

**SELECTMEN'S MEETING AGENDA\***

*Griffin Room, Town Hall  
Regular Meeting 6:30 P.M.  
Monday, December 14, 2015*

I. **CALL TO ORDER**

II. **PLEDGE OF ALLEGIANCE**

III. **WEEKLY BRIEFING**

IV. **PUBLIC COMMENT/ANNOUNCEMENTS**

A. New initiatives by Garden Club of Harwich – *Diane DiGennaro, President*

V. **CONSENT AGENDA**

A. Approve Minutes –

1. November 30, 2015 Regular Session
2. December 1, 2015 Executive Session

B. Approve the 2016 Annual Liquor License Renewals

C. Approve the 2016 Annual General License Renewals

D. Accept gift of \$50.00 to the Town Nurse Gift Account

E. Approve private road betterment for Ginger Plum Lane in the amount of \$223,650 and vote to submit ATM Article for borrowing of said amount

F. Approve and sign License Agreement with Fenway Community Health Center, Inc. for use of room at Albro House

VI. **PUBLIC HEARINGS/PRESENTATIONS** (*Not earlier than 6:30 P.M.*)

A. Presentation by Visual Government – *Annie Lacourt, Visual Government*

B. Public Hearing – Community Development Strategy – *David Spitz, Town Planner*

C. Update on West Harwich School RFI – *David Spitz, Town Planner*

D. Update on Artificial Reef Project – *Amy Usowski, Conservation Agent*

E. Presentation on proposed legislation to deal with Eversource spraying issues on Cape Cod – *Laura Kelley, Director of Protect our Cape Cod Aquifer*

F. Town Administrator submits 7-Year Capital Plan to joint meeting of Board of Selectmen and Finance Committee

VII. **OLD BUSINESS**

VIII. **NEW BUSINESS**

A. Review and discussion of potential Town Meeting Warrant Articles - *discussion*

IX. **TOWN ADMINISTRATOR'S REPORT**

A. Rental Registration

B. Land Use Breakdown

X. **SELECTMEN'S REPORT**

XI. **ADJOURNMENT**

*\*Per the Attorney General's Office: The Board of Selectmen may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting following "New Business." If you are deaf or hard of hearing or a person with a disability who requires an accommodation contact the Selectmen's Office at 508-430-7513.*

Authorized Posting Officer:

Posted by: \_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Ann Steidel, Admin. Secretary

Date: December 10, 2015



The Garden Club of Harwich, PO Box 301, Harwich Port, Massachusetts 02646  
gardenclubofharwich.org

The Harwich Board of Selectmen  
c/o Mr. Christopher Clark,  
Town Administrator  
732 Main Street  
Harwich MA 02645

November 13, 2015

Dear Mr. Clark and Board of Selectmen,

The Garden Club of Harwich is enjoying a renaissance of sorts. Our fundraising has been very successful these past few years. We are poised to take on new projects that further our civic beautification mission. We presently care for 19 public spaces and over 30 blooming barrels. We provide a hundred holiday wreaths throughout the town, as well as coordinate a litter pick-up program. We offer scholarships and toolships. Our new initiatives include environmental grants to Harwich schools, as well as a Community Outreach program providing fresh flowers to the elderly and shut-ins. We are also enhancing our public parks with a more robust selection of perennials, shrubs and trees.

Our most ambitious project this spring will be the replacement of our Blooming Barrels. They are falling apart and in serious need of an upgrade. We will be replacing them with commercial grade 28"x28" square, black polyethylene planters. These are weather resistant. They are a great balance of classic style and durability. We are widening the scope of their placement to include Harwich Center.

We are so pleased to be partnering with the town on any and all of these projects. Link Hooper, the Director of Public Works, has been incredibly helpful in supporting these initiatives. His crew will help with the removal of the old barrels and the placing of the new ones. He's working closely with our Civic Beautification Chairpeople (Sally Smith and Amy Natiello) to improve our public spaces. I'm attaching their letter which details all the exciting projects underway. Amy Usowski, the Conservation Director, also has been extremely knowledgeable and open to improving Thompson's Field.

What a gift to live in a town where partnerships such as ours can flourish to improve the quality of life. I'm happy to talk further about any of these initiatives. Please know that we're always open to your ideas for making Harwich a more vibrant space.

Sincerely,

Ms. Diane DiGennaro, President

Helping To Keep Our Community Beautiful



The Garden Club of Harwich, PO Box 301, Harwich Port, Massachusetts 02646  
[gardenclubofharwich.org](http://gardenclubofharwich.org)

Link Hooper  
Director of Highways & Maintenance  
273 Queen Anne Road  
Harwich, MA 02645

November 11, 2015

Dear Link,

As the year draws to a close, we want to thank you for all that you and your crew do for the town and especially for the many ways that you have supported the efforts of the garden club. Without your advice and assistance, we would not be able to accomplish many of our projects.

So much that you do is from behind the scenes: making sure our water sources are turned on and off, delivering mulch and loam, carting away debris, cutting large limbs from trees, conducting fall clean-ups in our large gardens, assisting in digging holes for large plantings, removing overgrown shrubs.... How could we tend 19 town public spaces without your help?!

For your information, attached is our 2014-2015 Annual Summary for the public places that our club maintains, including the number of hours members worked and the amount of money spent for each garden.

The highlight of the year was our joint project to enhance the Exit 11 welcome sign and garden. By creating a raised bed and relocating the sign for better visibility and safety, a beautiful welcoming sight now greets visitors and residents alike to our town. Below is a photo in fall splendor.

Now, together we are embarking on creating another beautiful entrance to our town at the West Harwich/Route 28 site at Chase Library. Your help in storing and transporting the welcome sign for refurbishing is tremendous. Reinstalling it and creating a low raised bed will allow for more loam for us to plant eye-catching specimens.

The last column in the attached summary indicates a projection of expenses for the 2015-2016 year. Thanks to the efforts of our members in conducting excellent fundraising events this past year, we have a significant increase of funds to enhance our gardens with native, drought tolerant plantings.

Helping To Keep Our Community Beautiful



The Garden Club of Harwich, PO Box 301, Harwich Port, Massachusetts 02646  
[gardenclubofharwich.org](http://gardenclubofharwich.org)

With your help, our goals include adding a water source at Exit 10, Exit 11, and Richard Rogers Memorial Park (at the intersection of Chase and Main), as well as change Doane Park's irrigation. At the moment, we are exploring approval of the removal of the hedge around Brooks Academy to be replaced with fencing and having the fountain repainted. This spring, we will address the U-shaped area at Thompson's Field created by the new exit on Chatham Road. Our plans are to revamp the garden to echo the natural wildlife beyond.

We look forward to our continued shared efforts to enhance The Harwiches!

Sincerely,

*Amy Natiello & Sally Smith*

Amy Natiello and Sally Smith,  
Civic Beautification Co-Chairs

cc: The Harwich Board of Selectman  
c/o Mr. Christopher Clark, Town Administrator



Exit 11 Welcome Sign, Fall 2015

Helping To Keep Our Community Beautiful

Civic Beautification Gardens – Summary – June 2015

CB Garden	Chair thru 6/15	Work Description	2015 Totals		Projected 2015-2016 \$
			Hours	Exp \$ **	
Brooks Academy	Jane Martin	Summer watering, weeding. Fall clean-up - remove annuals, plant bulbs. Spring clean-up, Apply compost, add new plantings, weed, edge. Summer watering schedule.	160	435	300
Brooks Academy Fountain	Nancy Pollard	Watering regularly during Summer. Fall clean up , bulb planting. Holiday decorations & spotlight. Clean fountain, fill, add chlorine. Apply Harwich Gold – and top soil because of tree roots. Select and plant shade annuals	70	171	675
Brooks Free Library	Nancy Hipp	Water, weeding, deadheading. Fall clean up, bulb planting. Spring clean-up, planting, replace damaged plants/ shrubs, weeding watering – (Town added water spigot at building Bank Street side in 2014)	130	119	200
Brooks Park Entrance	Aileen Demeusy	Summer watering, weeding. Fall clean-up, bulb planting . Spring clean up, selecting plant materials, planting, maintenance. Added 3 Percy Williams rhododendron.	1110	629	470
Chase Library	Pattie Tworek	Summer watering, weeding. Fall clean-up, removal of damaged/dying rose bush, pruning struggling Japanese Willow. Removal of sun perennials due to increasing shade. Cut back grasses. Spring clean-up, apply compost, plant new materials , annuals . Purchase, spread mulch.	70	73	300
Doane Park	Sue Mills	Summer watering, weeding, checking for problems. Fall clean-up raking, cutting back, weeding, bulb planting. Assembled holiday swags for fence posts. Swag removal. Scheduled several Spring clean-ups, edging, weeding, to prep for Town spreading mulch/Plant Sale.	540	19	1,500
Exchange Park	Judie Palleschi	Summer watering, dead heading, planting, weeding, pruning. Cut back Montauks. Fall plant bulbs, clean-up, divide daisies, lilies, remove viburnum. Spring clean-up, prep for town mulch /edging. Plant annuals for summer color.	57	349	400
Exit 10	Judy Martindale	Summer watering, weeding. Fall planting of bulbs, clean-up. Planted two Dwarf Spruce, weed , Spring clean up, Plant geraniums, water weed. Added 2 new hydrangea bushes.	90	193	468
Exit 11	Judi Cutts	Raised bed completed & sign moved. Annuals planted.	20	1714	700
HES Memorial Park	Sally Smith	All expenses were paid with a grant through HES.		0	200
Julien Road	Priscilla Perkins	Summer water, weed. Fall clean-up, plant bulbs and Mums, weed. Winter, remove mums, add Christmas décor. Spring clean-up, repair plow damage, apply 4 bags H Gold, prune, weed, apply mulch.	165	157	600
Millennium & Albro Park	Susan Pleines	Summer watering, weeding. Fall bulb planting, raking leaves clean-up. Spring clean-up, spread H Gold. Planted perennials. Boxwoods suffered Winter damage, some needed replacement..	65	319	600
Peace Garden	Mary Ann Wall	Summer watering, weeding, general maintenance. Fall clean-up, bulb planting. Spring clean-up of leaves & debris, spread 2 bags compost, annuals, pruning and trimming.	63	13	26

Richard Rogers Memorial Park	Irene Mitchell	Summer water, deadhead, sweep, rake, feed, fertilize. Fall bulb planting, dead head, clean-up. Spring clean-up, apply compost, plant roses, perennials, annuals, add mulch. Water plant donated plants.	75	287	500
Saquatucket Harbor	Nancy Patterson	Dead head, clean-up. Fertilize, weed, bulb planting, planting drought tolerant perennials. Some needed replacement after harsh winter.	48	58	305
So Harwich Post Office	Cindy Lastih	Summer watering, weeding, deadheading. Fall clean-up. Spring clean-up, planting, mulch.	40	19	200
Thompsons Field	Kathleen Welch	Major weeding, trimming, pruning, planting bulbs --Lost team members + need new chairperson.. Town mows front grassy area. Plans for 2015-2016 for town to change egresses and GCOH to revamp garden.	110	00	TBD
W Harwich Post Office	Linda Felice	Summer, remove pansies, watering, dead head. Fall remove annuals, plant kale, mums. Winter remove fall plantings, add evergreen boughs. Spring, clean soil, add H Gold, add fertilizer, plant pansies.	41	259	300
Wychmere Harbor Overlook	Joann Root	Summer watering, deadheading, weeding. Fall plant bulbs, weed, water, prune. Set up & remove holiday display. Spring clean-up, ad H Gold, plant annuals, also maintain two area memorial stones.	35	63	200
<b>Total Hours Spent Working</b>			<b>2889</b>		
<b>Total Expenses reimbursed to CB Garden Chairs +GC expenditure for Exit 11 materials for raised bed installed by DPW</b>				<b>4877</b>	<b>7944</b>
Overall Civic Beautification	Compile CB garden orders, ensure pick-up for each garden; Harwich Gold. Coordinate, shop for, deliver and plant annuals for Harwich Jr Theater, Albro House.; \$180 Order Signage for CB Awards, coordinate committee, scout for nominees, coordinate materials, announcements etc. certificates, frames.; \$50 Select, order and disseminate to all CB Chairs :Spring Bulbs - \$700.00			180 50 700	957: bulbs 2000: irrigation
<b>Total general expenditures for CB</b>				<b>930</b>	
<b>Total Expenditures</b>				<b>5807</b>	
<b>Total Estimated Expenses 2015 - 16</b>					<b>***10,901</b>

**\*\* ROUNDED NUMBERS**

**DOES NOT INCLUDE THOMPSON'S FIELD INITIATIVE FOR RECREATING GARDEN, SPRING 2016\*\*\***

**MINUTES  
SELECTMEN'S MEETING  
GRIFFIN ROOM, TOWN HALL  
MONDAY, NOVEMBER 30, 2015  
6:30 P.M.**

**SELECTMEN PRESENT:** Brown, Cebula, Hughes, LaMantia, MacAskill

**OTHERS PRESENT:** Town Administrator Christopher Clark, Assistant Town Administrator Charleen Greenhalgh, John Rendon, Ginny Hewitt, David Spitz, Richard Waystack, Donna Molino, Tammy Taylor, Lincoln Hooper, Chris Nickerson, Anne Howe, Mary Warde, Bill Crowell, Kathleen Remillard, Gary Carreiro, and others.

**MEETING CALLED TO ORDER** at 6:30 p.m. by Chairman Hughes.

**WEEKLY BRIEFING**

Chairman Hughes stated that it is a somber day in the Town as we have learned of the passing of David Scannell, our Assessor, on Saturday evening unexpectedly and he called for a moment of silence to reflect on our friend and colleague. Mr. Waystack made the following statement on behalf of the Board of Assessors: It is with a heavy heart that we announce the passing of David Scannell who served the community for over 34 years and was the senior member of Town Hall. His expertise was widely regarded across Cape Cod and he was considered the dean of assessors here on the Cape. He was a good friend to many, was always willing to help his fellow employees, and went out of his way to assist those taxpayers who were most in need in this community.

**CONSENT AGENDA**

- A. Approve Minutes –
  - 1. November 9, 2015 Regular Meeting
  - 2. November 16, 2015 Executive Session
- B. Approve Job Description for Assistant Library Director
- C. Approve application by Wychmere Harbor Functions Limited Partnership for Pledge of Liquor License as required by lending institution
- D. Approve petition by Verizon New England and Eversource Energy to relocate a pole on Harbor Way
- E. Approve renewal of 2016 Mooring Servicing Agent Permits as recommended by Harbormaster

Chairman Hughes said they would not be taking up Item B tonight and asked to hold Item E. Ms. Brown moved approval of Items A, C and D on the Consent Agenda. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote. Mr. Rendon took questions from Mr. MacAskill on Item E. Mr. MacAskill moved to approve the renewal of the 2016 Mooring Servicing Agent Permits as recommended by Harbormaster. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

**PUBLIC HEARINGS/PRESENTATIONS** *(Not earlier than 6:30 P.M.)*

A. Annual Meeting - Library Trustees – *Mary Warde*

Ms. Warde delivered the annual report of the Library Trustees.

B. Presentation – Town Engineer’s design of Lower County Road project – *Lincoln Hooper*

Mr. Hooper outlined his memo to the Board dated November 19, 2015 regarding the Lower County Road Capital Project (attached). Chairman Hughes stated that it is the Board’s sense to use the Town Surveyor and Engineer to design the project and move forward.

C. Presentation – Saquatucket Marina Dock Replacement Design – *Bourne Engineering*

Mr. Rendon and Mr. Russell Titmuss from Bourne Engineering provided the attached presentation on the design for Saquatucket Marina Reconstruction and took questions from the Board.

D. Presentation - Judah Eldridge Property – *Jim Cheverie*

Mr. Cheverie read the following statement:

Last spring during the No on 9 campaign I had an opportunity to speak to a lot of Harwich residents about the Six Ponds DCPC and specifically the 25 acre parcel of land along Hawksnest Rd. A common theme began to emerge, people really want this land to be preserved. One person after another urged me to look past the No on 9 campaign and if we were successful in defeating question 9, they wanted me to work with the town to get this land into conservation use so future generations could enjoy this jewel that Harwich has. To this day I continue to get emails and facebook messages from people looking to see where I am on this.

A couple of weeks ago I attended the Planning board meeting where the board discussed the proposed zoning changes for East Harwich and voted to submit this plan to the Selectmen, during this discussion they opened up the meeting to public comment. There were several residents who spoke about the need and their desire to see land set aside to be used as offsets for future growth and green space. There were at least two people who I do not know who specifically brought up the Hawksnest parcel and suggested that this land be used as an offset. They spoke about how the land is owners unknown, no property tax has been paid on it and since it is in the Six Ponds DCPC it would be a perfect fit for both preservation and a buffer of sorts between the denser commercial zone and the residential areas of the DCPC.

On November 16th at the Selectmen’s meeting the Planning Board made their presentation to a standing room only crowd. During public comments, once again several people spoke about the need for offsets. It seems apparent that any talk of changing zoning and increasing density needs to be tied into a discussion involving offsets.

I think between the wastewater discussions and the new zoning discussions that are occurring right now, acquiring this parcel would dovetail nicely into both of these plans. I think the time is right to start thinking about the possibility of having the town acquire this parcel for Conservation thereby removing it from inventory for future development - and I know from



individual discussions I have had with several of you, that you at least in theory support this idea. The land is “owners unknown” and as such has not had property tax paid on it, so removing it from buildable inventory would not short the town any of this tax money. Ballot question #9 had the price tag for these 25 acres as being around \$400k, given the large price tag that the wastewater plan is carrying, this is indeed a bargain and one I’m sure the voters would approve of.

I come before you tonight to at least start a discussion on this and to get a general sense of what the board thinks and to see if you would at least in theory support such an idea. I am more than willing to assist this board however I can and I am open to any input or direction you might have. Thank you.

Chairman Hughes and Ms. Cebula encouraged Mr. Cheverie to seek endorsement from the Real Estate and Open Space Committee for this concept. Chairman Hughes said he should look into getting it funded by CPC or Land Bank funds. Mr. Clark answered questions from the Board regarding eminent domain taking. Mr. MacAskill thanked Mr. Cheverie and said he would support this. Mr. Cheverie suggested that the Board sponsor an article for this and Chairman Hughes said he should see the Real Estate and Open Space Committee first.

## **NEW BUSINESS**

### **A. Wastewater Moment – 2016 Annual Town Meeting Goals –**

- Inter-Municipal Agreement with Chatham
- Governance Organizational Structure
- Recharge Site
- East Harwich Sewer Design
- Water/Wastewater Infrastructure Fund

Chairman Hughes said the Board needs to discuss what they want to bring to Town Meeting next year. He recommended that at a minimum we get the Inter-Municipal Agreement ironed out. Mr. LaMantia reported that a lot of positive suggestions came out of the last meeting and the subcommittee needs to take a look at them. Chairman Hughes asked them to discuss it and bring something back. Mr. Clark stated that we will be getting documents from Bob Duncanson in December which he will forward to the subcommittee. Ms. Cebula stressed that she did not want to wait until January to start discussions.

