. To assume liability in the manner provided in Sections 29 and 29A of Chapter 91 of the General Laws, as most recently amended for all damages that may be incurred by the Department of Environmental Protection of Massachusetts for the improvement, development, maintenance and protection of tidal and non-tidal rivers and streams, great ponds, harbors, tidewaters, foreshore and shores along a beach, in accordance with Section 11 of Chapter 91 of the General Laws, and authorize the Selectmen to execute and deliver a bond of indemnity therefore to the Commonwealth of Massachusetts.

Article 3. To accept the provisions of Massachusetts General Law Chapter 71, Section 16B, which would reallocate the sum of the member towns' funding obligation for the Nauset Regional School District in accordance with the Regional Agreement rather than the Education Reform Formula, so-called.

Article 4. To transfer from Free Cash \$10,000 as a grant to the Eastham Promotions Fund to be expended by the Visitor Services Board on the following items: concerts on the green \$5,500, Flower Island support \$500, Christmas banners and walkways at the gazebo \$4,000.

Article 5. To transfer \$10,000 from Free Cash to be given to the Eastham Chamber of Commerce as a grant to help support operations of the Information Booth.

Article 6. To reauthorize the following revolving accounts, through the Town Accountant's office, in accordance with Massachusetts General Laws, Chapter 44 Section 53E ½ : Recreation Bottles and Cans \$10,000 for Beach & Recreation Programs and; Home Composting Bin/Recycling \$5,000 to purchase additional bins & advertise their availability and; Vehicular Fuel Sales \$30,000 to purchase additional fuel for sale to other government entities and; Council on Aging/Lower Cape Adult Day Center \$7,000 to pay for additional COA programs and performances.

Articles 2 through 6

Passed – Declared majority vote by Moderator

Article 7. A motion was made and seconded by the Board of Selectmen to petition the General Court for special legislation to impose a Room Occupancy Tax as detailed in G.L. c.64G, to single cottages, condominiums and single and multifamily dwellings when such units are rented for less than 90 days, and further to accept from the General Court editorial or clerical changes and further that such law shall not take effect before January 1, 2013, regardless of the action date of the legislature.

Notwithstanding any general or special law to the contrary, the town of Eastham may impose a room occupancy tax, not to exceed 5% and equal to the occupancy tax imposed on accommodations subject to G.L. c.64G 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 timeshare units or any other such temporary occupancy not currently defined in G.L. c.64G; vacation or leisure accommodation being defined as occupancy for a price to be paid and intended at the time of contract to be for a period of ninety consecutive days or less, regardless of whether such use and

possession is as a lessee, tenant, guest or licensee; G.L. c.64G, §3,4,5,6 and 7A and shall be liable in the same manners as operators in G.L. c.64 §7B;

Article failed by vote of 319 Yes 442 No as declared by Moderator

Article 8. A motion was made and seconded by the Board of Selectmen to accept M.G.L. 138 Section 33B to allow the Board of Selectmen to license the sale of alcoholic beverages by on-premise licensees Sunday, the last Monday in May and on Christmas Day between 10:00 A.M. and 12:00 noon.

Passed – Declared majority vote by Moderator

A motion was made and seconded to move Articles 33 and 34 out of order.

Motion failed the required 2/3rds as declared by Moderator
364 Yes 406 No

Article 9. A motion was made and seconded by the Board of Selectmen to raise and appropriate \$93,422 to pay the Town of Eastham's share of capital expenses for Nauset Regional School District for improvements and equipment as shown on the multi-year capital improvement plan for the Nauset District.

Passed – Declared majority vote by Moderator

Article 10. A motion was made and seconded by the Board of Selectmen to petition the General Court for special legislation to provide for the post retirement benefits for employees of the Orleans, Brewster and Eastham Groundwater Protection District in the event of dissolution of the district, with each town sharing equally in the costs; 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 to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of the petition.

Passed – Declared majority vote by Moderator

Article 11. A motion was made and seconded by the Board of Selectmen to appropriate and transfer from free cash \$75,000 to the Stabilization Fund.

