Minutes for the Annual Town Meeting held May 4, 2015

Pursuant to the provisions of the foregoing warrant, the voters assembled at the Nauset Regional High School Gymnasium to vote on the following articles with actions as noted. The Moderator called the meeting to order at 7:00 p.m. with a quorum of 202 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 $1,700 for 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 majority vote declared by Moderator
Count: 627 Yes 23 No

Article 2. A motion was made and seconded by the Board of Selectmen to assume liability in the manner provided by Section 29 and 29A of Chapter 91 of the General Laws 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 G. L. c. 91, §11, and authorize the Selectmen to execute and deliver a bond of indemnity therefore to the Commonwealth of Massachusetts.

Passed - Declared majority voice vote by Moderator

Article 3. A motion was made and seconded by the Board of Selectmen to elect to reallocate the sum of member towns' funding obligation for the Nauset Regional District pursuant to G. L. c.71, §16B in accordance with the Regional Agreement rather than the Education Reform Formula, so-called, for fiscal year 2017.

Passed majority vote declared by Moderator
Count: 632 Yes 22 No

Article 4. A motion was made and seconded by the Board of Selectmen to reauthorize the following revolving accounts, through the Town Accountant's office, in accordance with Massachusetts General Laws, Chapter 44, Section 53E ½ for the fiscal year beginning July 1, 2015:

Recreation Bottles and Cans	$ 7,500
Home Composting Bin/Recycling	750
Vehicular Fuel Sales	50,000
Council on Aging/Lower Cape Adult Day Center	11,000

Revolving Fund	**Authorize to Spend Fund**	**Revenue Source**	**Use of Fund**	**FY16 Spending Limit**
Recreation – Bottles & Cans	Recreation Director	Collection & Redemption of Bottles & Cans	Beach & Recreation Programs	$ 7,500
Home Composting Bin/Recycling Revolving Account	BOS or designee	Sale of Compost Bins	Purchase additional bins & advertise their availability	$ 750

Vehicular Fuel Sales Revolving Account	BOS or designee	Sale of fuel to other government entities	Purchase additional fuel for sale to other government entities	$ 50,000
Council on Aging/Lower Cape Adult Day Center Revolving Acct	COA Director	Funds from fees, charges for COA programs and performances	Pay for additional COA programs and performances	$ 11,000

Passed majority vote declared by Moderator
Count: 619 Yes 26 No

Article 5. A motion was made and seconded by the Board of Selectmen to accept G.L. c. 71, Section 71F to authorize the town to establish an account for acceptance and expenditure of tuition payments for special needs nonresident students and students in foster care, to be spent by the School Committee on said program without further appropriation.

Passed majority vote declared by Moderator
Count: 579 Yes 74 No

Article 6. A motion was made and seconded by the Board of Selectmen to transfer from Free Cash the sum of $10,000 to the Visitors Service Board in accordance with Annual Town Meeting Article 26, May 4, 1998, to the Eastham Promotions Fund to be expended by the Visitor Services Board on the following items: Landscaping, lighting, and holiday decorations and general improvement on Windmill Green $3,000, Flower Island support $500, Summer concerts, $6,500.

Passed majority vote declared by Moderator
Count: 614 Yes 44 No

Article 7. A motion was made and seconded by the Board of Selectmen that the town vote to authorize the Board of Selectmen to petition the General Court for Special Legislation to impose a room occupancy

tax as detailed in General Laws Chapter 64G to single cottages, condominiums and single and multi-family dwellings when such units are rented less than 90 days and further to accept from the General Court editorial or clerical changes and further that such laws shall not take effect before January 1, 2016 regardless of the active date of the legislature.

A motion was made to call the question
Passed required 2/3rds vote declared by Moderator
Count: 524 Yes 137 No

Main motion passed majority vote declared by Moderator
Count: 376 Yes 278 No

Article 8. A motion was made and seconded by the Board of Selectman that the Town hereby establish a municipal water supply and water distributing system pursuant to Chapter 40, Section 39A of the General Laws; and further

That $ 85,000,000 (85 million) 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 $ 85,000,000 million 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 therefore;

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;

That the Town hereby accepts the provisions of Chapter 40, Sections 42A through 42F and Section 42J, of the General Laws to authorize the collection of water rates, as printed in the warrant.