## **TOWN ADMINISTRATOR’S REPORT**

### **A. Muddy Creek Construction Schedule**

Mr. Clark stated that he hopes to have a final construction schedule for the next meeting. He reported that the Department of Fish and Wildlife will be doing a press release about the project and its funding. He stated that the main part of the project will not start until January 4, 2015 and that the ribbon cutting is expected to be in May.

Mr. Clark reported that he has appointed Donna Molino as Interim Assessing Director.

**ADJOURNMENT**

Chairman Hughes adjourned the meeting at 8:14 p.m.

Respectfully submitted,

Ann Steidel  
Recording Secretary

**2016 ANNUAL LIQUOR LICENSE RENEWALS**

400 East, Inc.  
1421 Route 39  
East Harwich, MA 02645  
Gail O. Sluis, Manager  
**Common Victualler - All Alcohol**

A.J. Lukes of Harwich, Inc.  
224 Route 28  
West Harwich, MA 02671  
Arthur J. Luke, Manager  
**Package Goods Store - All Alcohol**

Allen Harbor Yacht Club, Inc.  
371 Lower County Rd.  
Harwich Port, MA 02646  
Peter Moynagh, Manager  
**Club - All Alcohol**

Ashwood Food Service Inc.  
d/b/a Jake Rooney's  
119 Brooks Rd.  
Harwich Port, MA 02646  
Peter Klaus, Manager  
**Common Victualler - All Alcohol**

Bourne Petroleum Ltd.  
d/b/a Harwich Exxon  
173 Pleasant Lake Ave.  
Harwich, MA 02645  
Jaime Almeida, Manager  
**Package Goods Store - Wine & Malt**

Brax Restaurant Management, Inc.  
d/b/a Brax Landing  
705 Route 28  
Harwich Port, MA 02646  
Jeffrey S. Gomes, Manager  
**Common Victualler - All Alcohol**

Charles J. Weiss  
d/b/a 7-Eleven 34434A  
5 Route 28  
West Harwich, MA 02671  
Charles J. Weiss, Manager  
**Package Goods Store - Wine & Malt**

WFS Restaurant Group, Inc.  
d/b/a L'Alouette  
787 Route 28  
Harwich Port, MA 02646  
Christian Schultz, Manager  
**Common Victualler - All Alcohol**

Ember Pizza, Inc.  
d/b/a Ember  
600 Route 28  
Harwich Port, MA 02646  
Justin R. Brackett, Manager  
**Common Victualler - Wine & Malt**

John F. Connell  
d/b/a Cape Cod Claddagh Inn & Irish Pub  
77 Route 28  
West Harwich, MA 02671  
John F. Connell, Manager  
**Innholder - All Alcohol**

John & Jon United Corp.  
d/b/a Harwich East Liquors  
1421 Route 39  
East Harwich, MA 02645  
John F. Kenney, Manager  
**Package Goods Store - All Alcohol**

Harwich Port Seafarer, Inc.  
d/b/a Harwich Port Seafarer  
86 Sisson Rd.  
Harwich Port, MA 02646  
Damien Wiseman, Manager  
**Innholder - All Alcohol**

Harwichport House of Pizza, Inc.  
330 Route 28  
Harwich Port, MA 02646  
Aleks Sotiri, Manager  
**Common Victualler - All Alcohol**

Hot Stove Saloon, Inc.  
d/b/a Hot Stove Saloon  
551 Route 28  
Harwich Port, MA 02646  
Gabriel Leidner, Manager  
**Common Victualler - All Alcohol**

Land Ho Harwichport LLC  
d/b/a Land Ho  
429 Route 28  
Harwich Port, MA 02646  
Dillon J. Murphy, Sr., Manager  
**Common Victualler - All Alcohol**

Lepinay, Inc.  
d/b/a Cranberry Liquors  
555 Route 28  
Harwich Port, MA 02646  
Joseph V. DellaMorte, Manager  
**Package Goods Store - All Alcohol**

Main Street Quik Pik, Inc.  
d/b/a Main Street Market  
715 Main St.  
Harwich, MA 02645  
Anil Patel, Manager  
**Package Goods Store – All Alcohol**

Morningstar Restaurant, Inc.  
d/b/a Villa Roma  
278 Route 28  
West Harwich, MA 02671  
Douglas R. Morrissey, Manager  
**Common Victualler - All Alcohol**

Maulik Corporation  
d/b/a Value Mart  
435 Route 28  
Harwich Port, MA 02646  
Bahecharbhai Patel, Manager  
**Package Goods Store – Wine & Malt**

Shogun Inc.  
d/b/a Noble House  
21 Route 28  
West Harwich, MA 02671  
Amy Liang, Manager

**Common Victualler - All Alcohol**

Shooting Star Realty, LLC  
d/b/a Buca's Restaurant  
4 Depot Rd.  
S. Harwich, MA 02661  
Robert J. Chiappetta, Manager  
**Common Victualler - All Alcohol**

Spyridon & Aglaia Christakis  
d/b/a George's Pizza House  
564 Route 28  
Harwich Port, MA 02646  
Spyridon & Aglaia Christakis, Managers  
**Common Victualler - Wine & Malt**

William R. Coffin & Sons, Inc.  
d/b/a Plum's Package Store  
326 Route 28  
Harwich Port, MA 02646  
John W. Coffin, Manager  
**Package Goods Store - All Alcohol**

Zack, Inc.  
d/b/a Castaways  
986 Route 28  
South Harwich, MA 02661  
Deborah B. Merrill, Manager  
**Common Victualler - All Alcohol**

Ham and Bri, LLC  
d/b/a Red's Pizza  
703 Main St.  
Harwich, MA 02645  
Brienne Smith, Manager  
**Common Victualler – All Alcohol**

Pekarkill Inc.  
d/b/a Local Flavor Lunch & Bagel  
403 Pleasant Lake Ave.  
Harwich, MA 02645  
Elaine Pekarcik, Manager  
**Package Goods Store – Wine & Malt**

**2016 ANNUAL GENERAL LICENSE RENEWALS**

400 East, Inc.  
d/b/a 400 East, Inc.  
1421 Route 39, East Harwich  
**Common Victualler**  
**Weekday Entertainment –**  
Recorded or live music,  
11:30 a.m. – 1:00 a.m.  
Noise level not to exceed licensed premises.

Acme-Shorey Precast Co., Inc.  
36 Great Western Rd., Harwich  
**Auto Class I – Agents or Sellers**

Alexander the Great, Inc.  
d/b/a Alecsie's House of Pizza  
181 Route 137, Unit 3, Harwich  
**Common Victualler**

Ashwood Food Service, Inc.  
d/b/a Jake Rooney's  
119 Brooks Road, Harwich Port  
**Common Victualler**  
**Sunday Entertainment –**  
Recorded or live music,  
1:00 p.m. – 12:00 a.m.  
Noise level not to exceed licensed premises.  
**Weekday Entertainment -**  
Recorded or live music  
8:00 p.m. – 12:00 a.m.  
Noise level not to exceed licensed premises.

Barry Bessette  
d/b/a BB's Automotive  
805 Route 28, Harwich Port  
**Auto Class II – Used Car Dealer**

Bassil Brothers Inc.  
d/b/a Harwichport Getty  
570 Main St., Harwich Port  
**Auto Class II – Used Car Dealer**  
**Auto Class IV – Vehicle Repairman**

Bluefish Bed & Breakfast  
102 Parallel St., Harwich  
**Lodging House**

Bonatt's Restaurant & Bakery  
537 Route 28, Harwich Port  
**Common Victualler**

Braddock, Inc.  
d/b/a Winstead Inn & Beach Resort  
4 Braddock Lane, Harwich Port  
**Innholders**

Braddock, Inc.  
d/b/a Winstead Inn & Beach Resort  
Parallel St., Harwich  
**Innholders**

Brax Restaurant Management Inc.  
d/b/a Brax Landing  
705 Route 28, Harwich Port  
**Common Victualler**

Buckies Biscotti  
554 Route 28, Harwich Port  
**Common Victualler**

Cape & Islands Collision, Inc.  
d/b/a Cranberry Collision  
161 Queen Anne Rd., Harwich, MA  
**Auto Class II – Used Car Dealer (new)**  
**Auto Class IV – Auto Repairman**

Carlos Tapia  
d/b/a JC Auto Sales  
195 Queen Anne Rd., Harwich  
**Auto Class II – Used Car Dealer**

Dave's Garage  
910 Route 28, S. Harwich  
**Auto Class IV – Auto Repairman**

Dan & Sue Edwards  
d/b/a Tern Inn  
91 Chase St., West Harwich  
**Lodging House**

Dream Big Holdings, Inc.  
d/b/a The Platinum Pebble Boutique Inn  
186 Belmont Road, West Harwich  
**Innholders**

Ember Pizza, Inc.  
d/b/a Ember  
600 Route 28, Harwich Port  
**Common Victualler**  
**Weekday Entertainment**  
Recorded or live music with amplification  
5:00 p.m. – 10:00 p.m. on patio  
5:00 p.m. – 12:00 a.m. inside  
Noise level not to exceed licensed premises.

Epiros Holdings, LLC  
d/b/a George's Pizza House  
564 Route 28, Harwich Port  
**Common Victualler**

Ham and Bri LLC  
d/b/a Red's Pizza  
703 Main St., Harwich  
**Common Victualler**  
**Weekday Entertainment**  
Recorded or live music with amplification  
12:00 p.m. – 10:00 p.m.

Harbor Breeze Inn, LLC  
d/b/a Allen Harbor Breeze Inn & Gardens  
326 Lower County Road, Harwich Port  
**Lodging House**

Harwichport House of Pizza, Inc.  
d/b/a Harwichport Pizza  
330 Route 28, Harwich Port  
**Common Victualler**

Hot Stove Saloon, Inc.  
d/b/a Hot Stove Saloon  
551 Route 28, Harwich Port  
**Common Victualler**

Inn of Treasured Memories, LLC  
d/b/a Inn of Treasured Memories  
473 Main St., Harwich

**Innholders**

Jim Cox Foreign Car Service  
d/b/a Jim Cox Foreign Car Service  
210 Queen Anne Rd., #15, Harwich

**Auto Class IV – Auto Repairman**

Land Ho Harwichport, LLC  
d/b/a Land Ho  
429 Route 28, Harwich Port

**Common Victualler**

**Weekday Entertainment –**

Recorded or live music with amplification,  
Dancing by patrons,  
11:30 AM – 10:00 PM

Noise level not to exceed licensed premises

**Sunday Entertainment –**

Recorded or live music with amplification,  
Dancing by patrons,  
6:00 PM – 10:00 PM

Noise level not to exceed licensed premises

Morin-Froughton, Inc.  
d/b/a Lighthouse Café  
216 Route 28, West Harwich

**Common Victualler**

Murphy/Torres LLC  
d/b/a Upper Crust Pizza  
1421 Route 39, Unit 25, Harwich

**Common Victualler**

Morningstar Restaurant, Inc.  
d/b/a Villa Roma  
278 Route 28, West Harwich

**Common Victualler**

**Weekday Entertainment –**

Recorded or live music with use of amplification.  
5:00 p.m. – 1:00 a.m.

Noise level not to exceed licenses premises.



Nancy L. Clapp  
d/b/a Clapp's Guest House  
15 South St., Harwich Port  
**Lodging House**

Nick & Claudine Enterprises LLC  
d/b/a West Harwich Save-On-Gas  
4 Route 28, West Harwich  
**Auto Class IV – Auto Repairman**

Peter S. Stagg  
182 Route 137, Harwich  
**Auto Class II – Used Car Dealer**

Ruggies, Inc.  
d/b/a Ruggies  
707 Main St., Harwich  
**Common Victualler**

Sam's Automotive Center  
d/b/a Sam's Auto Repair and Sales  
413 Route 28, Harwich Port  
**Auto Class II – Used Car Sales**  
**Auto IV – Auto Repairman**

Scott's Cycle  
210 Queen Anne Rd., #1, Harwich  
**Auto Class IV – Auto Repairman**

Shooting Star Realty  
d/b/a Buca's Tuscan Roadhouse  
4 Depot Rd., Harwich  
**Common Victualler**

Shogun, Inc.  
d/b/a Noble House  
21 Route 28, West Harwich  
**Common Victualler**

Steven's Auto Repair  
216 Main St., #7 & 8, Harwich  
**Auto Class IV – Auto Repairman**

Super Stop & Shop  
d/b/a Starbucks  
Routes 39 & 137, Harwich  
**Common Victualler**

Subfleet, Inc.  
d/b/a Subway  
1 Auston Rd., E. Harwich  
**Common Victualler**

Wayne's Auto Service  
643 Main St., Harwich  
**Auto Class IV - Vehicle Repairman**

WFS Restaurant Group, Inc.  
d/b/a L'Alouette  
787 Route 28, Harwich Port  
**Common Victualler**

Zack, Inc.  
d/b/a Castaways  
986 Route 28, South Harwich  
**Common Victualler**

Zou Garden, Inc.  
d/b/a Szechuan Delight  
1421 Orleans Rd., Unit #24, East Harwich  
**Common Victualler**



# Harwich Council on Aging

100 Oak Street, Harwich, MA 02645

Council 508-430-7550  
Outreach 508-430-7551



November 24, 2015

Board of Selectmen  
Chairman  
732 Main Street  
Harwich, MA 02645

Dear Mr. Chairman;

Please accept as gifts to the Council on Aging Gift Account #14085004 donations totaling \$405.00 deposited with the Town Treasurer. Please send a note of thanks to the enclosed list. All other thank you notes have been sent.

Also please accept the gift of \$50.00 to the Town Nurse Gift Account #15125102 deposited with the Town Treasurer.

Sincerely,

Barbara-Anne Foley  
Harwich COA Director

**§ 255-4. Improvements to private ways.**

- A. In the event that a group of property owners who own property on a private road which has been open for public use for at least five years wish the Town of Harwich to finance the repair of their private way, they shall engage an engineer experienced in road construction and repair who shall survey the road in question to develop a plan for the repair of that private road which shall take into consideration the need for additional drainage, new berms, driveway aprons to protect the edges of the repaired road, the filling of existing cracks and the application of one or more layers of bituminous concrete. The repair shall be designed to bring the road up to Town standards or as close as possible within the physical constraints of the right-of-way.
- B. The plan shall specify the projected useful life of the repaired private way, and in no event shall the projected useful life be less than 15 years. All costs of preparing the plan, obtaining cost estimates and preparing the petition described below shall be the exclusive responsibility of the petitioners.
- C. The property owners shall prepare a petition to the Board of Selectmen for the Town of Harwich to finance the work in an amount certain, including a ten-percent contingency amount. The petition shall list the parcels by lot number and map number together with the owners' names of record with a space for each owner to place his or her signature. The petition must state that each signature represents an irrevocable agreement by each signatory to repay to the Town of Harwich, through the mechanism of a betterment added to each owner's real estate tax bill, his or her pro rata share of the total amount to be financed plus interest and administrative costs, which Town administrative costs shall not exceed 10% of the project. The petition shall not be presented to the Selectmen unless 50% of all the abutters to the road plus one more abutter shall have agreed to the project and its financial commitment by having signed it. Once approved by the Board, all abutters shall be assessed for a pro rata share of the cost of the betterment.
- D. The petition, accompanied by the engineer's plan, a map of the private way to be repaired and backup for the cost estimates, shall be submitted to the Selectmen's office on or before August 31. The Selectmen shall refer every such petition to the Assessor's office for verification of signatures and confirmation that more than 50% of the abutters have signed. The Selectmen shall consider all submitted petitions that pass the Assessor's examination prior to September 30. If the Selectmen determine that the proposed repairs are in the public interest and if the Selectmen determine that these repairs are within the financial capabilities of the Town, the Board of Selectmen shall refer each petition so determined to the Planning Board which shall conduct a public hearing on each petition on or before November 15 to evaluate the plan, examine the cost estimates and hear from both the abutters and the general public. The Planning Board shall either endorse the plan by a simple majority vote and return it to the Selectmen, recommend changes in costs or scope of the plan or disapprove the plan by a simple majority vote.
- E. If the Planning Board approves any such plan, the Board of Selectmen may place the plan on the warrant for the next Annual Town Meeting. If the Planning Board suggests modifications or changes in scope of costs, the Board of Selectmen may, as its option, send out proxies to the abutters noting scope and cost changes or it may return the project to the petitioners. If proxies are sent out, they must be returned by December 31;

#1  
OK

#2  
OK

#3

the Selectmen may place the project on the Annual Town Meeting warrant, provided that more than 50% of the abutters approve the revisions.

- F. If the Annual Town Meeting votes to endorse and finance the project, the engineer who did the original plan shall be named "Project Manager." He shall prepare a new set of bid specifications with the bids to be directed to the Town Administrator. The Project Manager and the Town Administrator shall select the best bid to do the work. The Project Manager shall advise the Director of the Division of Highways and Maintenance 48 hours in advance of each phase of the project and certify, in writing, to the Director of the Division of Highways and Maintenance that each phase of the project has been completed to the Project Manager's satisfaction. The Director of the Division of Highways and Maintenance shall inspect the completed work and certify to the Town Accountant that the work is completed so that payment may be made.
- G. For a group of private roads within a subdivision in which membership in a neighborhood property owners' association is automatic or mandatory, the same procedure shall be used:
- (1) So long as a majority of the owners of the lots abutting the group of private ways to be repaired signs the petition required by Subsection C above; and
  - (2) So long as the group of private ways to be repaired is owned or controlled, directly or indirectly, by the neighborhood association or its members.
- H. The Town of Harwich shall incur no liability for any damages of any nature whatsoever arising from the project by virtue of the Town's agreeing to finance any repair of a private subdivision way. The abutters who accept Town financing shall be deemed to have indemnified and held the Town harmless against any and all such claims.
- I. Any private way improved under the provisions of this bylaw need not be brought up to full Town road standards. Any private way improved under the provisions of this bylaw shall continue to remain a private way.



# MEMO

To: Board of Selectmen  
From: David Spitz, Town Planner *DS*  
Date: November 16, 2015

**RE: PB2015-29 Resident Petition Betterment – Ginger Plum Lane**

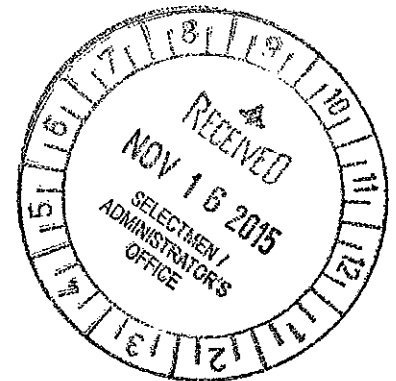
In accordance with the Harwich Code §255.4.D Improvements to Private Ways, the Planning Board held a public meeting to evaluate the plan, examine the cost estimates and hear from both abutters and the general public.