Passed – Declared necessary 2/3rds majority vote by Moderator

Article 12. A motion was made and seconded by the Board of Selectmen to set the operating budget at \$20,563,241 as printed in the warrant, and to meet this appropriation the town vote to

Raise and appropriate and use estimated receipts totaling \$20,092,813, and;

Transfer from the ambulance receipts reserved account \$317,907, to be apportioned as follows:

\$175,000 to Line 32 Fire Salaries and \$142,907 to Line 34 Fire Capital, and

transfer from the Septic Loan Betterment Account \$20,401 to Line 78, Septic Betterment Loans; and

transfer from the Windmill receipts reserved account \$1,000 to Line 70, and;

transfer from Overlay Surplus \$75,000 to Line 86, and;

transfer from the Government Media Access Account \$56,120 to Line 12, Data Processing Salary and;

transfer from Line 46 (Nauset Regional School Operating Assessment) \$55,000 to Police Salary Account Line 29 and;

further to transfer from Free Cash (dog receipts) an additional \$2,500 to Line 68, Library Expense.

Passed – Declared majority vote by Moderator

Article 13. A motion was made and seconded by the Board of Selectmen to expend \$580,100 and to meet this appropriation, the town vote to

Raise and appropriate \$50,000 and;
Transfer from Free Cash \$342,800 and;
Transfer from the Ambulance Receipts Reserved Account \$161,300 and;
Transfer from the Human Services Gift Account \$26,000 for the purposes of acquiring the following items:

Passed – Declared majority vote by Moderator

Article 14. A motion was made and seconded by the Board of Selectmen to vote in accordance with the requirements of the Town of Eastham Home Rule Charter 6-6A to accept the Capital Improvement Plan for FY2014-FY2018 as printed in the warrant.

A motion was made and seconded to delete line item 122 of the Five-year Capital Plan
Motion passed – Declared by Moderator
Hand Count 422 Yes 324 No

Article 14, minus line 122, passed by majority as declared by Moderator

Article 15. A motion was made and seconded by the Board of Selectmen to transfer \$15,000 from the Snow and Ice Salary Account to the Snow and Ice Expense Account, and further the Town transfer from Free Cash \$10,000 to the Legal Expense Account to cover additional expenses incurred in FY12.

Passed – Declared majority vote by Moderator

Article 16. A motion was made and seconded by the Board of Selectmen to appropriate and transfer from Free Cash \$4,034.10 to pay prior years unpaid bills: Advanced Telesystems, \$1,395, Advanced Telesystems \$1,425, and Advanced Telesystems \$1,214.10, for upgrades to telephone and computer networks in the police station.

Passed – Declared required 4/5th majority vote by Moderator

Article 17. A motion was made and seconded by the Board of Selectmen to fix the salary and compensation of all elected officials of the Town as provided by Section 108, Chapter 41 of the General Laws as amended and further to raise and appropriate \$152,627 for the following sums of money for salaries:

Moderator	\$ 150.00
Town Clerk	\$ 65,997.00
Treasurer/Tax Collector	\$ 78,980.00
Selectmen (5) \$1,500 each	<u>\$ 7,500.00</u>
Total	\$152,627.00

Passed – Declared majority vote by Moderator

The following motion made and seconded by the Board of Selectmen differs from the original article printed in the warrant.

Article 18. A motion was made and seconded by the Board of Selectmen that the Town hereby establishes a municipal water supply and water distributing system pursuant to Chapter 40, Section 39A of the General Laws and as shown on a plan entitled Water Distribution System Development, Phase 1, Eastham Mass, dated, January 2012.

That \$32,000,000 is appropriated to pay costs of establishing such water supply and distribution system, including, without limitation, the costs of taking or purchasing water sources or water or flowage rights, the taking or purchasing of land or easements for the water system or for the protection of the water system or water sources, the construction and development of wells, the construction of water towers, the construction of buildings for water treatment and pumping stations, the laying and relaying of water mains, the purchase and installation of water meters, fire hydrants and other water department equipment, and design and engineering and other costs incidental thereto, and including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws;

That to meet this appropriation the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$32,000,000 under and pursuant to Chapter 44 and/or Chapter 29C of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor;

That the Treasurer with the approval of the Board of Selectmen is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust (the "Trust") established pursuant to Chapter 29C of the General Laws, and in connection therewith to enter into one or more loan agreements and/or security agreements with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to any loan or loans obtained through the Trust, and for any federal or state aid available for the project or for the financing thereof; and

That the Board of Selectmen is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary to carry out the project;

That, in accordance with Chapter 40, Section 39A of the General Laws, the Board of Selectmen is hereby authorized to act as water commissioners and to exercise all of the powers of water commissioners pursuant to Chapter 41, Section 69B of the General Laws; and

That the Town hereby accepts the provisions of Chapter 40, Sections 42A through 42F of the General Laws to authorize the collection of water rates.