A motion was made to call the question
Passed required 2/3rds vote declared by Moderator
Count: 563 Yes 104 No

Main motion passed required 2/3rds vote declared by Moderator
Count: 456 Yes 210 No

Article 9. A motion was made and seconded by the Board of Selectmen to transfer from Free Cash $20,000 to the Other Post-Employment Benefits (OPEB) Trust Fund.

Passed majority vote as declared by Moderator
Count: 490 Yes 90 No

Article 10. 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 $77,817 the following sums of money for salaries:

Moderator		$ 500
Town Clerk		$67,317
Selectmen (5) 2,000 each		$ 10,000
	Total	**$ 77,817**

Passed majority as declared by Moderator
Count: 506 Yes 101 No

Article 11. A motion was made and seconded by the Board of Selectmen to transfer from Free Cash $ 14,000 and further to raise and appropriate $ 2,000 contingent on a Proposition 2 ½ override, for a total of $ 16,000 to the Eastham Chamber of Commerce.

Passed majority vote as declared by Moderator
Count: 515 Yes 89 No

Article 12. A motion was made and seconded by the Board of Selectmen to set the operating budget at **$23,924,052** as printed in the warrant, and to meet this expenditure, to raise and appropriate and use estimated receipts totaling **$22,932,134**

and transfer from the ambulance receipts reserved account **$150,000** to Line 27 Fire Salaries and **$104,000** to Line 29 Fire Capital;
and transfer from Free Cash **$100,000** to Line 27 Fire Salaries;
and transfer from the Septic Loan Betterment Account **$20,400** to Line 64 Septic Betterment Loan;
and transfer from the Windmill receipts reserved account **$1,000** to Line 59 Beach and recreation Expense;
and transfer from the Government Media Access Account **$96,120** to Line 11 Data Processing salary;
and transfer from Free Cash **$ 22,975** to Line 70 Retirement Assessment;
and transfer from Free Cash **$ 113,423** to Line 37 Nauset Capital Assessment;
and to raise and appropriate **$350,000** contingent on a Proposition 2 ½ override;
further transfer from Free Cash (dog receipts) an additional **$2,500** to Line 57 Library Expense

Passed majority vote as declared by Moderator
Count: 450 Yes 131 No

Article 13. A motion was made and seconded by the Board of Selectmen to appropriate $746,300, and to meet this appropriation,

to raise and appropriate $115,000
and transfer from Free Cash $426,300
and transfer from the Ambulance Receipts Reserved Account $200,000
and transfer from Boat Excise $5,000
for the purposes of acquiring the items and undertaking the improvements as printed in the warrant.

Passed majority vote as declared by Moderator
Count: 461 Yes 98 No

Article 14. A motion was made and seconded by the Board of Selectmen in accordance with the requirements of the Town of Eastham Home Rule Charter Section 6-6A to accept the Capital Improvement Plan for FY2017-FY2021, as printed in the warrant.

Passed majority vote as declared by Moderator
Count: 481 Yes 87 No

Article 15. A motion was made and seconded by the Board of Selectmen to transfer from Free Cash the sum of $135,000 in the following amount to the accounts as listed:

Article 12, May 2014 Line 49 Snow and Ice $35,000

Article 12, May 2014 Line 10 Legal Services $25,000; and

IRAP Fund $75,000

Passed majority vote as declared by Moderator
Count: 495 Yes 61 No

Article 16. A motion was made and seconded by the Board of Selectmen to raise and appropriate $30,000 to raise and appropriate $30,000 to support the cost of plowing Private Roads as authorized in G.L.c. 40, Section 6N, May 2014.

Passed majority vote as declared by Moderator
Count: 480 Yes 91 No

Article 17. A motion was made and seconded by the Board of Selectmen to indefinitely postpone Article 17.
Selectman McDonald offered as explanation that it has come to light that there is a legal defect in the road layout process by the Board of Selectmen the results of this article not being fully prepared for vote at this meeting. For that reason until the layout process can be completed in advance of a future town meeting. The Board will try to obtain permission from the road abutters to allow the town to affect minor repairs (grading) and to keep the road passable.