The public meeting concluded on November 11, 2015. Following the review of the plan, interdepartmental comments and hearing comments from all interested parties the Planning Board voted unanimously (7-0-0) to approve the preliminary plan entitled "Proposed Site Plan Ginger Plum Lane, c/o John McQuade 8 Ginger Plum Lane", dated July 24, 2015, prepared by J.M. O'Reilly & Associates, Inc., Sheets 1 – 3 with the following condition:

**Condition:** Final plans addressing the concerns expressed by the Highway and Engineering Departments shall be submitted to the satisfaction of the Town Engineer prior to putting the project out to bid. If any plan revisions result in a change to the overall project cost, the betterment charge per parcel must be revised.

The plan notes that it is a preliminary plan, not for construction.

cc: Petitioner McQuade  
J.M. O'Reilly, PE  
Town Engineer  
Highway Department



OFFICE OF THE SELECTMEN

PHONE (508) 430-7513  
FAX (508) 432-5039



732 MAIN STREET, HARWICH, MA 02645

September 22, 2015

James Atkinson, Chairman  
Planning Board  
732 Main Street  
Harwich, MA 02645

Re: Ginger Plum Lane Road Betterment Petition

Dear Mr. Atkinson:

At a public meeting of the Board of Selectmen held on Monday, September 21, 2015, the Board reviewed the verification of owners and signatures certified by the Board of Assessors relative to the Ginger Plum Lane betterment petition and affirmed the recommendation of the Board of Assessors. (attached)

In accordance with Harwich Town Code, Part I General By-Laws, Chapter 255, Section 4 - Improvements to Private Ways, the Selectmen voted to refer this betterment petition to the Planning Board for Public Hearing for the purpose of evaluating plans and costs and to hear from abutters and the public. This hearing should be held on or before November 15. Thank you for your expeditious assistance with this matter.

Sincerely,

Peter S. Hughes, Chairman

Linda A. Cebula, Vice Chair

Jannell M. Brown, Clerk

Angelo S. La Mantia

Michael D. MacAskill

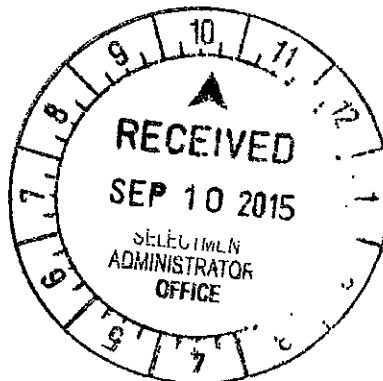
HARWICH BOARD OF SELECTMEN

CC: David Spitz, Town Planner  
David Scannell, Deputy Assessor



TOWN OF HARWICH  
ASSESSORS OFFICE  
732 MAIN STREET  
HARWICH, MASSACHUSETTS 02645

OFFICE OF THE  
BOARD OF ASSESSORS  
Tel: 508-430-7503  
Fax: 508-430-7086



TO: Board of Selectmen  
DATE: September 10, 2015  
RE: Road Betterment —Ginger Plum Ln.

We have verified the owners and signatures for the twenty three (23) properties out of twenty nine (29) properties in the Ginger Plum Lane betterment petition. The 50% plus one rule would require sixteen (16) of the twenty nine (29) parcel owners to agree. We find that this petition meets this test.

*Bruce Nigro*

*[Signature]*  
BOARD OF ASSESSORS



Report #24: Owner Listing Report  
Fiscal Year 2016

HARWICH MA

Extract: KEY GINGER PLUM LN  
Database: LIVE  
Filter: Key IN  
638,640,8047,641,644,8048,646,647,651,8050,653,657,659,8052,660,  
,666,668,670,16030,693,695,8055,697,699,701,702,704,8046,637  
Sort: MapID\_For\_Sorting ASC

Key	Parcel ID	Owner	Location	LC/CI	Bk-Pg(Cert) /Dt	Mailing Street	Mailing City	ST	Zip Cd/County
8046	5-G1-1-0	SWEENEY NANCY SYMMES TRS ET AL C/O SWEENEY NANCY SYMMES LIFE	263 LOWER COUNTY RD	N 1010	18509/133 4/28/2004	405 GARDEN GATE CT	BOARDMAN	OH	44512
637	5-G1-2-0	WATSON ARTHUR F TR WATSON NOMINEE TRUST	267 LOWER COUNTY RD	N 1010	28202/140 6/13/2014	267 LOWER COUNTY RD	HARWICH PORT	MA	02646
638	5-G1-4-0	DAVIS MATHEW A & DAVIS JENIFER L	67 GINGER PLUM LN	N 1010	23167/93 9/22/2008	67 GINGER PLUM LN	HARWICH PORT	MA	02646
640	5-G1-7-0	WILLIAMSON PAMELA M TR PAMELA M WILLIAMSON REVOCABLE	65 GINGER PLUM LN	N 1010	26954/185 12/17/2012	PO BOX 247	MEDWAY	MA	02053
8047	5-G1-8-0	BLOCK GAYLE A	63 GINGER PLUM LN	N 1010	24618/72 6/15/2010	32 AVEBURY LN	TOLLAND	CT	06084
641	5-G1-9-0	GATES DOUGLAS S & BRYANT-GATES REBECCA	64 GINGER PLUM LN	N 1010	10158/130 4/19/1996	266 COMMONWEALTH AVE	CONCORD	MA	01742
644	5-G1-11-0	TIVNAN BRENDON FRANCIS TRS ET TIVNAN MARY LOUISE TRS	81 GINGER PLUM LN	N 1010	27786/25 10/28/2013	34 TERRENCE AVE	CLINTON	MA	01510
8048	5-G1-13-0	BARRY TERRENCE J & BARRY FRANCES A	60 GINGER PLUM LN	N 1010	5800/252 6/26/1987	60 GINGER PLUM LN	HARWICH PORT	MA	02646
646	5-G1-14-0	SIDOLI CHRISTOPHER J TRS ET AL SIDOLI EUGENIA A TRS	56 GINGER PLUM LN	N 1010	22985/44 6/17/2008	PO BOX 727	HARWICH PORT	MA	02646
647	5-G1-15-0	CONNAUGHTON RICHARD P & CONNAUGHTON RUTH M	59 GINGER PLUM LN	N 1010	2772/95 8/25/1976	59 GINGER PLUM LN	HARWICH PORT	MA	02646
651	5-G1-17-0	DALEY JOSEPH OBRIEN JR	57 GINGER PLUM LN	N 1010	7091/9 5/10/1994	57 GINGER PLUM LN	HARWICH PORT	MA	02646
8050	5-G1-18-0	TAYLOR CHERYL D TR BUSCHY REALTY TRUST	56 GINGER PLUM LN	N 1010	19212/160 11/4/2004	7 PENNY LN	EASTON	MA	02334
653	5-G1-19-0	SPINAZOLA JOSEPH A JR LIFE EST	54 GINGER PLUM LN	N 1010	27319/272 4/25/2013	68 BEAN RD	STERLING	MA	01584
657	5-G1-20-0	DILLON THOMAS J TRS ET AL DILLON MARY T TRS	55 GINGER PLUM LN	N 1010	6412/193 8/26/1998	55 GINGER PLUM LN	HARWICH PORT	MA	02646
659	5-G1-22-0	GEBHARD LEONARD J	52 GINGER PLUM LN	N 1010	18182/325 2/3/2004	110 HOWARD ST	MELROSE	MA	02176
8052	5-G1-23-0	LANDGRAF PRISCILLA T ESTATE OF	42 GINGER PLUM LN	N 1010	3952/212 12/9/1983	C/O MARSHA L SMITH 2111 ST CLAIR AVE	ST PAUL	MN	55105-1132
660	5-G1-25-0	BRESLER GABRIEL E & BRESLER ADRIAN S	38 GINGER PLUM LN	N 1010	25102/172 12/17/2010	239 TAPPAN ST	BROOKLINE	MA	02445
666	5-G1-29-0	BURKE BERNICE M	20 GINGER PLUM LN	N 1010	1532/341 9/24/1971	1970 COMMONWEALTH AVE	BRIGHTON	MA	02135
668	5-G1-30-0	BURKE BERNICE M	16 GINGER PLUM LN	N 1010	1275/489 10/14/1964	1970 COMMONWEALTH AVE	BRIGHTON	MA	02135
670	5-G1-32-0	MCQUADE JOHN B & MCQUADE DEBORAH K	8 GINGER PLUM LN	N 1010	19261/231 11/19/2004	8 GINGER PLUM LN	HARWICH PORT	MA	02646
16030	5-G1-35-0	SAVAGE BETH A TR HIGHLAND TRUST	28 GINGER PLUM LN	N 1010	26389/95 9/17/2014	28 GINGER PLUM LN	HARWICH PORT	MA	02646
693	5-G4-43-0	PUCCIO RICHARD & PUCCIO CARYN	19 GINGER PLUM LN	N 1010	26965/96 12/19/2012	145 TOILS END RD	NORFOLK	MA	02056
695	5-G4-44-0	LAING ANN C TR ANN C LAING TRUST	15 GINGER PLUM LN	N 1010	23220/152 10/20/2008	15 GINGER PLUM LN	HARWICH PORT	MA	02646
8055	5-G4-48-0	FAHLSTROM DAVID J	49 GINGER PLUM LN	N 1010	2531/58 6/20/1977	291 PARK AVE	WORCESTER	MA	01609

Export: KEY GINGER PLUM LN  
Database: LIVE  
Filter: Key IN

Report #24: Owner Listing Report  
Fiscal Year 2016

HARWICH MA

Sort: 638,640,8047,641,644,8048,646,647,651,8050,653,657,659,8052,660  
,666,668,670,16030,693,695,8055,897,899,701,702,704,8046,837  
MapID\_For\_Sorting ASC

Key	Parcel ID	Owner	Location	LCVCI	Bk-Pg(Cert) /Dt	Mailing Street	Mailing City	ST	Zip-Cd/County
697	5-G4-49-0	DEBAISE MARCUS J TR DEBAISE FAMILY TRUST	35 GINGER PLUM LN	N 1010	27794/275 10/31/2013	99 DEEPWOOD DR	SO WINDSOR	CT	06074
699	5-G4-50-0	SCHWABE STEVEN W TR SCHWABE CHILDREN TRUST AGREEME	29 GINGER PLUM LN	N 1010	27580/203 7/30/2013	20 OAKWOOD DR	S WINDSOR	CT	06074
701	5-G4-51-0	SCHWABE STEVEN W TR SCHWABE CHILDREN TRUST AGREEME	23 GINGER PLUM LN	N 1010	27580/203 7/30/2013	20 OAKWOOD DR	S WINDSOR	CT	06074
702	5-G4-52-0	F D G CORPORATION FRANCIS D GIBBONS	11 GINGER PLUM LN	N 1010	19229/5 11/9/2004	52 HIGHLAND ST	WORCESTER	MA	01613
704	5-G4-53-0	RADLO IRENE R	7 GINGER PLUM LN	N 1010	1386/725 4/8/1968	THE COMMONS 1 HARVEST CIR. UNIT 216	LINCOLN	MA	01773

Total Records 29

## **LICENSE AGREEMENT**

This Agreement dated \_\_\_\_\_, 2015 by and between the Town of Harwich, Massachusetts (“Town”), acting by and through its Board of Selectmen (“Selectmen”), of 732 Main Street, Harwich, MA 02645 and Fenway Community Health Center, Inc. (“Licensee”) of Boston, Massachusetts.

WHEREAS, the Town owns the real property, known as the Albro House, located at 728 Main Street, Harwich, MA., as shown on Harwich Assessor’s Map as Parcel 41-B8.

WHEREAS, the Licensee is a claimed user of an area of the building described as upstairs room #3.

NOW, THEREFORE, in consideration of the foregoing, and of the mutual promises and agreements contained herein, the parties agree as follows:

### **I. LICENSE AGREEMENT**

Whereas in consideration of \$250 per month and the mutual promises and agreements contained herein and the grant of a release from the Licensee to the Town, the parties hereto agree as follows:

1. The Town grants the Licensee a License to occupy a portion of the property described as upstairs room #3 at 732 Main Street in its current location on Town Property, subject to the terms and conditions contained herein.
2. The term of the License shall be for a period at will, commencing January 1, 2016 and ending when terminated pursuant to any provision hereof. At the end of this License, unless further extended, and Licensee shall remove all personal property from the occupied area and surrender the area to the Town.
3. Licensee acknowledges that the building is owned by the Town.
4. Licensee shall maintain the area occupied at his expense, in the same condition as the area is on the commencement of the license term, normal wear and tear only excepted.
5. Licensee shall not make structural alterations, additions or improvements of any kind to the building, other than normal maintenance without the permission of the Board of Selectmen.
6. Licensee shall have no right to rent, transfer, assign or alienate the area in any way.
7. Licensee shall be responsible for all taxes and assessments on the area, if any.
8. Licensee shall assume all risk of loss due to fire, storm or other casualty on the occupied area.

9. Should a substantial portion of the assigned area be substantially damaged by fire, storm or other casualty, this license shall terminate unless the Board of Selectmen approves the rebuilding and the license is extended.
10. The area is being licensed by the Town in an "AS IS" condition and the Town excludes and disclaims all warranties, express or implied, with respect thereto, including without limitation, the habitability of any structures, the conditions (including, without limitation, both patent and latent defects) of any structures, improvements, or systems, the availability of any utilities, access, compliance of the properties with any applicable zoning, land use, environment or other legal requirements, the existence or non-existence of hazardous materials, asbestos, lead paint or other health hazards, and the implied warranties of merchantability or fitness or adequacy for any particular purpose or use. The Licensee has licensed the designated area after a full and complete examination thereof. Licensee accepts the area in the condition or state in which it now is without any representation or warranty, express or implied in fact or by law, by the Town and without recourse to the Town, as to the title thereto, the nature, condition or usability thereof or the use or uses to which the occupied area may be put. The Town shall not be required to furnish any services or facilities or to make any repairs or alterations in or to the area, throughout the term, the Licensee hereby assuming the full and sole responsibility for the condition, construction, repair and maintenance of the assigned area.
11. Licensee agrees to indemnify and hold harmless, the Town, its successors, agents and assigns from any demand, judgment, or claim of any kind arising out of the use of the designated area by the Licensee, his agents, successors, guests or invitees. Such indemnification shall include, but not be limited to all costs, including reasonable attorney's fees, incurred by the Town in defending any such claim.
12. Licensee agrees to submit an insurance certificate with at least a \$1,000,000 Personal and Advertising Injury Limit and a \$1,000,000 Annual Aggregate Limit, with the Town named as an "Additional Insured". Licensee also agrees to submit documentation of Workers' Compensation Insurance as required by law. All items shall be submitted within 30 days of the date of this agreement.
13. Licensee agrees to submit a CORI request form for each intended occupant of the area. Said form initially shall be submitted within 30 days of this agreement and prior to occupancy for any future occupants.
14. Licensee agrees to comply with all laws and agrees not to use the area in any way that may be unlawful, improper, noisy, offensive or contrary to any applicable statute, regulation, rule or bylaw. Licensee agrees that the assigned area shall continue to be maintained in its customary and usual manner.

15. The Town shall pay heat and electricity costs. The Licensee shall pay for any additional utilities including telephone and internet connection costs. Licensee shall be responsible for cleaning of the area and for disposal of trash.
16. No hazardous materials or wastes, shall be used, stored, disposed of, or allowed to remain in the assigned area at any time and the Licensee shall be solely responsible for, and shall indemnify and hold harmless the Town from, any and all damage in any way associated with the use, storage and/or disposal of same by the user.
17. Disputes: In any action, suit or other proceeding relating to the obligations of the parties hereunder, the non-prevailing party shall pay the reasonable legal fees and costs and expenses of the prevailing party.
18. Licensee shall be solely responsible as between Town and Licensee, for deaths or personal injuries to all persons and damage to any property, including damage by fire or other casualty, occurring in or on the assigned area and/or arising out of the use, control, condition or occupancy of the area by Licensee, its agents, successors, guests and invitees, and the Licensee agrees to indemnify and hold harmless the Town from any and all liability, including but not limited to costs, expenses, damages, causes of action, claims, judgments and attorney's fees caused by or in any way arising out of his use of the occupied area for any of the aforesaid matters.
19. The parties acknowledge and agree that the license may be revoked by the Town for any purpose upon providing 60 days written notice to the Licensee.
20. It is agreed that any notice regarding this License by the Town may be mailed by first-class mail to Selectmen/Administrator's Office at 732 Main Street, Harwich, MA 02645.

Executed as a sealed instrument on the day and the year first above written.

Town of Harwich  
Board of Selectmen

Licensee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Organization

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, and proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, to be the person(s) whose name is/are signed on the preceding or attached document, and who acknowledged to me that he/she/they signed it voluntarily for its stated purpose,

\_\_\_\_\_  
Notary Public  
My Commission Expires:

LE

**TOWN OF HARWICH  
NOTICE OF PUBLIC HEARING  
COMMUNITY DEVELOPMENT STRATEGY**

The Town of Harwich, through the Board of Selectmen will hold a Public Hearing on Thursday, December 14, 2015 no earlier than 6:30 PM for the purpose of discussing the Town's FY 2016 Community Development Strategy and proposed West Harwich target area. The Hearing will take place in the Donn B. Griffin meeting room at Town Hall, 732 Main Street, Harwich. All members of the public having an interest in this topic are cordially invited to attend the public hearing and provide information and testimony relevant to this matter.

Harwich Board of Selectmen

The Cape Cod Chronicle  
Nov. 26, 2015

## 2015 Community Development Strategy for the Town of Harwich

The 2015 Community Development Strategy for the Town of Harwich begins with the vision of the 2011 Local Comprehensive Plan:

*Our vision has efficient and effective delivery of Town services as the top priority. It directs us to optimize the economic potential of all Town owned assets. Safety and security for all is paramount. We must have a superlative educational system for our students and rewarding activities for our seniors. We cannot fail to recognize, protect and enhance the vitality of our cultural, recreational and natural assets that are so essential to our residents, non-resident taxpayers, and seasonal guests alike.*

*To be effective, Harwich must be supported at the County, State and Federal levels. Harwich officials are charged with ensuring that the Town receives fair and equitable treatment and with pursuing legislative remedies when needed.*

*Pursuit of this vision pays homage to our unique coastal environment and vibrant New England traditions of independence and self-determination.*

To implement this vision, the Town of Harwich pursues a variety of strategies related to employment, housing, population, protection of open space, and growth management. Strategies are detailed in the 2010 Housing Production Plan (HPP), 2010 Open Space and Recreation Plan (OSRP) and 2011 Local Comprehensive Plan (LCP).