After a lengthy debate, a motion was made and seconded to close debate.
Motion to close debate passed – declared majority vote by Moderator

Article 18 failed to pass necessary 2/3rds vote - declared by the Moderator
Count 289 Yes 485 No

Article 19. A motion was made and seconded by the Board of Selectmen to approve the Local Comprehensive Plan Third Edition – 2012 and forward said plan to the Cape Cod Commission for final approval by them.

Passed – Declared majority vote by Moderator

Article 20. A motion was made and seconded by the Board of Selectmen to reserve \$685,841 from the FY2013 estimated Community Preservation revenues to be appointed to accounts in the following amounts:

Open Space Reserve \$68,584
Historical Reserve \$68,584
Affordable Housing \$68,584 and;
To the \$480,089 Budgeted Reserve
As recommended by the Community Preservation Committee

Passed – Declared majority vote by Moderator

Article 21. A motion was made and seconded by the Board of Selectmen to transfer from the Community Preservation Fund Balance \$20,000 to the Community Preservation Administrative Expense Account as allowed by law for the purpose of administrative expenses.

Passed – Declared majority vote by Moderator

Article 22. A motion was made and seconded by the Board of Selectmen to transfer from the Community Preservation Open Space Reserve Account \$140,000 for the purpose of treating Herring Pond to preserve the open space quality of the pond by reducing the effects of phosphorus.

Passed – Declared majority vote by Moderator

Article 23. A motion was made and seconded by the Board of Selectmen to transfer from the Community Preservation Historic Reserve Account \$53,754 for the purpose of preserving records in the Town Clerk's Office.

Passed – Declared majority vote by Moderator

The Moderator disclosed that he may be in conflict and discussed this with the Town Clerk. There was no objection from Town Meeting.

Article 24. A motion was made and seconded by the Board of Selectmen to transfer \$100,000 from the Community Preservation Historic Reserve Account and further to appropriate and transfer \$102,000 from the Community Preservation Fund Balance for the purpose of restoration projects for the 1741 Swift-Daley House Museum, and further, to authorize the Board of Selectmen, in consultation with the Community Preservation Committee to enter into a grant agreement with the Eastham Historical Society, Inc. which agreement shall provide that the funds are used for such purposes.

Passed – Declared majority vote by Moderator

Article 25. A motion was made and seconded by the Board of Selectmen to transfer from the Community Preservation Fund Balance \$5,100 for the purpose of constructing a parking lot at Sandy Meadow Way to serve passive recreation users of the parcel.

Passed – Declared majority vote by Moderator

Article 26. A motion was made and seconded by the Board of Selectmen to rescind \$5,000 previously transferred and to transfer \$20,000 from the Community Preservation Open Space Reserve Account to the Eastham Open Space Committee for an analysis of parcels perceived to be held for conservation purposes and/or under the custody of the Eastham Conservation Commission, and all other protected open space in Eastham (not including land owned by the federal government within the Cape Cod National Seashore).

Passed – Declared majority vote by Moderator

Article 27. A motion was made and seconded by the Board of Selectmen to transfer \$175,000 from the Community Preservation Fund Balance to the Eastham Affordable Housing Trust for the purpose of providing rental assistance to ten families for a period of three (3) years.

Passed – Declared majority vote by Moderator

Article 28. A motion was made and seconded by the Board of Selectmen to transfer from the 2010 Provision for Abatements and Exemptions Account \$10,000 to the 2012 Provision for Abatements and Exemptions Account.

Passed – Declared majority vote by Moderator

Article 29. A motion was made and seconded by the Board of Selectmen to transfer from free cash \$35,000 to be used under the direction of the Board of Selectmen for the purpose of providing supplemental funds to be used, by all departments, in conjunction with grants that may be awarded from public or private agencies for use by the Town.

Passed – Declared majority vote by Moderator

Article 30. A motion was made and seconded by the Board of Selectmen to accept G.L. c64L, Section 2(a) to authorize a local meals tax of .75% to take effect no sooner than January 1, 2013.