Motion to end debate to indefinitely postpone Article 17 passed
Required 2/3rds vote as declared by Moderator
Count: 425 Yes 87 No

Motion to indefinitely postpone Article 17 failed as declared by Moderator
Count: 144 Yes 370 No

A motion was then made and seconded by the Board of Selectmen to accept as a town way that portion of the way know as Hay Road, from the intersection with Governor Prence Road to the intersection with Deacon Paine Road as heretofore laid out by the Board of Selectmen and shown on a plan of land entitled, "Cape Town Hills Plan of Land in Eastham MA for Robert Erickson & John B. Curtiss" and also shown on Subdivision Plan of Land in Eastham for John B. and Ruth F. Curtiss and Book 212, Page 89 and more particularly described in Deed recorded with Barnstable County Registry of Deeds in Book 191 Page 21 for all purposes for which public ways are used in the Town of Eastham, and accept any related drainage, utility access and/or other easements, and as funding, to transfer from Free Cash $5,000 for said purposes.

Motion to call the question passed required 2/3rds vote as declared By Moderator
Count: 475 Yes 31 No

Main motion passed majority vote as declared by Moderator
Count: 442 Yes 68 No

Article 18. A motion was made and seconded by the Board of Selectmen to vote to amend the Town of Eastham Code, Section 26-1, entitled "Four Wheel Drive Vehicles on Beaches", Section C by adding language after the words "Coast Guard Beach" as follows:

> ***except as may be permitted by annual renewal by the Board of Selectmen after a public hearing and under such terms and conditions as they may set.***

So that the paragraph in its entirety reads as follows:

> C. All operation of vehicles shall be prohibited from the beach, dune and marsh area lying south of Coast Guard Beach, ***except as may be permitted by annual renewal by the Board of Selectmen after a public hearing and under such terms and conditions as they may set.***

A motion was made to call the question
Passed required 2/3rds vote as declared by Moderator
Count: 373 Yes 55 No

Main motion failed majority vote declared by Moderator
Count: 164 Yes 268 No

Article 19. A motion was made and seconded by the Board of Selectmen to transfer from Free Cash the sum of $30,000 to the Tri-Town Septage Treatment Facilities Account to pay the Town of Eastham's one third share of the design fees to prepare plans and specifications to demolish the Tri-Town Septage Treatment Facilities.

Passed majority vote declared by Moderator
Count: 311 Yes 20 No

Article 20. A motion was made and seconded by the Board of Selectmen to transfer $678,483, pursuant to the provisions of G.L. c.44B §(6) from the FY2016 estimated Community Preservation Receipts for the following purposes and to the following accounts:

Open Space Reserve $75,386;
Historical Reserve $75,386;
Affordable Housing $75,386;
and budgeted Reserve For Appropriation $452,325

Passed majority vote declared by Moderator
Count: 278 Yes 37 No

Article 21. A motion was made and seconded by the Board of Selectmen to transfer from the FY 2016 estimated Community Preservation revenues $75,386 to an Active Recreation Reserve for the purpose of setting aside Community Preservation Act funds, consistent with G.L. c.44B, §5(b)(3), in an account to support land for active recreational use, to be known as the Active Recreation Reserve, which amounts shall be accounted for separately and may be expended in the future only upon a further recommendation from the Community Preservation Committee and appropriation by Town Meeting; all as recommended by the Community Preservation Committee.

Passed majority vote declared by Moderator
Count: 304 Yes 28 No

Article 22. A motion was made and seconded by the Board of Selectmen to transfer from the Community Preservation Fund Balance $27,693 to the Community Preservation Administrative Expense Account, and $10,000 to May 2015, Article 12, Line 19 for the purpose of administrative expenses.