### Employment

Harwich faces unique challenges with its beautiful natural setting and a population dominated by retired residents, second home-owners and seasonal visitors. Though property values are high, the 2009 median Harwich household income of \$53,607 is well below the state average of \$64,496 (LCP p5). Many residents rely on retirement income and social security rather than jobs (LCP p6).

The character of Harwich as a seasonal and retirement community is well-documented. The 2010 year-round Harwich population of about 12,200 more than doubles to a summer population of almost 30,000 (LCP p5). The percentage of age 60+ residents in the total population was 38.5% in 2008, and projections by the Council on Aging indicate that this percentage will increase dramatically in the next decade (LCP p4). The seasonal and retirement nature of the community creates jobs, particularly in the construction and service sectors – landscapers, painters, repairmen, restaurant workers, retail clerks, etc. However, younger workers are challenged to raise families on income from jobs that often are less than year-round. Much of the public sector's focus is on jobs that will pay higher wages and will provide full-year employment.

Technological improvements, such as the Open Cape Telecommunication Infrastructure project (LCP p40), seek to attract both companies that will choose to locate in our beautiful setting and individuals who can conduct business via computer connections from their primary or second home.



## Housing

The Commonwealth of Massachusetts has established a 10% housing affordability goal for each town. A Subsidized Housing Inventory (SHI) lists housing units that meet eligibility standards. Through November 2013, the Massachusetts Department of Housing and Community Development (DHCD) certified 326 total SHI units, or 5.33% of the town's total of 6,121 year-round housing units.

In accordance with Massachusetts guidelines, the town's Housing Production Plan was approved by Massachusetts DHCD in January 2010. As stated in the summary, a major goal of the HPP is to eventually meet the state's 10% affordability goal. However, another important goal is to serve the range of local housing needs, even if a housing initiative does not result in additional SHI affordable units. Examples include promotion of "workforce housing" (defined as housing for those earning between 80% and 120% of area median income) and accessory apartments.

The Housing Production Plan offers a wide range of housing strategies. The HPP states, "It is important to note that these strategies are presented as a package for the Town to consider, prioritize, and process, each through the appropriate regulatory channels" (HPP p9).

Recognizing that housing strategies evolve from year to year, the 2011 Local Comprehensive Plan established three priorities to be pursued initially (LCP p28):

- 1) Encourage re-use of existing housing stock rather than development on vacant land. In a weak housing market, more opportunities exist to buy or rent existing housing units at a reasonable price.
- 2) Encourage development of village housing rather than in outlying areas. If new housing units are created, it is preferred to locate those units in established villages. Techniques may include accessory apartments or higher density. Current limitations of wastewater treatment capacity may hinder new village development in the short term. However, if development is proposed for outlying areas, it should be directed away from sensitive resources.
- 3) Provide rental assistance rather than subsidized home ownership. A far greater number of residents may be assisted by vouchers and other rental assistance than by large subsidies to individual homebuyers. Seasonal workers and year-round residents with modest incomes are common in Harwich and would benefit from rental assistance.

## Population

Harwich's community development strategy focuses on a wide range of population sectors. The predominance of seniors in the year-round population is noted above in the employment section. The Local Comprehensive Plan emphasizes standards for providing essential emergency medical and other public safety services that are of particular importance to seniors (LCP p10). Equally important is provision of senior services and activities both at the Community Center and through outreach programs. A study is now underway to consider expansion of the Community Center and the services it provides to the entire range of age groups (LCP p12).

Another important focus is support of families. The town's vision of a "superlative" educational system has led to formation with Chatham of the Monomoy regional school district. Voters in both towns approved a new high school, and construction of the facility across from the Community Center on Oak Street is now complete. A further emphasis is support of youth services. Recognition

is given to the combined efforts of Harwich schools, library, Community Center, recreation and Youth Services Committee. Action item 2.5.1 (LCP p11) recommends a coordinated effort by all Town entities currently providing youth services to jointly prepare a plan of activities, facilities, staffing and funding sources.

A major element of family support is provision of adequate and affordable child care. For many years, the town has provided its own funds and has sought outside funding to assist families in need in obtaining regular child care. In combination with employment opportunities and affordable housing, the provision of child care is one of the key components to allow families to live and grow in Harwich.

Protection of Open Space

The Town of Harwich contains 20.93 square miles (13,395 acres) of land area and 10.9 miles of tidal shoreline. As documented in the Open Space and Recreation Plan, the town includes extensive Town-owned land and other open space:

Owner/Manager	Parcels	Acres	Per Cent
Board of Selectmen	188	670	5.0%
Conservation Commission	172	958	7.2%
Other Town Departments	50	683	5.1%
State of Massachusetts	36	266	2.0%
Conservation Trusts	94	347	2.6%
TOTAL	540	2924	21.8%

The Open Space and Recreation Plan describes a number of environmental challenges: (1) protection of water quality and habitat in the Pleasant Bay watershed, a designated Area of Critical Environmental Concern, (2) soil erosion and/or accretion along the shoreline of Nantucket sound, (3) impact from new development and a move toward public sewerage and treatment of wastewater, (4) protection of critical habitats – coastal plain ponds, cedar swamps, salt marshes, barrier beaches and vernal pools, and (5) protection of wildlife habitats and corridors including fish runs.

The initial 1998 Open Space and Recreation Plan focused heavily on acquisition of open space land. Use of Cape Cod Land Bank and Community Preservation Act funds enabled the town to acquire significant land between 1998 and adoption of the latest Open Space and Recreation Plan in 2010. Many of the goals and objectives of the new plan are related to management of town-owned open space land (LCP p16). In the past two years, the Town has actively followed Action item 3.4.1 (LCP p17) by preparing a number of land management plans including the top two priority town-owned parcels – Bells Neck and Island Pond Conservation Areas (OSRP p58).

Along with a new focus on land management, further purchase or other acquisition of open space remains important. Action item 3.5.1 (LCP p17) calls for a review of parcel rankings and other criteria for land acquisition. A recent focus of the Real Estate and Open Space Committee is to identify priority areas of town and specific parcels that would contribute to the town’s open space goals.

Growth Management

Harwich’s growth is village-based. Complete descriptions of the town’s seven villages are available at the Town of Harwich website. A broad-based community planning effort is seeking to strengthen

village qualities in East Harwich with compact, pedestrian-friendly, mixed-use development surrounded by lower density clustered residential development and open space. Recent planning efforts in Harwich Port seek to take full advantage of beach and harbor amenities and to provide stronger links between these amenities and the village center. Village planning in Harwich Center has focused more on cultural and historic strengths complemented by moderate commercial activity (LCP p19). A new grass roots effort in West Harwich is focusing on revitalization of the Route 28 corridor including historic aspects of what citizens refer to as "Captains Row". Renovation of the West Harwich School House as a maritime museum is recommended as an impetus to revitalization efforts in the village. The Chase Library in West Harwich was recently added to the National Historic Register.

Growth must be supported by appropriate infrastructure. A major planning effort is completion of the Draft Harwich Comprehensive Wastewater Management Plan. The plan includes: (1) evaluation of water quality in Harwich estuaries/watersheds, (2) review of potential sites for wastewater treatment/recharge, (3) review of shared use of Chatham wastewater treatment facilities, and (4) evaluation of other measures to address excessive nitrogen loading, e.g. increasing the diameter of a culvert under Route 28 to increase tidal exchange between Muddy Creek and Pleasant and providing natural attenuation at the Bank Street bogs.

Recent improvements to transportation infrastructure include reconstruction of Route 137 which improved vehicular traffic flow, provided shoulders for shared bicycle use, and added new sidewalks for pedestrian travel to and through the center of East Harwich. The West Harwich citizens group is working with the Town and State to provide sidewalks and similar amenities along Route 28 in West Harwich.

Recent attention has focused on bicycle paths and sidewalks, intending to enhance Harwich's character as a bicycle and pedestrian-friendly community. A 2011 study reviewed safe and effective pedestrian and bicycle facilities between the rail trails and Route 28 with a specific focus on a connection between Harwich Center and Harwich Port.

Another recent effort has focused on two of the town's key assets, Saquatucket and Wychmere Harbors in Harwich Port. A study is looking at ways to upgrade and reorganize the harbors to meet the existing needs of commercial fishermen, passenger/tour boats and recreational boaters along with accessibility improvements for the general public.

### Implementation

The 2011 Local Comprehensive Plan is focused on implementation efforts. A series of goal statements and objectives are further defined by approximately 50 action items, all listed in an Implementation chapter and assigned to a "responsible party" – board, commission, department, etc. (LCP pp 41-43). Planning Staff has provided several implementation progress updates to the Planning Board since adoption of the Local Comprehensive Plan in May 2011.

One of a variety of implementation strategies is pursuit of outside funding sources such as CDBG grants. The selection of Harwich Center as a target area served Harwich well for many years, but it is now time to choose a new area. West Harwich has many homes in need of rehabilitation, and a focus on this area would complement the effort to revitalize Route 28.

In addition to the economic benefits, the development of a residential component in the Town's Village Centers could lead to a broadening of the available housing opportunities in Harwich.

Currently, the town has a limited number of affordable units available to a non-elderly population, and several areas of the town where there is almost no affordable housing. The Town's Housing Plan approved in 2010 sets a number of goals, including the creation of 29 affordable units each year (with 70% of those units being rental housing), through new construction or acquisition of existing dwellings; the development of funding sources and income streams to support affordable housing development; and the continuing review of by-laws and other regulations to facilitate the development of affordable housing.

While non-Town entities have been responsible for all affordable housing developed in recent years, all of the housing has been developed by private and quasi-public not-for-profits. The Town currently lacks incentives through zoning and other means for the development of affordable housing by private developers. The town's successful effort to secure funding for a housing rehabilitation program through a DHCD CDBG grant, has inspired additional programs in the target area. The housing rehab program is designed to rehabilitate existing housing stock with serious code violations. Childcare subsidies will assist our large number of single parent households return to the workforce.

#### Massachusetts Sustainable Development Principles

The 2014 Community Development Strategy for the Town of Harwich is compatible with the Massachusetts Sustainable Development Principles:

1. Concentrate Development and Mix Uses - Harwich's historic development and growth planning is village based. In particular, planning for East Harwich encourages mixed-use development.
2. Advance Equity – The 2010 Open Space and Recreation Plan and 2011 Local Comprehensive Plan describe efforts to advance affordable housing and child care programs, provide services to the elderly, and communicate with all sectors of the population.
3. Make Efficient Decisions – Efficiency of government is a high priority for Harwich as evidenced in Chapter 2, Delivery of Town Services, and Chapter 4, Intergovernmental Relations, of the 2011 Local Comprehensive Plan.
4. Protect Land and Ecosystems – Beginning with the vision statement of the 2011 Local Comprehensive Plan, protection of Harwich's natural assets permeates the town's planning documents and implementation efforts. Establishment of wetland buffers, protection of drinking water, management of public lands, and protection of critical habitats are just a few of the many town actions.
5. Use Natural Resources Wisely – More than 20% of land in Harwich is protected by public ownership and conservation restrictions. Village growth planning, resource protection districts, and environmental development standards all provide further contributions to protection of natural resources.
6. Expand Housing Opportunities - Harwich's efforts to provide affordable and workforce housing are well documented in the 2010 Housing Production Plan and 2011 Local Comprehensive Plan.
7. Provide Transportation Choice – Two public bus routes are in operation through Harwich. The State-funded improvements to Route 137 in East Harwich include new sidewalks and shoulders suitable for bicycle travel along the entire length of the corridor.

8. Increase Job and Business Opportunities – Harwich’s efforts at providing employment opportunities are documented in an earlier section of this report.
9. Promote Clean Energy – Harwich has supported solar energy projects at the landfill, public services building, and at other town facilities. The landfill solar project, one of the largest in the state, is now in operation and is reducing the amount of externally-generated electricity that the town must buy.
10. Plan Regionally – Growth planning for East Harwich considers impacts on the abutting towns of Brewster, Chatham and Orleans. The lead option for wastewater management is connection to the existing sewer plant in Chatham. Harwich has joined regional dispatch services and a regional e-permitting system.

#### Priorities

1. In the area of wastewater management, complete negotiations for lease of the Chatham wastewater treatment plant, acquire a recharge site in East Harwich, and develop a town-wide cost recovery program.
2. Revitalize West Harwich via renovating the West Harwich School House as a maritime museum, pursuing Route 28 streetscape improvements, gaining historic recognition of the Route 28 corridor, and seeking funding to rehabilitate historic buildings.
3. Continue the resurgence of Harwich Port via improvements to downtown parking, provision of a pedestrian link to Saquatucket Harbor, and continued focus on branding and marketing efforts.
4. Finish preparation of zoning regulations for East Harwich and agree on one proposal to be brought to Town Meeting for approval.
5. Continue efforts to protect natural resources including restoration of Hinckley’s Pond and pursuit of land management programs at Thompson’s Field and other town properties.
6. Support efforts to provide year-round employment, housing and child-care for all segments of the population.
7. In the area of housing, support rental assistance and rehabilitation of existing housing stock.
8. Continue provision of facilities and services for the growing senior population.
9. Maintain the quality of existing transportation facilities and pursue new and upgraded facilities for pedestrians, bikes and motor vehicles.
10. Maintain and improve public amenities, notably beaches and harbors that provide enjoyment for residents and attract visitors to Harwich.

## WEST HARWICH SCHOOLHOUSE RFI

### 1. DESCRIPTION OF USE.

As part of a local initiative called Captain's Row, in an area submitted for National Register status and with a currently active process to designate the area from Dennisport to Herring River Bridge as a local historic district, we are proposing the following use for the West Harwich Schoolhouse. The goal: Restore and preserve the historic West Harwich schoolhouse in its envelope and create a functional use by establishing a living maritime museum. Further the goal will include nomination of the building for national register status after preservation efforts are completed.

Our intent is to use the entire property and devote it to an active, living maritime museum and tie in to the Sea Captain's homes in the proposed historic district. The first floor will be used for the building of small classic wooden boats. During warmer months this activity could move outdoors. Also on the first floor will be two public use bathrooms and a small area for informational pamphlets directing visitors to other areas of interest within Harwich. Our proposed use provides for plentiful parking and will include landscaping and public spaces for sitting.

The second floor is intended for displays, built boats and/or historical small boats. These can be hung from an open rafter method. Historical displays of the Sea Captain's of Harwich and the immediate homes within the walking area. This would also accommodate local family history and could also include a rotating exhibit of maritime art or historical boat building tools and methods. First and Second floor use provides for ADA compliance .

### 2. FINANCIAL BENEFIT TO THE TOWN,

We are planning for a negotiated license agreement with the town. Friends of the West Harwich Schoolhouse will pay for all operating costs. No special services will be expected from the town although the town is providing Supervisory services during the building process and we have requested CPC funds from the town. The financial benefit to the town will be through increasing tourism not only in West Harwich but all of Harwich. This benefits businesses and hospitality services, which in turn boosts the Town's tax base.

### 3. OTHER BENEFITS TO THE TOWN.

This project follows the local comprehensive plan for Harwich on multiple levels. The local plan directs us to optimize the economic potential of town owned assets. This building has remained unused for over 20+ years. It also enhances the vitality of our cultural, historical and recreational activities, as directed.

Further, it supports the village development plan and branding initiative that the Town has undertaken. A restored schoolhouse furnishes the material and symbolic cornerstone for the civic face of the Captains' Row

district. Overall, it will generate an inviting neighborhood scale and feeling as well as a vital and visible investment in a viable business enterprise

That will bring energy, movement, and money to this area of the village, which is currently in need of revitalization.

#### 4. IMPACT ON THE NEIGHBORHOOD.

Currently the West Harwich Schoolhouse is a target for tagging, drinking and some vandalism. Simply restoring and preserving a historic building would make great strides towards revitalizing an area in decline. However we intend to use the West Harwich Schoolhouse as the anchor and center for the revitalization of a historic area. It is in fact the perfect compliment to a village footprint as it completes the classic village scene of Church, School. And Graveyard. Here the children of our town were educated about life including their direct ties to the sea, navigation and commerce.

The residents closest to the Schoolhouse are disgruntled about what's happening in their neighborhood and are very supportive of the project. The only impacts we identified were from the original consultants development plans that included bright commercial lighting in the parking area. We have designated low lighting with a historical look.

Additionally we intend to be environmentally sensitive. The current black asphalt parking will be replaced with a permeable surface that consultants have noted may actually be helpful to remediate some of the issues with the plume on the property. A new title 5 will be installed to replace a very outdated system. The property's footprint remains the same, will be historically sensitive and also provide landscaping and sitting areas for visitors. It is not a far distance to the bike trail and will be Great news for those seeking bathrooms or a restful bench.

#### 5. ABILITY TO PERFORM

This is a joint project with the town of Harwich. Oversight for the project will be provided by Bob Cafarelli ,our town engineer, who has extensive experience in the building industry.

Volunteer efforts will be directed by the Captain's Row group who have members with architectural, historical , branding , fund raising and building experience.

We are seeking CPC funds and a matching grant to develop this project.

#### REVENUE MODEL

Working capital for first boat comes from an individual (Lou) who will prepay the first construction. The profit generated will be \$2,200 — enough revenue to pay instructor and material for *second* wooden boat.

This float will enable a second wooden boat to be built and raffled off to the public. Initial discussions were with the director of Habitat for Humanity, which annually

raffles off a kayak. Such auctions generate \$35,000 in gross receipts. We propose a revenue-share after the first \$5,000; Habitat would handle sales. We estimate a first-year profit of approximately \$10,000 for the Maritime Living Museum.

Using individual donations from boating enthusiasts and residents interested in historic preservation, we expect to raise an additional \$5,000 over eighteen months. These funds shall be used to acquire small hand tools, etc.

Initially we estimate building two boats per year for those who wish to have a classic wooden boat that will simultaneously support our efforts with the museum generating \$4,000 annually.

We estimate 900 visitors during the first complete summer season, and anticipate voluntary donations to the Maritime Living Museum to generate approximately \$1,000.

*Build your boat with friends or family and enthusiasts.* A program geared towards local residents where 8 individuals would work with expert craftsmen and pay \$500 each. And could generate \$4,000 per year. A drawing of straws would determine which person would own the boat. Cape Cod Tech has expressed interest in this Adult Education aspect of the program.

We further anticipate a component of subsequent revenue will be secured from rental of a number of these classic boats on the Herring River. One boat rented three days per week could generate \$150 per day at \$75 per four-hour rental generating \$450 per week. A twelve-week season would raise \$5,500 per boat. We anticipate ultimately renting five boats for \$22,500 in gross rental revenue. Cost of this endeavor is estimated for one employee, eight hours per day for twelve weeks, about \$5,000, plus insurance of \$5,000, representing a total of \$10,000.

Related fund raising efforts, including classes on building and sailing wooden boats, re-issuing a local cookbook with period recipes, are also in development.

Included for your reading pleasure is our CPC submitted application.