Failed to pass as declared by Moderator

Article 31. A motion was made and seconded by the Board of Selectmen to accept as a gift, 1111 square feet of land located on the southeast corner of Salt winds Drive and Oak Leaf Road in Eastham and being part of a subdivision plan entitled Subdivision of Land in Eastham made for Salt Winds, Inc, by Slade Associates, Inc. E. Main Street at Route 6, Wellfleet, MA 02667, Richard F. Lay, Registered Land surveyor, dated November 1983 and shown on Assessors Map 6, Parcel 132W.

Passed – Declared majority vote by Moderator

Article 32. A motion was made and seconded by the Board of Selectmen to accept as a town way, the private way known as Clayton Road in Eastham which is shown on plan entitled "First Encounter Estates, Subdivision Plan of Land in Eastham, MA, prepared by MacCarthy Engineering Service Inc, 81 Speen St., Natick Ma. dated May 31, 1973, (copies of which are on file with the Planning Department) and under such terms and conditions as the BOS may require.

Passed – Declared majority vote by Moderator

Article 33. A motion was made and seconded by the Board of Selectmen to transfer the care and custody of the land described in the article from the Board of Selectmen to the Conservation Commission the care, custody, control and management of the following certain parcels of land, and to approve of said transfer of land with no further action required by Town meeting, the land located off North Sunken Meadow Road, North Eastham, for conservation and passive recreation purposes only, said land to be placed under the care, custody, control and management of the Conservation Commission pursuant to G.L. c40, s.8C: Lots B and C on a plan entitled "Amended Subdivision Plan of Land in Eastham, MA prepared for The Town of Eastham, Scale: 1" = 100', Dated October 1, 2010, Revised November 15, 2010" and recorded with Barnstable County Registry of Deeds in Plan Book 638 Page 49 and shown on the town of Eastham Assessors' Map No.2, Parcel No. 32A.

A motion was made and seconded to close debate.

Motion passed – declared majority vote by Moderator

Article failed as declared by Moderator

Article 34. A motion was made and seconded by the Board of Selectmen to grant a perpetual Conservation Restriction to the Eastham Conservation Foundation, Inc. or other qualified not for profit or non profit on the following certain parcels of land located off North Sunken Meadow Road, North Eastham:

Lots B and C on a plan entitled "Amended Subdivision Plan of Land in Eastham, MA prepared for The Town of Eastham, Scale: 1" = 100', Dated October 1, 2010, Revised November 15, 2010" and recorded with Barnstable County Registry of Deeds in PLAN Book 638 Page 49 and shown on the Town of Eastham Assessors' Map No. 2, Parcel No. 32A, all as authorized by Massachusetts General Laws, Chapter 184, Sections 31-33, restricting in perpetuity, the use of said land for conservation and passive recreation purposes and uses; and to authorize the Board of Selectmen and the Conservation Commission and their agents to work with said Eastham Conservation Foundation, Inc. or other qualified not for profit or nonprofit conservation organization to negotiate the terms and conditions of said Conservation Restriction, include at a minimum, a perpetual restriction on the use of the land for conservation and passive recreation purposes and uses only, or do or take any other action relative thereto.

A motion was made and seconded to close debate.

Motion passed – declared majority vote by Moderator

Article failed as declared by Moderator

Count 218 Yes 220 No

Article 35. A motion was made and seconded by the Board of Selectmen to accept the published reports of the town officers.

Passed – Declared majority vote by Moderator

Resolution. A motion was made and seconded by the Board of Selectmen to endorse the resolution concerning the re-licensing of the Pilgrim Nuclear Facility in Plymouth, Massachusetts as follows:

Whereas the people of the Town of Eastham deem the Pilgrim Nuclear facility in Plymouth, Massachusetts, to present a clear and present danger to our town and to the people of Cape Cod and beyond, we resolve to call upon both the House and the Senate of the General Court of Massachusetts to deny the Pilgrim Nuclear facility a new license for now and forever; or to take any other action relative thereto.

Town Meeting failed to endorse resolution as declared by Moderator

There were 848 voters present at the close of Town Meeting out of a possible 4123.

There being no further action of Town Meeting, the Selectmen moved and seconded a motion to dissolve Town Meeting at 11:35 p.m. The Moderator declared Town Meeting dissolved after a unanimous vote by voters.

A True Copy Attest:

Lillian Lamperti