Passed majority vote declared by Moderator
Count: 281 Yes 30 No

Article 23. A motion was made and seconded by the Board of Selectmen to transfer from the Community Preservation Open Space Reserve $164,000 and further to transfer $274,625 from the Community Preservation Fund Balance, for a total appropriation of $438,625 with said expenditure contingent on receipt of gifts or grants of no less than $100,000 and under such terms and conditions as the Selectmen may impose to authorize the Board of Selectmen to acquire by gift, purchase or eminent domain, a fee simple interest or less in two parcels of land located at 225 Widgeon Drive and 5 Blue Bill Lane, Eastham, to be held under the care, custody, management and control of the Conservation Commission for the purpose of creating in perpetuity a Diamondback Terrapin Habitat area for nesting, study, and preservation of the species, under such terms and conditions which the Board of Selectmen may impose; and as funding therefore to appropriate the sum of $438,625 for the acquisition and other related costs associated therewith from the Community Preservation Open Space Reserves and/or the unrestricted reserves and/or borrow said total sum which shall be reduced by the amount of any grants or gifts received pursuant to the provisions of G. L. c. 44B, §11, G. L. c. 44, §7 or any other enabling authority, provided that no funds appropriated hereunder shall be expended until the Town receives gifts totaling a minimum of $100,000 for the purposes of this Article; and further to authorize the Board of Selectmen to grant a perpetual conservation restriction on the property in accordance with the provisions of G. L. c.44B, §12 and c. 184, §§31-33 to a public or private nonprofit entity or government agency as the Board of Selectmen and the Conservation Commission deem appropriate; and further, to authorize the Board of Selectmen and the Conservation Commission to file on behalf of the Town any and all applications deemed necessary for grants and/or reimbursements from the Commonwealth of Massachusetts or any other grant programs.

Passed majority vote declared by Moderator
Count: 303 Yes 34 No

Article 24. A motion was made and seconded by the Board of Selectmen to transfer from the Community Preservation Historic Reserve as a grant to the Eastham Historical Society $30,000 for restoration of a structure on its property at 2375 Route 6 known as the 1936 Dill Beach Camp, and under such terms and conditions as the Selectmen may impose, and further to authorize the Board of Selectmen to enter into a grant agreement with the Eastham Historical Society under such terms and conditions as the Town Administrator shall deem appropriate.

Passed majority vote declared by Moderator
Count: 256 Yes 22 No

Article 25. A motion was made and seconded by the Board of Selectmen to transfer from the Community Preservation Fund Balance as a grant to Habitat for Humanity, $45,000 for the creation of an affordable single family house in Eastham on land owned or to be owned in the Town of Eastham to be sold to an eligible low income household, under such terms and conditions as the Board of Selectmen may require, and to authorize the Board of Selectmen to enter into a grant agreement with Habitat setting the terms and conditions under which the funds may be expended and requiring the grant from Habitat to the Town of an affordable housing deed restriction in perpetuity on the property in the form approved by the Department of Housing and Community Development.

Passed majority vote declared by Moderator

Count: 258 Yes 25 No

Article 26. A motion was made and seconded by the Board of Selectmen to transfer, as a grant, to the Eastham Affordable Housing Trust $149,500 from the Affordable Housing Reserve Account and $250,500 from the Community Preservation Fund Balance for a total of $400,000, for a grant from the Town to the Town of Eastham Affordable Housing Trust for the purpose of purchasing existing housing units in Eastham and converting them to affordable rental units; under such terms and conditions as the Board of Selectmen deem appropriate and requiring that the Trust grant to the Town an affordable housing deed restriction in perpetuity on the property or properties and in the form approved by the Department of Housing and Community Development.

Passed majority vote declared by Moderator
Count: 238 Yes 30 No

Article 27. A motion was made and seconded by the Board of Selectmen to transfer, as a grant, to the Eastham Affordable Housing Trust $153,500 from the Community Preservation Fund Balance to fund a Rental Subsidy Program, for the purpose of continuing a Rental Subsidy Program, under such terms and conditions as the Board of Selectmen may require and to authorize the Board of Selectmen to enter into a grant agreement with the Trust setting forth the terms and conditions under which the funds may be expended.

Passed majority declared by Moderator
Count: 247 Yes 23 No

Article 28. A motion was made and seconded by the Board of Selectmen to transfer from the Community Preservation Fund Balance, $36,000, as a grant to the Eastham Affordable Housing Trust $24,000 of which will be transferred to May 2015, Article 12, Line 19 for the purpose of funding staff assistance; under such terms and conditions as the Board of Selectmen may require.