## Charleen Greenhalgh

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**From:** Rousseau, Mark (MISC) <mark.rousseau@state.ma.us>  
**Sent:** Monday, November 30, 2015 10:45 AM  
**To:** Charleen Greenhalgh; Amy Usowski  
**Subject:** Harwich reef - commercial fishing access restrictions

Hi Charleen,

During our meeting last week you asked for an explanation of the restrictions we are proposing for the Harwich reef site. The funds we've committed to this project were generated through the sale of saltwater fishing licenses. The State intends to apply for reimbursement of 75% of this funding through a federal grant program established under the Federal Aid in Sportfish Restoration Act (Wallop-Breaux Act). In order to qualify for this federal reimbursement, the state must demonstrate the reef will be used almost exclusively for recreational purposes. To demonstrate this, we are proposing to establish a regulation that will exclude commercial pot fishing on the site. The language for the regulation is under development and will need to be vetted through an extensive public process that will include public hearings and a public comment period. We have been looking at a similar regulation established for artificial reefs off the coast of Delaware that proposed them same thing for the same reasons. The language from their regulation reads (modified for our purposes) reads " no fishing vessel or person on a fishing vessel may fish in the Harwich fishing reef site with any gear except hook and line and spear fishing" .

To be clear, if DMF decides we are no longer interested in pursuing a regulation as an option, or if through a public process we find there is no support for the establishment of a regulation restricting commercial activity on the site, it will not change our stated commitment to spend these funds on this project.

Please let me know if you need any more information or if you have any questions.

Best,  
Mark

### Mark Rousseau

MA Division of Marine Fisheries  
Annisquam River Station  
Gloucester, MA 01930  
978-282-0308 x162  
617-727-3337 fax

# Harwich Artificial Reef Project Proposal

## Introduction

The creation of artificial reef habitat has been employed by many coastal states as an effective method of increasing fisheries productivity, augmenting fisheries habitat, and enhancing local recreational fisheries (Ditton et al. 2002; Figley 2004). The Division of Marine Fisheries (DMF) has an established artificial reef program designed to provide an operational framework for responsible long-term management of artificial habitats that provide benefits to fisheries resources. Nantucket Sound is an area of limited hard bottom habitat relative to other coastal regions of Massachusetts. Bugley and Carr (1994) reviewed the status of artificial structures in Nantucket Sound and found many of the once plentiful shipwrecks were deteriorating, resulting in an overall loss of relief and habitat value. Public interest in developing artificial reefs in the region has grown over concerns that the amount of available structured fish habitat along southern Cape Cod is diminishing.

This proposal describes the methods for selection and placement of materials at a location in Harwich, identified in Notice of Intent (NOI) file # SE 32-2103 issued by the Department of Environmental Protection (DEP) on 3/15/12. The deployments of reef materials proposed at this location are for creating an artificial reef to provide benefits to marine resources by providing shelter for cryptic marine vertebrate and invertebrate species in a location that is otherwise limited in hard bottom structural complexity. This project will also provide near-shore fishing for anglers in Nantucket Sound. This document addresses seven specific issues: 1) Assessment of current on-site conditions 2) proposed project size 3) dispersion of materials on-site 4) volume of new materials 5) construction impacts 6) monitoring and 7) alternatives analysis.

## 1. Site Assessment

DMF conducted a site assessment to examine the potential for artificial reef development in state waters off the coast of Harwich in Nantucket Sound. Sidescan sonar and diver transect data were collected in 2009 and 2010 from an area identified using a modification of an exclusion mapping protocol established by Barber et al (2009) for selecting an artificial reef site in Boston MA. Substrate and benthic infaunal data were also collected from an existing artificial reef in state waters off the coast of Yarmouth for comparative purposes (Figure 1).

### **Exclusion mapping**

Prior to collecting field data, DMF employed an exclusion mapping method (see Barber et al., 2009) to identify and eliminate areas unsuitable for reef development. Seven general criteria were used to determine an optimal location to assess for potential artificial reef development (Table 1). Existing information, including NOAA charts and GIS data were reviewed for this analysis.

Table 1. Criteria for selecting a site for artificial reef deployment

Criterion	Description
accessibility	Area is suitable for safe small boat operation and recreational use and does not interfere with commercial vessel traffic.
depth and wave action	Water is deep enough to protect the reef from wave action. Targeted depth range was between 26 and 40 feet.
established habitats	Avoid existing established habitats.
substrate	Substrate consists of firm sediment types that provide a stable platform for approved materials.
slope	Sites with slopes less than 5° are needed for reef stability.
water quality	Low turbidity, low siltation rate, and adequate light penetration.
user conflicts	Avoid potential conflicts with other user groups, including ferry routes, weir fisheries, and other commercial and recreational fishing activities.

#### *Accessibility*

Site accessibility was determined based on the distances recreational boaters would be required to travel from local ports. Charter boats originating from Saquatucket Harbor were witnessed on the Yarmouth reef site, over seven miles from port, on several occasions. Based on these observations, all areas within the 3-mile Harwich jurisdictional limits were determined to meet this criterion.

#### *Depth and wave action*

Depth data were analyzed using NOAA chart #13237 and available bathymetry data from MassGIS. Depth data was collected during diver transect surveys and calibrated for actual mean low water (MLW) using local tide data available from NOAA. Charted depths between 26 and 40 feet (MLW) were considered for site evaluation.

#### *Established habitats*

A substantial amount of area within Harwich coastal waters is designated as habitat suitable for shellfish, specifically *Mercenaria mercenaria* (quahog) and *Spisula solidissima* (surf clam), according to data published by DMF and MassGIS (see Figure 7). This information includes sites where shellfish have been observed since the mid-1970's, but may not currently support any shellfish. Therefore, these designations represent potential rather than actual shellfish habitat areas. Site-specific surveys are necessary to ascertain current distribution and abundance of shellfish species. As such, additional information was required in order to make a site-specific assessment on established habitats. This factor was addressed by collecting information on the presence of shellfish species during diver transect survey.

#### *Substrate*

Initial substrate data analysis consisted of a review of navigational hazards, rock outcrops, and other relevant information depicted on NOAA chart #13237 and data available from Mass GIS. There is limited published information available in finer scale resolutions on the surficial

substrate composition of the seafloor in the Harwich region of Nantucket Sound. Further, substrate composition is one of the most critical components when selecting a suitable location to deploy an artificial reef. Therefore, sidescan sonar and diver transect survey data are the primary sources of information used in this assessment.

#### *Slope*

Slope data reviewed from soundings measurements listed on NOAA chart #13237 and bathymetry data from MassGIS were used to select an assessment area with a slope of  $<5^\circ$ . Slope was verified by collecting depth data at 10m intervals along each diver transect and calculating slope from observed depth changes over the total length of each 100m transect.

#### *User conflicts*

Within the jurisdictional limits of the Town of Harwich, uses that could present potential conflicts for siting an artificial reef were avoided. Available GIS data including mapped navigational ferry routes, weir fisheries and identified commercial and recreational fishing uses were considered when sizing and selecting an appropriate location for further assessment.

Using these criteria, a 1.15 square mile area (735 acres) located south of Saquatucket Harbor (Figure 1) was identified for further assessment using sidescan sonar and diver transect surveys.

#### **Sidescan Sonar survey**

In August 2009, DMF contracted American Underwater Search and Survey (AUSS) to perform a sidescan sonar survey of the area identified through exclusion mapping. The tire reef site off the coast of the Town of Yarmouth was also assessed to compare the characteristics of a potential site in Harwich to an existing artificial reef. From the sidescan survey, a mosaic image (Figure 2) was generated to depict characteristic differences in surficial substrate. Visual analysis of image data generated from the sidescan sonar survey was used to identify locations for diver surveys.

#### **Diver surveys**

Diver surveys were conducted to verify the composition of surficial substrate at locations selected from mosaic imagery analysis and to collect data on finfish, motile invertebrates, and visibly quantifiable sessile invertebrates. Twenty-eight transect locations were selected from a visual analysis of sidescan mosaic imagery. Twenty-four out of twenty-eight transect locations were surveyed in October 2009 and October 2010 (Figure 2). (Note: transect #'s 11,19,22,29 listed in Figure 2 were not surveyed).

#### **Transect Survey Results**

##### *Depth verification*

Depth data (Table 3) was collected *in situ* on all diver transect surveys at 10m intervals and averaged for each transect. Depth data was standardized to a mean low water (MLW) value by synchronizing the time of depth measurement to local tide data available from NOAA. Once adjusted to MLW values, seven transect locations (16, 17, 20, 21, 23, 25, 26) were determined to be unsuitable based on the weighting and ranking analysis criteria.

### *Slope and wave action*

Slope was calculated from the change in depth along 100m diver transect surveys. Barber et al (2009) used a 5° change in slope to eliminate potential sites because of concerns with reef stability. Slope calculations did not exceed 1° at any location within the surveyed area. There were no sand wave / ripple areas witnessed on any of the 24 diver transects sampled.

### *Substrate weighting and ranking analysis*

A weighting and ranking analysis modified from Barber et al (2009) was utilized to assess field data for selecting a potential site location. Criteria included primary substrate percentage, depth, and proximity to other locations with suitable primary substrate composition. For each potential site, a numerical score was assigned to each category (Table 2).

Table 2. Reclassification values for substrate and depth

Primary surficial substrate			Rank value
silt	unsuitable	not capable of supporting reef weight	0
boulder / cobble	unsuitable	existing hard bottom habitat	0
sand/silt	potential	sediment reworking	1
sand / granule / pebble	prime		2
Depth			Rank value
<30 ft	unsuitable	navigational concerns, wave action	0
30 ft - 35 ft	prime		2
>35 ft	potential	reduced time for recreational divers	1

### *Substrate composition*

Divers quantified substrate types along both sides of a 100m central transect line out to a distance of 2 meters. Larger substrate types were visually classified according to categories defined by Wentworth (1922 – Wentworth scale) and verified using rulers. Finer substrates were categorized as sand, mud, or silt. Primary (area contained >50% of sediment type) and secondary (area contained 10-50% of sediment type) sediment types were recorded at 10m intervals. The results of the surficial substrate composition (Figure 3) includes transects 1 through 7 collected at the Yarmouth tire reef site for comparative purposes. Transects where >50% of primary substrate was identified as silt were eliminated as potential sites because of their inability to support the weight of reef materials. This eliminated all transects within the deeper section of the survey area (8, 9, 10, 12, 13, 14, 24), three of the nine sites within the middle survey region (15, 26, 30) and four sites within the shallower region (17, 18, 20, 31). Site # 35 was eliminated as a potential reef site as it was outside the survey area. Transect sites were then ranked by adding depth and primary substrate ranking scores (Table 3).

Table 3. Reclassification rankings (see table 2) for each transect.

Site ID	Depth (MLW)	Depth rank	Primary substrate	Primary Substrate rank	Total (depth rank +primary substrate rank)	Rank Total*
8	33.4	2	Soft sand / silt	0	2	2
9	33.8	2	Soft sand / silt	0	2	2
10	33.8	2	Soft sand / silt	0	2	2
12	34.0	2	Soft sand / silt	0	2	2
13	34.0	2	Soft sand / silt	0	2	2
14	32.3	2	Soft sand / silt	0	2	2
15	31.0	2	Soft sand / silt	0	2	2
16	26.0	0	Sand	2	2	2
17	29.3	0	Soft sand / silt	0	0	4
18	31.5	2	Soft sand / silt	0	2	2
20	28.4	0	Shell debris/shack	1	1	3
21	25.3	0	Sand	2	2	2
23	27.4	0	Sand	2	2	2
24	33.7	2	Soft sand / silt	0	2	2
25	29.9	0	Sand	2	2	2
26	29.1	0	Soft sand / silt	0	0	4
27	30.0	2	Sand	2	4	1
28	31.3	2	Sand	2	4	1
30	35.1	1	Soft sand / silt	0	1	3
31	36.9	1	Soft sand / silt	0	1	3
32	31.2	2	Sand	2	4	1
33	30.8	2	Sand	2	4	1
34	30.8	2	Sand	2	4	1
35	32.0	2	Soft sand / silt	0	2	2

\*Sites ranking >1 were eliminated as potential sites

Surficial substrate composition is relatively uniform among the five highest ranking transects (27, 28, 32, 33, 34), consisting primarily of sand and resembling the primary substrate at the Yarmouth artificial reef site (Figure 3, transects 1-7). These locations exhibited depth values of potential or prime based on weighting and ranking analysis criteria.

To select the most optimal location for reef development, a “nearest neighbor” analysis was conducted by dividing the survey site into 200m<sup>2</sup> block grid and selecting blocks within the grid where transect surveys were conducted (Figure 4A). Blocks within the grid where no transect data was collected and grid blocks containing transects eliminated during the weighting and ranking analysis were eliminated from consideration for site selection (Figure 4B). Two sites (site 27 and 34) were located adjacent to other sites that also scored high in the ranking analysis (Figure 4C). Site 27 was selected as the target area for permitting.

Table 4. Top 5 ranking transects.

Site ID	Rank	# of adjacent ranked sites	Rank
27*	1	2	1
28	1	1	2
32	1	1	2
33	1	1	2
34	1	2	1

\* selected location (Figure 8).

*Species presence and relative abundance*

Divers quantified all fish species, motile invertebrates, and sessile macroinvertebrates along both sides of a 100m transect. Collected data was totaled from both divers for each site.

Survey totals for observed fish species from the five top ranking transect sites are depicted in Table 5 and Figure 5. Fish presence were recorded in only 2 instances and included only 2 fish species, black sea bass and cunner. There were six different fish species recorded among all transects within the Harwich survey area, compared to eleven fish species recorded at the Yarmouth transects (Table 7). Black sea bass and cunner were the only two species found along all five of the highest ranking transects, and only seven fish species were recorded over all 24 transects. Black sea bass and cunner were the only two fish species averaging greater than one occurrence per transect.

Table 5. Fish data

Fish (count)	Transect					Totals
	T27	T28	T32	T33	T34	
<i>Centropristis Striata</i> (Black sea bass)	2	0	0	0	0	2
<i>Tautoglabrus adspersus</i> (Cunner)	0	0	0	2	0	2
Totals	2	0	0	2	0	4

For invertebrates, ten species were recorded among the top five ranked transect sites, and 23 invertebrate species were recorded from all transects. Survey totals for observed invertebrate species for the five top ranking transects are depicted in Table 6 and Figure 6. Two species, hermit crabs and spider crabs were observed on all five transects. Two invertebrate species (lobster, lady crab) were observed on only one occasion during transect sampling. A notable observation from site 27 included a large, patch of adult sized sea scallops along the sample transect. Several hundred individuals

## 2. Proposed Project Size

This proposed project will place a cap on the amount of new materials that may be deployed to 1.11 acres (48,352 ft<sup>2</sup>) of area, or 11% of the total surface of the proposed site. Deploying new material within these limits will provide additional environmental benefits to structure-oriented marine resources in an area of limited structured habitat, maintain a substantial amount of undisturbed area on-site, and afford additional opportunities for near-shore anglers. Materials deployed at the proposed location will be distributed to create multiple patch habitat arrays across the 9.88-acre site. The proposed site is divided into four equal quadrants containing one-hundred 10m x 10m blocks each for tracking material deployments (Table 8).

Table 8. Calculations for material coverage

Quadrant	Acres	# of 10m x 10m Blocks	# of Developable Blocks within quadrant (1:2 ratio of total area)	Blocks containing structures	Blocks no structures	Blocks Available for new materials	Acreage for development (Blocks Available * acreage)	Total Acreage material coverage using targeted 1:2 ratio of material to space (33%)
NE	2.47	100.00	33.00	0.00	100.00	33.00	0.82	0.28
NW	2.47	100.00	33.00	0.00	100.00	33.00	0.82	0.28
SE	2.47	100.00	33.00	0.00	100.00	33.00	0.82	0.28
SW	2.47	100.00	33.00	0.00	100.00	33.00	0.82	0.28
Total	9.88	400.00	132.00	0.00	400.00	132.00	3.26	1.11

## 3. Dispersion of Materials

A literature review was undertaken to define optimal densities for patch reef development and to determine appropriate options for dispersing new materials on site. Peer reviewed information on optimal densities for patch reef development is limited and varies substantially depending upon location. In general, artificial reefs of smaller sizes are utilized by more fish because of a higher perimeter to area ratio (Ambrose and Swarbrick, 1989). Interstitial spaces are important for maintaining trophic relationships between reef inhabitants and the surrounding fauna. Hueckel et al. (1989) found that bottom development consisting of a ratio of one part reef material for every two parts of undisturbed bottom was optimal when mitigating for habitat loss using artificial reefs. Based on this information, this project proposes an arrangement of materials utilizing a 1:2 ratio (33% coverage) of new material to natural bottom.

To assess the viability of utilizing the proposed 1:2 ratio of materials to open space for further site development, a map of the site was divided into quadrants (NE, NW, SE, and SW) containing 10m x 10m grid blocks (Figure 9). The grid system provides a mechanism to plan and monitor material deployment in order to maintain the proposed 1:2 or greater ratio throughout the entire reef site. Examples of potential organized and random configurations within a 10m x 10m grid for different material types are depicted in Figures 13 – 16.



#### 4. Volume of Reef Materials

The type of and source for materials for this site have not been determined. This project is designed to take advantage of low or no cost clean materials approved under the "Guidelines for Marine Artificial Reef Materials, Second Edition" (ASMFC 2004), the National Artificial Reef Plan (NOAA 2007), and the Massachusetts Artificial Reef plan (Rousseau 2008). Two primary categories of materials have been used in the development of artificial reefs in U.S. coastal waters – 1) materials of opportunity and 2) designed/constructed reef units (*Guidelines for Marine Artificial Reef Materials, Second Edition*, ASMFC 2004). To maximize opportunities to acquire materials for deployment this proposal examines both materials of opportunity and engineered structures. Examples of clean materials include concrete culverts, concrete sewage dry well (honeycomb), natural rock, or manufactured units such as "Reef Balls" or other similar structures. Tire units are no longer considered approved materials.

##### *Deployments of designed reef structures*

There is a considerable amount of variation in shape and size among various types of designed reef structures (See Figure 11). To estimate the approximate area and volume of an array of different designs, the footprint of an individual unit was calculated by squaring the longest base length. Base dimensions for specific designs vary, but the base dimension of a unit generally increases as vertical dimension increases to maintain structural stability. To maintain a minimum 24' depth clearance over the reef site, new materials are limited to a maximum height of six feet. Table 9 lists the estimated area and volume for a range of designed structures with up to six feet of vertical relief. Using this method, we were able to determine the number of units of various sizes needed to cover the proposed 1.11-acre (413,820 ft<sup>2</sup>) area.

##### *New deployments of consolidated materials*

Consolidated materials consist of clean debris, quarried stone or other approved materials of opportunity. (see Appendix B for examples). To estimate the approximate quantity of materials ranging from 3' to 6' of vertical relief, a 1:2 ratio of material to natural bottom was used to calculate the available area within a single 10m x 10m block. This value is multiplied by the number of blocks available in each quadrant (see table in Figure 10). Base dimensions for specific designs and material types vary, but in general

Table 9. Estimated area and volume for a range of designed reef structures

Structure size (l x w)	Footprint (ft <sup>2</sup> )	Volume (ft <sup>3</sup> )	# units / acre	Total # units / 1.11 acres
3ft x 3ft	9	27	4,840	5,372
4ft x 4ft	16	64	2,722	3,021
5ft x 5ft	25	125	1,742	1,934
6ft x 6ft	36	216	1,210	1,343

the base dimension of a unit increases as vertical dimension increases. To maintain a minimum 24' clearance over the reef site, new materials are limited to a maximum height of 6'. Table 10 estimates area and volume for a vertical range of consolidated designs. Using these

calculations, a volume of material needed to cover 1.11 acres within the permitted area can be determined.

Table 10. Maximum area and volume for consolidated and prefabricated materials.

Max Vertical relief (ft)	1:2 Max area (ft <sup>2</sup> ) per block (l x w) *.33	Volume per block (ft <sup>3</sup> )	NW = 33		NE = 33		SW = 33		SE = 33		Total = 132	
			(ft <sup>3</sup> ) per quadrant NW	(ft <sup>3</sup> ) per quadrant NW	(ft <sup>3</sup> ) per quadrant NE	(ft <sup>3</sup> ) per quadrant NE	(ft <sup>3</sup> ) per quadrant SW	(ft <sup>3</sup> ) per quadrant SW	(ft <sup>3</sup> ) per quadrant SE	(ft <sup>3</sup> ) per quadrant SE	Total area (ft <sup>2</sup> )	Total volume (ft <sup>3</sup> )
3	359	1,077	11,847	35,541	11,847	35,541	11,847	35,541	11,847	35,541	47,388	142,164
4	359	1,436	11,847	47,388	11,847	47,388	11,847	47,388	11,847	47,388	47,388	189,552
5	359	1,795	11,847	59,235	11,847	59,235	11,847	59,235	11,847	59,235	47,388	236,940
6	359	2,154	11,847	71,082	11,847	71,082	11,847	71,082	11,847	71,082	47,388	284,328

## 5. Construction impacts

Clean materials will be deployed during daylight hours via floating barge. DMF recommends time of year (TOY) work windows for coastal alteration projects impacting important marine species and habitats. The time of year with the least amount of disruptive impacts to marine species in Nantucket Sound can vary by species. The preferred construction window for minimizing impacts is expected to be from October through January.

Settlement of materials can be expected to occur over time and must be considered when selecting new materials for deployment on site. The addition of new reef material to the site shall be in accordance with the "Guidelines for Marine Artificial Reef Materials, Second Edition" (ASMFC 2004), the National Artificial Reef Plan (NOAA 2007), the Massachusetts Artificial Reef plan (Rousseau 2008), and follow the materials and design criteria outlined in Appendix A.

## 6. Monitoring

Representatives from DMF and the Town of Harwich will verify that materials to be deployed meet the criteria for approved artificial reef materials as outlined in the MA Artificial Reef Plan, The National Artificial Reef Plan, and the Guidelines for Marine Artificial reefs (ASMFC 2004) and any other conditions specified through permitting. This document provides options that address configurations, volumes, and dispersal of both consolidated materials and designed reef structures. Although several material types have been discussed in this proposal, scenarios employing varying types of materials on-site may occur. In order to track the progress of site development, a log of the amount and type of materials being deployed and coordinates identifying the location of the deployed material will be recorded for every trip.

Representatives from DMF and the Town of Harwich will verify that materials deployed on-site follow the deployment specifications outlined herein and confirm that materials and deployments conform to all permit conditions. DMF will conduct annual inspections of the reef to verify that the reef materials have remained structurally stable, in place, pose no threat to navigation, and shall immediately report any problems found during the inspections. A detailed breakdown of the proposed monitoring and reporting schedule is included in Appendix C.

DMF is also interested in exploring other monitoring opportunities to address specific fisheries management decisions for important commercial and recreational species that utilize this site during on or more stage of their life history.

## **7. Alternatives Analysis**

Alternatives to the proposed site location, including options for developing other locations in state waters within the Harwich town boundaries were evaluated during the site selection analysis for this proposal. Alternative material types and distributions on site were considered for this project.

Although materials for this proposal have yet to be defined, a range of materials has been proposed for replicating the structured habitats created by materials previously deployed on other reef sites in Massachusetts. This range is based on the experience of the DMF in developing artificial reef sites and mitigation projects designed to enhance hard bottom habitats. The options outlined herein considered materials of opportunity, potential hazards to navigation, and the options available for obtaining and deploying materials.

Several alternatives for distributing materials on site were examined during the development of this proposal. For deployment purposes, aggregating large quantities of materials in a single location is an easy and economically efficient method. However, the alternative method proposed here is designed to create an array of patch habitats similar to those created during the deployment of tire structures on the Yarmouth reef site. The deployment methods utilized in Yarmouth relied on a broadcast distribution method from a moving barge, whereas the alternative method proposed here will rely more extensively on GIS and GPS to direct materials to specific areas. This approach will minimize impacts from construction activities to larger areas while creating a dispersed array of additional patch habitats.



TOWN OF

HARWICH

*732 Main Street  
Harwich, MA 02645*

CONSERVATION COMMISSION

(508)-430-7538 FAX (508)430-7531

## **Update on Artificial Reef Project December 14, 2015**

- All permits in hand
- 1,000 cubic yards of clean concrete from old High School currently at the Transfer Station
- Mass Division of Marine Fisheries has offered to fund the entire project (up to \$250K) provided we can do it by June 1, 2016. We have to do it by April 1, 2016 due to Time-of-Year restrictions for in-water work as well as not to interfere with the start of the boating season.
- Highway Department has agreed to bring material down to Saquatucket to cut down on transportation costs.
- Material can temporarily be stored on the Downey property if need be.
- Adequate depth at Saquatucket for the barge needed.
- Received a revised estimate from Robert Our Co. on 12/8/2016 for \$215K for the work.
- Town Engineer Bob Cafarelli is working on an RFR to put out asap.

## Christopher Clark

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**From:** POCCA CAPE COD <poccacapecod@gmail.com>  
**Sent:** Sunday, November 22, 2015 8:33 PM  
**To:** Christopher Clark  
**Subject:** Request for Harwich Board of Selectmen  
**Attachments:** Complaint.doc; EVERSORCE INJUNCTION JUDGE DECISION 2015-10-06.pdf; prelim injunction.doc

Dear Truro Board of Selectmen:

On behalf of POCCA Cape Cod - [www.poccacapecod.org](http://www.poccacapecod.org) - I present three requests for your consideration. Please invite me to be on your BoS meeting agenda in December.

- 1.) That your BoS write a letter in support of Senator Dan Wolf's bill # S.478, an act that if passed would give each town the right to negotiate a no pesticide spraying agreement with Eversource Energy, by writing to Senator Anne Gobi, Senate Chair ENRA - at [anne.gobi@masenate.gov](mailto:anne.gobi@masenate.gov) - and Representative Paul Schmid, House Chair ENRA at [Paul.Schmid@mahouse.gov](mailto:Paul.Schmid@mahouse.gov).
- 2.) That the BoS prepare to write MDAR and prepare to testify in strong opposition to Eversource's YOP when the time for such comments arises after January 1, 2016.
- 3.) That POCCA and POCCA's Attorney, Bruce Taub, be invited to discuss with your town counsel, as we have done favorably with town counsel in Brewster and Orleans, the possibility of your town joining in efforts to take Eversource to court, conditioned on Attorney Taub's offer of his time in such an endeavor on a pro bono basis, in an effort to stop all herbicide spraying along town owned and privately owned ROW's. See original Motion for Temporary Restraining Order/Injunction and Court's response there to - attached.

Thank you for all you do to protect our natural resources.  
I look forward to meeting with you.

All the Best,  
Laura Kelley, Director  
POCCA Cape Cod.org

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POCCA Cape Cod  
[www.poccacapecod.org](http://www.poccacapecod.org)  
Protect Our Cape Cod Aquifer  
Help protect our Quality of Life  
'like' POCCA Cape Cod on FaceBook  
774.353.6511

Dear ENRA Committee Chairs Senator Gobi and Representative Schmid:

We are undersigned, the (list your town) Board of Selectmen, write to respectfully ask that the ENRA committee move forward and favorably report out Senator Dan Wolf's bill S.478, a bill regarding vegetation management in rights-of-ways.

See <https://malegislature.gov/Bills/189/Senate/S478>

The intent of this bill is to give individual towns such as (list your town) the right to negotiate a no pesticide spraying agreement with Eversource Energy Corp. Thereby providing the citizens of (list your town) an alternative method of maintaining rights-of-way without the use of toxic pesticides.

Inasmuch as no additional cost would accrue to Eversource from the passage of this bill, and the citizens of (list your town) so strongly support the mandating of alternatives to the spraying of toxins, we call upon you to move this matter forward.

Respectfully,

Name  
Chair  
Town  
Etc

Please send this document to:

[Anne.gobi@masenate.gov](mailto:Anne.gobi@masenate.gov)

[Paul.schmid@mahouse.gov](mailto:Paul.schmid@mahouse.gov)

**SENATE . . . . . No. 478**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Daniel A. Wolf*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to vegetation management.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Brian R. Mannel</i>	<i>2nd Barnstable</i>

**SENATE . . . . . No. 478**

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By Mr. Wolf, a petition (accompanied by bill, Senate, No. 478) of Daniel A. Wolf, Timothy R. Madden, Sarah K. Peake, Chris Walsh and other members of the General Court for legislation relative to vegetation management. Environment, Natural Resources and Agriculture.

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The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Eighty-Ninth General Court  
(2015-2016)  
\_\_\_\_\_

An Act relative to vegetation management.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Any public utility, state agency or authority that maintains a right-of-way through a  
2 municipality or through property under the control of a water district shall offer a no- spray  
3 agreement, with reasonable provisions, for the municipality or water district to consider if it  
4 desires. Any such agreement negotiated may include but is not limited to the responsibilities of  
5 the parties, the allocation of costs and the rights and remedies of the parties in the event of  
6 default and may apply to all or any part of the right-of-way within the municipality or over  
7 which a water district has authority. Any agreement reached under this section must be  
8 negotiated in good faith, written, and signed by all parties. As part of the no-spray agreement the  
9 municipality or water district may either perform the vegetation control work to standards as  
10 provided in the agreement or contract with the public utility or others to conduct the work.

11 If the municipality or water district and the entity seeking to control the vegetation are  
12 unable to come to an agreement regarding a no-spray approach to vegetation management within



13 60 days of beginning discussions, the disputed issues shall be decided by arbitration using an  
14 arbitrator mutually agreed to by the parties. If the parties are unable to agree to an arbitrator  
15 within 15 days, each party shall choose one arbitrator each and those selected arbitrators shall,  
16 within 15 days of being selected, agree upon a third arbitrator. The panel of three arbitrators shall  
17 then determine the disputed issues within 15 days from the date the third arbitrator agrees to  
18 participate. Nothing in this section shall prevent the parties from using an organization such as  
19 the American Arbitration Association or a similar entity.

20 If a reasonable no-spray agreement is offered to a municipality and an agreement is not  
21 reached within 90 days after the date of the offer, the public utility, at its own option may apply  
22 pesticides, approved by the Massachusetts Department of Agriculture, in its right-of-way or use  
23 other methods to control the vegetation. If the municipality or water district agrees to perform  
24 vegetation control work but does not perform it by the agreed upon date or another date  
25 reasonably negotiated as the result of weather or other unforeseen events causing delay, the  
26 public utility, after 90 days written notice to the municipality or water district, at its own option  
27 may apply approved herbicides in its right of way or use other methods to control the vegetation.

28 It is the intent of this section that an alternative right-of-way maintenance procedure  
29 without the use of pesticides is made available to municipalities and water districts. This section  
30 does not affect a municipality's right to enact by-laws or ordinances nor the public utilities to  
31 maintain its right-of-way clear of unwanted vegetation in the absence of a no-spray agreement.

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS

BARNSTABLE SUPERIOR COURT  
CIVIL ACTION NO.

\*\*\*\*\*

Catherine T. Richardson,  
Sandra Johnson,  
David Greene,  
and other unnamed entities and individuals,  
Plaintiffs

v.

Eversource Energy Service Co., Inc., formerly dba  
Northeast Utilities Service Co., Inc. and NStar,  
formerly AKA NStar a Northeast Utilities Company, and  
Vegetation Control Service, Inc., Lewis Tree Service Inc.,  
and Lucas Tree,  
Defendants

\*\*\*\*\*

PLAINTIFFS' COMPLAINT

The plaintiffs, Catherine T. Richardson, Sandra Johnson, David  
Greene, and other unnamed entities and individuals, allege as  
follows:

BACKGROUND ALLEGATIONS OF FACT SPECIFICALLY  
RELATED TO THE PLAINTIFFS

1. Plaintiff, Catherine T. Richardson, a person of legal age,  
resides and at all times relevant hereto, resided in Eastham, MA,  
02642, Barnstable County, where she owns, possesses, and  
occupies property known as 100 Armour Drive, a single family  
residential home, including an appurtenant garage, appurtenant  
structures, lawns, trees, gardens, wells, proximity to an aquifer,  
and/or proximity to a public ground water source from which the  
petitioner at all times relevant hereto derives her drinking water.

2. Plaintiff, Sandra Johnson, a person of legal age, resides and at all times relevant hereto, resided in Eastham, MA, 02642, Barnstable County, where she owns, possesses, and occupies a property known as 52 Indian Way, a single family residential home, including appurtenant structures, lawns, trees, gardens, wells, proximity to an aquifer, and/or proximity to a public ground water source from which the petitioner at all times relevant hereto derives her drinking water.

3. Plaintiff, David Greene, a Mashpee Wampanoag Tribe member and person of legal age, resides and at all times relevant hereto, resided in Bourne, MA, 02532, Barnstable County, where he owns, possesses, and occupies a property known as 20A Dry Cedar Swamp Road, a single family residential home, including appurtenant structures, lawns, trees, gardens, wells, proximity to an aquifer, and/or proximity to a public ground water source from which the petitioner at all times relevant hereto derives his/her drinking water.

4. Other unnamed entities and individuals of legal age, residing or having their place of business at all times relevant hereto in Barnstable County, each own, possess, occupy or are legally responsible for property, including homes, appurtenant structures, lawns, trees, gardens, wells, aquifers, and/or proximity to a public ground water source from which the petitioners at all times relevant hereto derive their drinking water.

5. All of the plaintiffs identified herein have suffered personal, psychological, emotional, medical, and economic damages as a result of Defendant Eversource's and/or its agents' and/or subcontractors' breach of the terms and requirements of MGL 132B and 333 CMR 11 and as such are "persons aggrieved" within the definitions of 333 CMR 11.

BACKGROUND ALLEGATIONS OF FACT SPECIFICALLY  
RELATED TO THE NAMED DEFENDANT AND/OR ITS  
AGENTS AND/OR SUBCONTRACTORS

6. Defendant, Eversource Energy Service Co., Inc., formerly dba Northeast Utilities Service Co., Inc., and formerly AKA NStar, a Northeast Utilities Company, (herein "Defendant Eversource") is and was at all relevant times hereto an "energy provider" serving electric and natural gas customers in Massachusetts having a principal business address of 800 Boylston St., Boston, 02199.

7. Defendant Eversource and/or its agents and/or subcontractors at all relevant times hereto prepared to apply and/or spray - and did in fact apply and/or spray - toxic herbicides to lands, gardens, vegetation, water supplies, aquifers, and drinking water sources proximate to and/or on or about the land, gardens, water supplies, wells, and/or property of the named and unnamed plaintiffs.

8. Defendant Eversource and/or its agents and/or subcontractors at all relevant times hereto were subject to 333 Code of Massachusetts Regulations (hereinafter "CMR") 11, the Massachusetts Rights-of-Way Management Regulations, and the Massachusetts Pesticide Control Act, Chapter 132B of the Massachusetts General Laws.

9. Pursuant to the provisions of 333 CMR 11 Defendant Eversource's plan to apply herbicides along rights-of-way must be approved by the Massachusetts Department of Agricultural Resources (MDAR).

10. Defendant Eversource has identified 13 towns or municipalities in Barnstable where it intends to use and did use toxic herbicides to treat Defendant Eversource's electric rights-of-way in 2015, including Bourne and Eastham.

11. In accordance with the terms of 333 CMR 11 Defendant Eversource and/or its agents and/or subcontractors were and are required to spray and/or apply only herbicides recommended by MDAR for use within designated “no spray sensitive sites.” On information and belief Defendant Eversource and/or its agents and/or subcontractors failed to do so.

12. In accordance with the terms of Chapter 132B of the Massachusetts General Laws – The Pesticide Control Act – Section 6B Defendant Eversource is and was required to notify by registered mail “the mayor, the city manager or chair of the board of selectmen and the conservation commission in the city or town where such application is to occur 21 days before such spraying, release, deposit, or application.” On information and belief Defendant Eversource failed to do so.

13. In accordance with the terms of Chapter 132B of the Massachusetts General Laws – The Pesticide Control Act – Section 6B Defendant Eversource is and was required to publish a “conspicuous notice” in the local section of a “newspaper of general circulation in each city or town ... prior to such spraying, release, deposit, or application” a notice that shall “measure at least four by five inches in size.” On information and belief Defendant Eversource failed to do so.

14. In accordance with the terms of 333 CMR 11 “no person shall handle, mix or load an herbicide concentrate on a right of way within 100 feet of a sensitive area.” On information and belief Defendant Eversource and/or its agents and/or subcontractors failed to comply with said requirement.

15. In accordance with the terms of 333 CMR 12 “no person shall apply any herbicide identified as a Potential Ground Water Contaminant to a right-of-way.” On information and belief

Defendant Eversource and/or its agents and/or subcontractors failed to comply with said requirement.

16. Defendant Eversource and/or its agents and/or subcontractors has sprayed and applied and intends to continue to spray and apply numbers of toxic herbicides to private, public, and tribal lands and property throughout Barnstable Country, said toxins to include but not limited to the active ingredients Glyphosate and Triclopyr.

17. Glyphosate and is a broad-spectrum systemic herbicide whose harmful effects accumulate over time producing toxic and sub-lethal effects in humans. Chronic low dose exposure to glyphosate through drinking water is adverse to human liver and kidney functions. Glyphosate is also a known carcinogen.

18. Triclopyr is a broad-spectrum systemic herbicide whose harmful effects accumulate over time producing toxic and sub-lethal effects in humans.

19. The effects of exposure broad-spectrum systemic herbicides on human health depends on how the amount, length, and frequency of exposure. Effects also depend on the health of a person and/or certain other environmental factors.