Passed - voice majority as declared by Moderator

Article 29. A motion was made and seconded by the Board of Selectmen to amend the Code of the Town of Eastham by adding a new Chapter 90, Section 7, Article 2 Civil Fingerprinting

In order to protect the health, safety, and welfare of the inhabitants of the Town of Eastham, as authorized by Chapter 6, Section 172B ½ of the Massachusetts General Laws, this bylaw shall require:

1. Applicants for a license listed herein to submit to fingerprinting by the Eastham Police Department.

Said licenses include:

A. Hawking and Peddling or other Door-to- Door Salespeople,
B. Manager of Alcoholic Beverage License
C. Owner or Operator of Public Conveyance
D. Dealer of Second-hand Articles
E. Pawn Dealers,
F. Ice Cream Truck Vendors
G. Hackney Drivers,

2. The Police Department to arrange for the conduct of fingerprint-based criminal record background checks; and

3. The Town to consider the results of such background checks in determining whether to grant such a license.

The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), as may be applicable, to conduct on the behalf of the Town and its Police Department fingerprint-based state and national criminal history records checks, including FBI records, consistent with this bylaw. The Town authorizes the Police Department to receive and utilize FBI records in connection with such background checks, consistent with this bylaw. The Town shall not disseminate criminal record information received from the FBI to unauthorized persons or entities.

The licensing authority shall utilize the results of any fingerprint-based criminal records background check performed pursuant to this Chapter for the sole purpose of determining the applicant's suitability for the proposed occupational activity. The licensing authority may deny an application for any license specified herein, including renewals and transfers thereof, if it determines that the results of the fingerprint-based criminal records background check render the applicant unsuitable for the proposed occupational activity.

No application shall be denied on the basis of information contained in a criminal record until the applicant has been afforded a reasonable time, as determined by the licensing authority, to correct or complete the information, or has declined to do so.

Each applicant for a license listed in §74-2 shall pay a fee set by the Board of Selectmen, but no less than $100. A portion of said fee, as specified by G.L. c6 §172B ½ of the General Laws, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder shall be retained by the Town for costs associated with the administration of the system.

Failed to pass required majority as declared by Moderator
Count: 104 Yes 176 No

Article 30. A motion was made and seconded by the Board of Selectmen to amend the Code of the Town of Eastham by adding a new Chapter 105, Section 7, Article 4, Public consumption of Marijuana or Tetrahydrocannabinol.

A. No Public Consumption.

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol, as defined in G.L. c. 94C, Section 1, while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under control of the Town, or in or upon any bus or other passenger conveyance operated by a common carrier within the Town, or in any place accessible to the public within the Town.

B. Violation and Penalties.

Violation of Section 1 is punishable by a fine of up to $300, and may be enforced through Non-Criminal Disposition under G.L. c.40, § 21D or by indictment or complaint under G.L. c.40, §21; when enforced through Non- Criminal Disposition under G.L. c.40 § 21D, the penalties shall be as follows:

First offense: $150.00

Second and subsequent offenses: $300.00

Any penalty imposed under this Bylaw shall be in addition to any civil penalty imposed under G.L. c. 94C, §32L.

Motion to end debate passed required 2/3 rds vote declared by Moderator
Count: 250 Yes 26 No

Main motion failed to pass majority declared by Moderator
Count: 133 Yes 141 No

Article 31. A motion was made and seconded by the Board of Selectmen to accept the published reports of the Town officers as printed and made available to the public in the 2014 Town of Eastham Annual Report, and to hear any unpublished reports of committees and to do or act on anything which may legally come before this meeting.

Passed majority voice vote as declared by Moderator

There were 702 voters present at the close of Town Meeting out of a possible 3947. This was the first time electronic voting was implemented. There being no further action of Town Meeting, the Selectmen moved and seconded a motion to dissolve Town Meeting at 10:45 p.m. The Moderator declared Town Meeting dissolved after a unanimous vote by voters.

A True Copy Attest:

Susanne Fischer

Susanne Fischer
Town Clerk