20. The known agents or subcontractors of Defendant Eversource relative to this Complaint and the Plaintiffs named and unnamed herein include but are not necessarily limited to: Vegetation Control Service, Inc., 2342 Main St., Athol, MA 01331; Lewis Tree Service Inc., 300 Lucas Gordon Dr., West Henrietta, NY; and Lucas Tree, 636 Riverside St., Portland ME 04104.

BACKGROUND ALLEGATIONS OF FACT SPECIFICALLY  
RELATED TO THE TOWN OF EASTHAM

21. The Town of Eastham has an valid town ordinance – see Eastham By Laws Chapter 77 “Hazardous Materials” - that finds:

A. The groundwater underlying this Town is the sole source of its existing and future water supply including drinking water.

B. The groundwater aquifer is integrally connected with, and flows into, the surface waters, lakes, streams and coastal estuaries which constitute significant recreational and economic resources of the Town used for bathing and other water-related recreation, shell fishing and fishing.

C. Accidental spills and discharges of petroleum products and other toxic and hazardous materials have repeatedly threatened the quality of such groundwater supplies and related water resources on Cape Cod and in other Massachusetts towns, posing potential public health and safety hazards and threatening economic losses to the affected communities.

D. Under Chapter 77 the Town of Eastham further finds that - Any substance or mixture of such physical, chemical or infectious characteristics as to pose, in the Board of Health's judgment, a significant actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. "Toxic or hazardous materials" include, without limitation, organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalies (sp), and include products such as pesticides, herbicides, solvents and thinners. Wastes generated by the following activities, without limitation, are presumed to be toxic or hazardous, unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Board of Health, including specifically pesticide and herbicide applications.

E. Chapter 77-4A further reads – “The discharge of toxic or hazardous materials upon the ground or into any surface or ground waters within the Town of Eastham is prohibited.”

BACKGROUND ALLEGATIONS OF FACT SPECIFICALLY  
RELATED TO GROUNDWATER AND AQUIFERS IN  
BARNSTABLE COUNTY

22. In Barnstable County and elsewhere “groundwater” refers to the water present beneath the Earth's surface in soil pore spaces and in water bearing permeable rock, rock fractures, or unconsolidated materials such as gravel, sand, or silt.

23. In Barnstable County and elsewhere the depth at which soil pore spaces, rock fractures, or unconsolidated materials such as gravel, sand, or silt become completely saturated with water is called the water table.

24. In Barnstable County and elsewhere an aquifer is an underground layer of water-bearing permeable rock, rock fractures or unconsolidated materials such as gravel, sand, or silt, from which ground water can be extracted.

25. The Barnstable County Aquifer is extremely susceptible to contamination from pesticide spraying or application in part because of the unique porousness of Barnstable Country soils and because of its close proximate to the ground surface.

26. Movement of water and dispersion of elements including toxins within an aquifer in Barnstable County and elsewhere spreads pollutants over a wide area and said pollutants intersect with groundwater wells or surface water, making the water supplies unsafe for humans.



27. At no time relevant hereto did Defendant Eversource and/or its agents and/or subcontractors consider the impact of the application of toxic herbicides upon the Barnstable County Aquifer, thereby subjecting the named defendants and other persons or entities to severe known and unknown risks and hazards.

28. At no time relevant hereto did Defendant Eversource and/or its agents and/or subcontractors consider the impact of the application of toxic herbicides upon the Barnstable County Aquifer and the relationship of the aquifer to ground water or to the source of drinking water in public water supplies or private wells in all of Barnstable County, thereby subjecting the named defendants and other persons or entities to severe known and unknown risks and hazards.

29. At no time relevant hereto did Defendant Eversource and/or its agents and/or subcontractors consider the impact of tidal action upon the Barnstable County Aquifer and the relationship of tidal action to the aquifer as the sole natural source of drinking water in public water supplies or private wells in all of Barnstable County, thereby subjecting the named defendants and other persons or entities to severe known and unknown risks and hazards.

COUNT 1 – Negligence of Eversource Energy Service Co., Inc.,  
Vegetation Control Service, Inc., Lewis Tree Service Inc.,  
and Lucas Tree.

30. The Plaintiffs re-allege and incorporate by reference each and every allegation set forth in Paragraphs 1-29 above.

31. Beginning on or before August 1, 2015, and continuing thereafter Defendants Eversource Energy Service Co., Inc., Vegetation Control Service, Inc., Lewis Tree Service Inc., and Lucas Tree failed to exercise that degree of reasonable care and caution warranted in the application of toxic herbicides governed by Massachusetts common law and statute.

32. As a result of Defendants Eversource Energy Service Co., Inc., Vegetation Control Service, Inc., Lewis Tree Service Inc., and Lucas Tree failure to exercise that degree of reasonable care and caution warranted in the application of toxic herbicides governed by Massachusetts common law and statute Plaintiffs Richardson, Johnson, Greene, and other unnamed entities and individuals were scarred, severely injured, prevented from transacting their business, suffered great pain of body and mind, and incurred expenses for medical attention.

33. As a direct and proximate result of said negligence and carelessness on the part of Defendants Eversource Energy Service Co., Inc., Vegetation Control Service, Inc., Lewis Tree Service Inc., and Lucas Tree, Plaintiffs Richardson, Johnson, Greene, and other unnamed entities and individuals have experienced severe ongoing pecuniary, medical, and emotional losses, expenses, pains, and suffering for which they demand recovery pursuant to M.G.L.

WHEREFORE, Plaintiffs Richardson, Johnson, Greene, and other unnamed entities and individuals demand judgment against Defendants Eversource Energy Service Co., Inc., Vegetation Control Service, Inc., Lewis Tree Service Inc., and Lucas Tree in a sum and manner to be determined by the trier of fact, and ask this Court instruct or order relative to the award of:

- (a) Compensatory damages against the Defendants and in favor of the Plaintiffs;
- (b) Costs of this action including reasonable attorneys' fees to the Plaintiffs;
- (c) Such other and further relief as this Court may deem appropriate.

COUNT II – Nuisance Created by Defendants Eversource Energy Service Co., Inc., Vegetation Control Service, Inc., Lewis Tree Service Inc., and Lucas Tree.

34. The Plaintiffs re-allege and incorporate by reference each and every allegation set forth in Paragraphs 1-29 above.
35. Beginning on or before August 1, 2015, and continuing thereafter Defendants have created or maintained a public and private nuisance in breach of the rights of the named Plaintiffs as a result of the Defendants' failure to comply with the requirements of Massachusetts common law and General Law statutes in the use and threatened use and application of toxic herbicides on or about the property, drinking water supply, residences, gardens, and agricultural lands of the Plaintiffs.
36. As a result of the creation and maintenance of said nuisance by the named Defendants the properties of the named Plaintiffs have been injured and damaged including but not limited to stigma damages, costs of clean up, diminution in the value of the property, increased difficulty in the sale of said property, and decreased use and enjoyment of said property.
37. The Defendants knowingly acted for the purpose of causing this significant interference with the use and enjoyment of the Plaintiffs' property and knew or should have known such a nuisance would arise, or was substantially certain to arise, as a result of their conduct.

WHEREFORE, Plaintiffs Richardson, Johnson, Greene, and other unnamed entities and individuals demand judgment against Defendants Eversource Energy Service Co., Inc., Vegetation Control Service, Inc., Lewis Tree Service Inc., and Lucas Tree in a sum and manner to be determined by the trier of fact, and ask this Court instruct or order relative to:

- (a) Compensatory damages against the Defendants and in favor of the Plaintiffs;
- (b) That the Defendants be enjoined and restrained perpetually from engaging in any activity complained of herein constituting a nuisance on the Plaintiffs' property;
- (c) That this Honorable Court issue a Preliminary Injunction with the same force and effect as a permanent injunction pending the determination of this action;
- (d) Costs of this action including reasonable attorneys' fees to the Plaintiffs;
- (e) Such other and further relief as this Court may deem appropriate.

COUNT III – Breach of Contract by Defendant Eversource Energy Service Co., Inc.

38. The Plaintiffs re-allege and incorporate by reference each and every allegation set forth in Paragraphs 1-29 above.

39. Defendant Eversource has a contractual obligation with each and all of the named Plaintiffs.

40. By virtue of Defendant Eversource's failure to exercise that degree of care and caution warranted in the application of toxic herbicides governed by Massachusetts common law and statute Defendant has materially breach the explicit and implied

conditions, covenants, and promises required to be observed and performed in accordance with the terms and conditions of the service contract entered into by the named Defendant and each individual Plaintiff.

41. By virtue of Defendant Eversource's having created or maintained a public and private nuisance in breach of the rights of the named Plaintiffs in the application of toxic pesticides on or about the property of each named Plaintiff Defendant has materially breach the explicit and implied conditions, covenants, and promises required to be observed and performed in accordance with the terms and conditions of the service contract entered into by the named Defendant and each individual Plaintiff.

WHEREFORE, Plaintiffs Richardson, Johnson, Greene, and other unnamed entities and individuals demand judgment against Defendant Eversource in a sum and manner to be determined by the trier of fact, and ask this Court instruct or order relative to the award of:

- (a) Compensatory damages against the Defendant and in favor of the Plaintiffs;
- (b) Costs of this action including reasonable attorneys' fees to the Plaintiffs;
- (c) Such other and further relief as this Court may deem appropriate.

COUNT IV – Breach of the MA Consumer Protection Statute by Defendant Eversource Energy Service Co., Inc.

42. The Plaintiffs re-allege and incorporate by reference each and every allegation set forth in Paragraphs 1-29 above.

43. In a timely manner Defendant Eversource shall be provided with notice of Plaintiff's complaint for breach of contract and violation of MGL c. 93A.

44. Defendant Eversource shall be found to have failed to adequately respond to Plaintiffs' notice of breach of contract and violation of MGL c. 93A.

45. As a result of Defendant 's failure to comply with the terms of M.G.L. c.93A and its failure to respond or negotiate in good faith with the Plaintiffs the Plaintiffs have been denied their rightful remedy and recompense under law.

WHEREFORE, Plaintiffs demand judgment against Defendant Eversource in a sum and manner to be determined by the trier of fact, and asks this Court instruct or order relative to the award of:

(a) Compensatory damages against the defendants and in favor of the plaintiff;

(b) Costs of this action including reasonable attorneys' fees to the plaintiff;

(c) Punitive damages; and

(d) Such other and further relief as this Court may deem appropriate.

WHEREFORE, Plaintiff demands that said judgment be doubled or tripled as this Court deems just and fit in accordance with Massachusetts law.

Plaintiffs Request a Jury Trial of All Issues Triable of Right to A Jury.

Richardson, etal. v. Eversource, etal.  
Barnstable Sup Ct., C.A. Dkt No.  
Plaintiffs' Complaint, pg 14.

Respectfully submitted,  
Catherine T. Richardson,  
Sandra Johnson,  
David Greene,  
and other unnamed entities and individuals,  
By their Attorney,

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Bruce R. Taub, BBO No. 544080  
Law Office of Bruce R. Taub, P.C.  
P.O. Box 2712  
Orleans, MA 02653  
(617) 529-7129





Richardson, etal. v. Eversource, etal.,  
Barnstable Sup Ct., C.A. Dkt No.  
Plaintiffs' Motion for the Granting of a TRO, pg 2.

2. This Motion is made on the grounds that immediate and irreparable injury will result to Plaintiffs, the public, and the environment unless the spraying or application of toxic herbicides is enjoined in Barnstable County pending trial of this action.

3. Plaintiffs are persons of legal age who resides and at all times relevant hereto resided in Barnstable County where each owns, possesses, and occupies property including a single family residential home, appurtenant structures, lawns, trees, gardens, wells, proximity to an aquifer, and/or proximity to a public ground water source from which the Plaintiffs at all times relevant hereto derives their drinking water.

4. Plaintiffs bring this Motion to prevent the commencement of the spraying or application of toxic herbicides so as to prevent irreparable harm to the Barnstable County Aquifer and the creation of irreparable damages to their property pending trial on the merits of the above-encaptioned case.

5. Plaintiffs are informed and believe that some spraying or application of toxic herbicides could commence immediately; before the merits of this action will be heard or decided.

6. There are serious questions going to the merits of the case and Plaintiffs are likely to succeed on the merits.

7. When evaluating whether a TRO or preliminary injunction is warranted an injunction should be issued where there are "serious questions going to the merits" and where the balance of hardships fall sharply in plaintiffs' favor, as measured by a likelihood of irreparable injury and whether the injunction is in the public interest.

8. Even without the full record available, Plaintiffs can show not only that there are serious questions going to the merits of the case but also that Plaintiffs are likely to succeed on the merits.

9. Reconciling the need for interim relief with the restriction on freedom that it imposes is the proper focus of the search for appropriate criteria governing interlocutory injunctions.

10. Plaintiffs allege that Defendant Eversource has failed to comply with its obligations under the statutory requirements of MGL 132B and 333 CMR 11 and by failing to adequately consider all reasonable alternatives to the spraying and application of toxic herbicides in Barnstable County.

11. In weighing the hardship to the Defendant if the Restraining Order or Injunction issues - as contrasted with the hardship to the Plaintiffs if relief is withheld - the balance of the equities clearly tips in favor of Plaintiffs' requested relief in the instant case, because the environmental injuries projected are irreparable, wherefore the balance of harms favors the issuance of an injunction to protect the Plaintiffs and the environment."

12. "Irreparable harm," in the context of a motion for preliminary relief refers to an injury that may occur between the request for temporary relief and a judgment on the merits.

13. Without the requested relief, the Plaintiffs will suffer a loss of rights that cannot be vindicated should the Plaintiffs prevail after a full hearing on the merits.

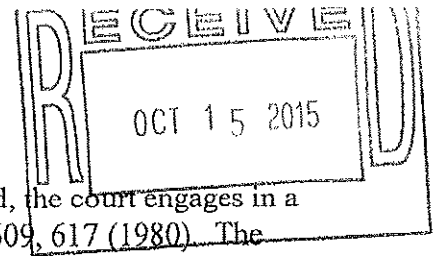
FOR THE FOREGOING REASONS, Plaintiffs respectfully request the Court grant the requested injunctive relief.

Richardson, etal. v. Eversource, etal.,  
Barnstable Sup Ct., C.A. Dkt No.  
Plaintiffs' Motion for the Granting of a TRO, pg 3.

Respectfully submitted this 23rd day of September, 2015.  
Catherine T. Richardson,  
Sandra Johnson,  
David Greene,  
and other unnamed entities and individuals,  
By their Attorney,

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Bruce R. Taub, BBO No. 544080  
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Orleans, MA 02653  
(617) 529-7129



In determining whether a preliminary injunction should be granted, the court engages in a balancing test. See *Packaging Indus. Group, Inc. v. Cheney*, 380 Mass. 609, 617 (1980). The Supreme Judicial Court set forth the prevailing standard as follows:

“[W]hen asked to grant a preliminary injunction, the judge initially evaluates in combination the moving party’s claim of injury and chance of success on the merits. If the judge is convinced that failure to issue the injunction would subject the moving party to a substantial risk of irreparable harm, the judge must then balance this risk against any similar risk of irreparable harm which granting the injunction would create for the opposing party . . . . Only where the balance between these risks cuts in favor of the moving party may a preliminary injunction properly issue.”

*GTE Products Corp. v. Stewart*, 414 Mass. 721, 722-723 (1993) (quoting *Packaging Indus. Group*, 380 Mass. at 617); see also *LeClair v. Town of Norwell*, 430 Mass. 328, 331 (1999) and *Boston Police Patrolmen’s Assn. v. Police Dept. of Boston*, 446 Mass. 46, 49-50 (2006) (“When a private party seeks a preliminary injunction, the moving party is required to show that an irreparable injury would occur without immediate injunctive relief.”).

The plaintiffs, abutters to utility Rights-of-Way held by Eversource Energy Service Co., Inc. (Eversource), seek to enjoin Eversource and its subcontractors from application of herbicides on or proximate to the plaintiffs’ land. The plaintiffs bring a four-count claim against the defendants for negligence, nuisance, breach of contract, and violation of Chapter 93A. The plaintiffs argue that Eversource has not received approval for such herbicide application from the Massachusetts Department of Agricultural Resources (MDAR), as required by 333 Code Mass. Regs. 11.00. Further, the plaintiffs claim that Eversource has failed to notify local town officials and publish public notices about the herbicide application, as required by G. L. c. 132B, § 6B(a). Finally, the plaintiffs claim that Eversource has or will apply herbicides, specifically glyphosate and triclopyr, that are “identified as a Potential Ground Water Contaminant pursuant to 333 CMR 12.00 to a right-of-way”, in contravention to 333 Code Mass. Regs. 11.03(10).

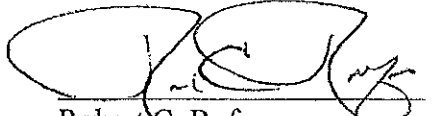
Eversource claims that all herbicide application on Rights-of-Way is proceeding pursuant to plans properly approved the MDAR. At hearing, Eversource submitted documentary evidence of MDAR approval of the company’s “2015 Yearly Operational Plan for Cape Cod and Martha’s Vineyard (Barnstable and Dukes Counties) (YOP) for the use of herbicide on Rights-of-Way list within the YOP”. In its approval letter, MDAR specifically noted the agency’s determination that the YOP “satisfies the requirements set forth in M.G.L. c. 132B and 333 CMR 11.00”. Eversource has also submitted documentary evidence of notice to town officials, and publication of a public notice in the Cape Cod Times.

The plaintiffs claim that they risk irreparable harm in the absence of an injunction, because the presence of these herbicides on or near their property and in the ground water results in physical injury, medical expenses, emotional suffering, environmental clean up costs, property value diminution, decreased use and enjoyment of property, and increased difficulty in sale of property. However, at this time, the court has received no medical documentation of the claimed health risks to the plaintiffs. Eversource claims that a delay in implementation of the YOP risks harm to the utility’s power lines and interruption of electrical transmission during adverse weather events. Further, Eversource has indicated that they will not apply herbicides on or near the property of plaintiffs Richardson, Johnson or Greene.

Thus, after hearing and review of the parties' submissions, employing the "balancing" test enunciated in *Packaging Indus. Group*, and considering the plaintiffs' likelihood of success on the merits, the risk of irreparable harm to the plaintiffs and the potential for irreparable harm to be suffered by Eversource if an injunction is issued, this court concludes that the scales tip in favor of the defendants regarding the requested injunctive relief.

For the above stated reasons, the plaintiffs' Motion for Preliminary Injunction is respectfully **DENIED**.

Dated: October 6, 2015



Robert C. Rufo  
Justice of the Superior Court

A true copy, Attest: *Scott W. Richerson*

Clerk

TOWN OF HARWICH CAPITAL BUDGET REQUEST SUMMARY (FY 17 TO 23)													Original 10/6/2015	Revision #: 12/7/2015
<i>Department</i>	<i>Project</i>	<i>P</i>	<i>Funding Source</i>	<i>BOS/CPC Approved</i>	<i>TA Rec</i>	<i>COC Rec</i>	<i>FY 17</i>	<i>FY 18</i>	<i>FY 19</i>	<i>FY 20</i>	<i>FY 21</i>	<i>FY 22</i>	<i>FY 23</i>	<i>Notes</i>
<b>ADMINISTRATION</b>														
Admin	Harwich Center Initiative - StreetScape Only	1						\$ 50,000	\$ 500,000					T.I.P. Funds
Admin	Reuse or Demolition Harbormasters Building on Bank Street	1			\$ -		\$ -		TBD					BOS voted to retain 2019
Admin	Renovation of Former West Harwich School on Bells Neck (Retail Numbers)	1	CPC		\$ -		\$ 349,200	\$ 145,700	\$ 220,100					Admin/Citizen Application
Admin	Reuse or Demolition of Middle School Building on Sisson	1						TBD						Ballot Questions Anticipated
Admin	Queen Anne Road Pedestrian Crossing Lights (Bikeways Cmte)	1	CPC				\$ 29,700							
ADMIN SUB-TOTAL					\$ -	\$ -	\$ 378,900	\$ 195,700	\$ 720,100	\$ -	\$ -	\$ -	\$ -	
<b>COMMUNITY CENTER</b>														
Community Center	Roof Replacement	1B								\$ 240,000	\$ -			
Community Center	Carpet Replacement	1B							\$ 72,500	\$ -	\$ -			
Community Center	Gym Floor Resurface	1C						\$ 56,223						
Community Center	HVAC Repair and Updates	1A						\$ 105,000	\$ -					
Community Center	Generator Installation	1A										\$ 105,000	\$ -	
Community Center	Basement Constructions of Public Records Storage	1B							\$ 62,028					
COMMUNITY CENTER SUB-TOTAL					\$ -	\$ -	\$ -	\$ 161,223	\$ 134,528	\$ 240,000	\$ -	\$ 105,000	\$ -	
<b>CONSERVATION</b>														
Conservation	Harwich Artificial Reef (CPC Portion)		CPC				\$ 70,000		\$ -					
	Harwich Artificial Reef (Town Portion)		FC		\$ -		\$ 30,000							
	Harwich Artificial Reef (Grant/Donations Porion)		Grants		\$ 250,000	\$ 250,000	\$ 250,000							
Conservation	Dog Fencing Area at Thompson's Field		CPC				\$ 52,000							
CONSERVATION SUB-TOTAL					\$0	\$ 250,000	\$ 250,000	\$ 402,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>FIRE</b>														
Fire/Police/Other	Public Safety Radios for Police (\$554,968 of which 90% Grant)	1			\$ -		\$ -	\$ 499,471						
	Public Safety Radios for Police (\$55,497 of which 10% Match)						\$ -	\$ 55,497						
Fire	Public Safety Radios for Fire (Via Grant Town \$437,000)	1			\$ -		\$ -	\$ 393,300						
Fire	Public Safety Radios for Fire (Via Grant Town match \$43,700)	1					\$ -	\$ 43,700						
	Other Safety Radios (Water, DPW, Recreation and Emergency Mgmt)								\$ 300,000					
Fire	Ambulance (Scheduled Replacement)	1	FC		\$ 290,000	\$ 290,000	\$ 290,000							
Fire	New Chief's Vehicle	1	FC		\$ 42,000	Below \$50K	\$ 42,000							
Fire	Automated Chest Compression System for CPR (Total \$59,000 Grant 90%)	1	Grant		\$ 53,100	\$ 53,100	\$ 53,100							
Fire	Automated Chest Compression System for CPR (Total \$59,000 Match 10%)	1	FC		\$ 5,900	\$ 5,900	\$ 5,900							
Fire	Pumper Truck Replacement	1						\$ 425,000	\$ -					
Fire	Ambulance Replacement	1							\$ 320,000					
Fire	Pumper Truck Replacement	1								\$ 650,000				
Fire	Ambulance Replacement	1									\$ 353,000			
Fire	Ladder Truck Replacement	1										\$ 1,080,000		
Fire	Ambulance Replacement	1											\$ 390,000	
Fire	Forestry Truck Replacement	1					\$ -						TBD	

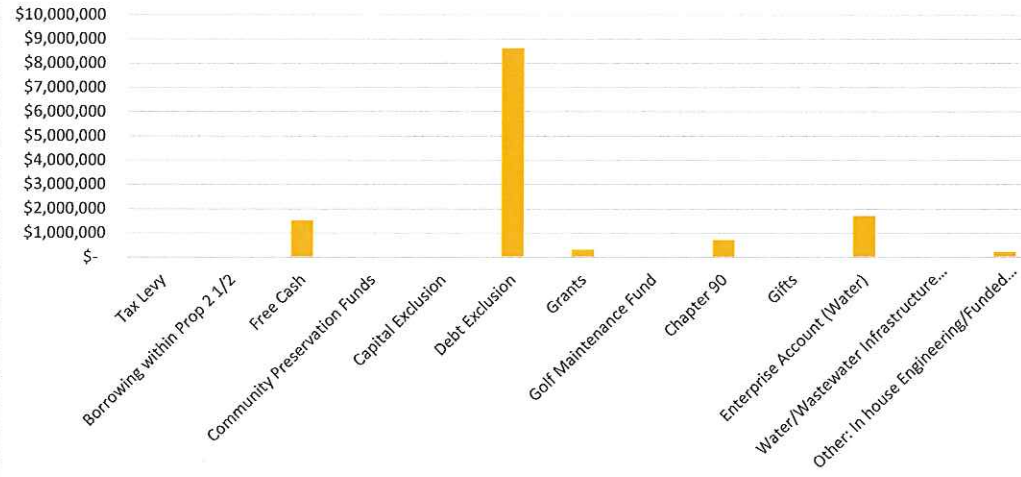




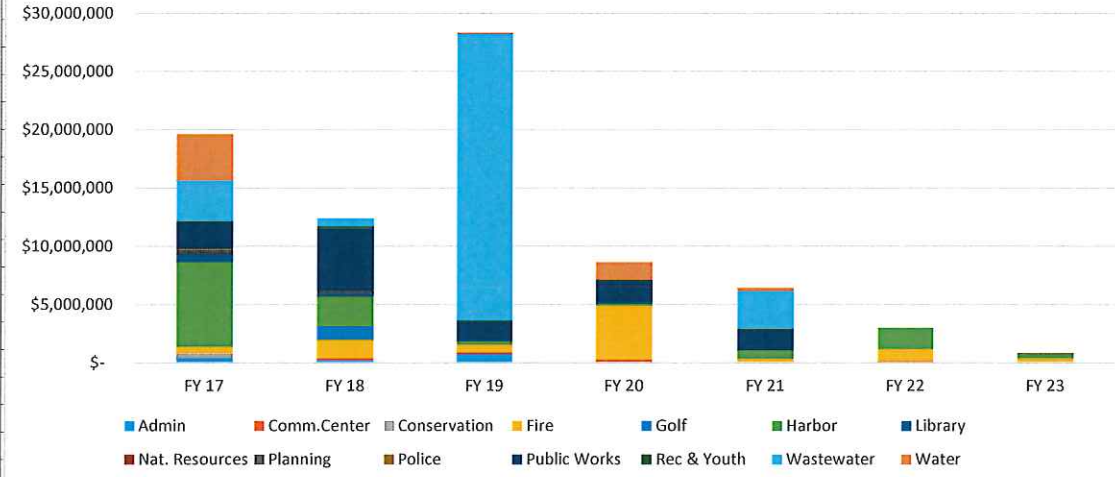




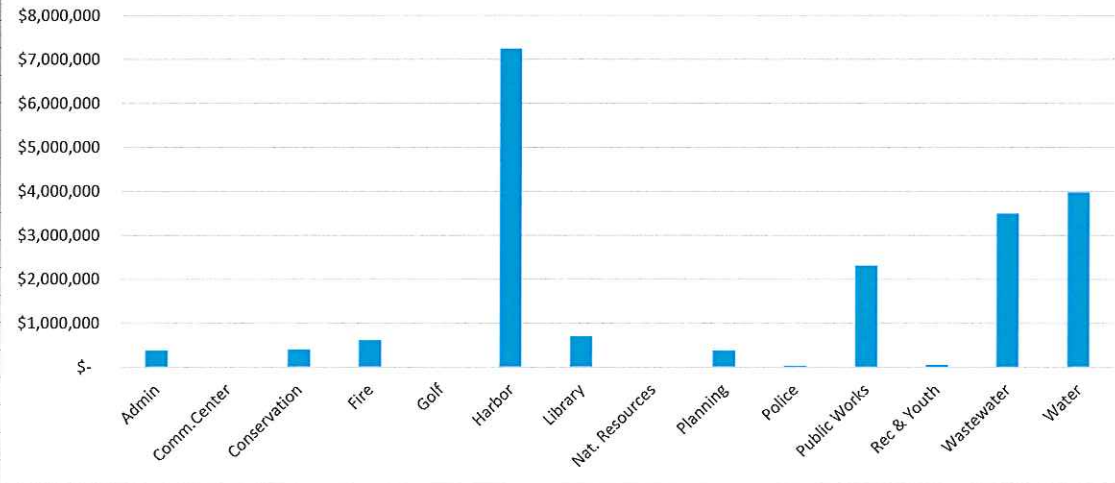
CAPITAL FUNDING FOR FY17 BY SOURCE



CAPITAL REQUEST BY DEPARTMENT FY17 TO FY 23



FY 17 CAPITAL BUDGET REQUEST BY DEPARTMENT



**ARTICLES 1-10 HAVE BEEN UPDATED**

**FIRE CAPITAL BUDGET REQUESTS**

FUND TWO FIREFIGHTER/PARAMEDICS OR EMT-B POSITIONS

ARTICLE: To see if the Town will vote to raise and appropriate, transfer from available funds a sufficient sum of money to fund, train, and equip two Firefighter/Paramedic or EMT-B positions, and to act fully thereon. By request of the Fire Chief. Estimated cost: \$190,000

(Funding source to be determined by T.A). (This cost does not include town benefits)

Or

FUND ONE FIREFIGHTER/PARAMEDIC OR EMT-B POSITION

ARTICLE: To see if the Town will vote to raise and appropriate, transfer from available funds a sufficient sum of money to fund, train, and equip one Firefighter/Paramedic or EMT-B position, and to act fully thereon. By request of the Fire Chief. Estimated cost: \$95,000

(Funding source to be determined by T.A). (This cost does not include town benefits)

FUND ADDITIONAL FIRE DEPARTMENT AMBULANCE

ARTICLE: To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sufficient sum of money to purchase or lease one ambulance for the Fire Department, and to act fully thereon. By request of the Fire Chief. Estimated cost: \$290,000

**(Funding source to be determined by T.A.).**

FUND REPLACING FIRE CHIEF'S VEHICLE

ARTICLE: To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sufficient sum of money to purchase one new Fire Chief response vehicle and to transfer equipment and re-letter the existing vehicle, and to act fully thereon. By request of the Fire Chief. Estimated cost: \$42,000 (Funding source to be determined by T.A).

FUND THE REPLACEMENT AND REPAIR OF THE HEATING/AIR  
CONDITIONING EQUIPMENT AT THE FIRE DEPARTMENT STATION ONE

ARTICLE: To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sufficient sum of money to fund the replacement of the boiler and repairs to the aging heating/air-conditioning equipment at Fire Station One on Sisson Road in Harwich Center, and to act fully thereon. By request of the Fire Chief and the Facilities Maintenance Manager. Estimated cost: \$130,000

FUND THE REPLACING OF THE AIR CONDITIONING AT THE FIRE  
DEPARTMENT STATION TWO

ARTICLE: To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sufficient sum of money to repair the air conditioning system at Fire Station Two in East Harwich, and to act fully thereon. By request of the Fire Chief and the Facilities Maintenance Manager. Estimated cost: \$26,000

FUND THE REPLACING OF THE CARPETING AND TILE AT THE FIRE  
DEPARTMENT STATION ONE

ARTICLE: To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sufficient sum of money to carpeting and tile and repair the subfloor at Fire Station One on Sisson Road, and to act fully thereon. By request of the Fire Chief and the Facilities Maintenance Manager. Estimated cost: \$50,000

**GOLF CAPITAL BUDGET REQUESTS**

**HARBOR CAPITAL BUDGET REQUESTS**

## **POLICE CAPITAL BUDGET REQUESTS**

### **MODIFY LANDSCAPING OF HARWICH PUBLIC SAFETY COMPLEX TO PROVIDE EFFICIENT SNOW REMOVAL AND ADDITIONAL PARKING**

ARTICLE: To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money for the purpose of modifying the landscape of the Harwich Public Safety Complex to provide for more efficient snow removal and additional parking capacity, and to act fully thereon. By request of the Police Chief. Estimated cost: \$13,000.

### **PURCHASE OF POLICY AND PROCEDURE MANAGEMENT SOFTWARE**

ARTICLE: To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money for the purpose of purchasing policy and procedure, policy development and policy documentation software, and to act fully thereon. By request of the Police Chief. Estimated Cost: \$6,500.

### **REPLACEMENT OF SERVICE WEAPONS**

ARTICLE: To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money for the purpose of replacing all side arms (Glock 40 Caliber handguns), and to act fully thereon. By request of the Police Chief. Estimated cost: \$6,000.

### **PURCHASE OF ELECTRONIC SIGN BOARD FOR USE BY ALL TOWN DEPARTMENTS**

ARTICLE: To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money for the purchase of one electronic sign board for use by all town departments, and to act fully thereon. By request of the Police Chief. Estimated cost: \$24,000.

### **MODIFY THE DISPATCH CENTER AT THE HARWICH PUBLIC SAFETY COMPLEX TO ENHANCE CUSTOMER SERVICE**

ARTICLE: To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money for the purpose of modifying the existing configuration of the Harwich Police Department Communication Center to provide enhanced service to the citizens of the town, and to act fully thereon. By request of the Police Chief. Estimated cost: \$15,000.

## **PUBLIC WORKS CAPITAL BUDGET REQUESTS**

### **ROAD MAINTENANCE PROGRAM**

ARTICLE: To see if the Town will vote to raise and appropriate and/or transfer from available funds in accordance with Ch.44 of the M.G.L., or any other authorizing authority, the sum of \$700,000 to fund the Road Maintenance Program as requested in the Capital Plan for FY17. The appropriation authorized by this

vote shall not take effect until the Town votes to exempt from the limitation on total taxes imposed by M.G.L. c.59 § 21c (Proposition 2 ½) the amounts required to pay the principal of and the interest on any borrowing authorized under this article, and to act fully thereon. By request of the DPW Director. Estimated cost: \$700,000.

Explanation:

*The capital request for road maintenance is for \$700k for FY 17, which we anticipate being augmented by approximately \$700k in Chapter 90 funds. The capital project request form lists 5 years of our road maintenance plan with cash flows of approximately \$1.4M each year and has our 5 year Road Maintenance Plan attached.*

PURCHASE AND EQUIP VEHICLES FOR THE DPW

ARTICLE: To see if the Town will vote to raise and appropriate a sufficient sum of money to purchase and equip the following vehicles:

One Ton Dump Truck (Highway)	\$ 65,000.00
Mack Tractor (Disposal)	\$ 150,000.00
MSW (Trash) Trailer (Disposal)	\$ 70,000.00
Barber Surf Rake (Beaches)	\$ 31,500.00

and to further to authorize the trade-in or sale of the following old vehicles toward the purchase price, where the Board of Selectmen find that the vehicles cannot be utilized elsewhere in Town:

1999 Ford F-350 Dump Truck  
1998 Mack Ch613 Tractor  
2006 Barber Surf Rake

and to act fully thereon. By request of the DPW Director. Estimated cost: \$316,500.

Explanation:

*One Ton Dump Truck - The current 1999 Ford dump truck has approximately 136,000 miles on it, is in poor condition, and is a front line vehicle used for snow removal and moving personnel and equipment.*

*Mack Tractor - The current 1998 Mack CH613 tractor has over a half million miles on it and is an extremely important piece of equipment, as it hauls all of the Town's MSW (trash) and C&D off Cape on a daily basis.*

*MSW (Trash) Trailer - The request for a new MSW trailer is to augment the three existing trailers and improve operational efficiency. A fourth MSW trailer would eliminate the need to haul a full trailer immediately and allow more flexibility in managing the Town's MSW.*

*Barber Surf Rake – The current 10 year old unit broke at the beginning of the season and was not worth repairing. Barber leased us a new Surf Rake for \$13,500 for the season and has agreed to apply those fees towards the purchase price of a new one.*

PURCHASE AND EQUIP NEW EQUIPMENT FOR THE DPW

ARTICLE: To see if the Town will vote to raise and appropriate a sufficient sum of money to purchase and equip the following:

Gator Turf Utility Vehicle (Park)	\$ 20,235.00
Walker Mower (Park)	\$ 13,300.00
(2) John Deere Mowers (Highway)	\$ 9,674.00
Hi-Track Skid Steer Loader	\$ 65,000.00

and to act fully thereon. By request of the DPW Director. Estimated cost: \$108,209.

Explanation:

*Gator Turf Utility Vehicle - The current 1999 Gator is in extremely tough shape and is used daily between April and October to move materials (infield mix, stone dust, loam, etc.) needed to maintain the ball fields, as well as for maintenance on the bike path.*

*Walker Mower – The current 2007 48” Walker mower is used to maintain town buildings, parks (excluding ball fields), and memorial squares. It is used daily while grass is growing and is requiring a fair amount of repairs (\$1,988 over the past 2 years) to keep it going.*

*(2) John Deere Mowers – The roadsides throughout Town are a tough environment on the two 2008 John Deere units currently being used for roadside mowing. They are no longer worth spending money on for repairs and maintenance.*

*Hi-Track Skid Steer Loader – This request is to augment our existing hi-track, which is utilized constantly. Maintenance and other projects always end up waiting for it to become available. It is used by every division within the DPW and the Water Department for everything from grading and loading to stump grinding, brush cutting and snow removal. There is nothing wrong with the existing unit, but the demand for its use far exceeds its availability.*

PURCHASE AND EQUIP CERTIFIED ARTICULATING LIFT FOR THE DPW

ARTICLE: To see if the Town will vote to raise and appropriate a sufficient sum of money to purchase and equip the following one Certified Articulating Lift (Building Maintenance), and to act fully thereon. By request of the DPW Director. Estimated cost: \$80,000

Explanation:

*Certified Articulating Lift - With the Town's desire to allocate more resources towards facility maintenance, it has become evident that we should consider purchasing a certified articulating lift. I make this assertion for several reasons including the servicing of buildings lights, gutters and exhaust systems, the repair of anything on buildings where a ladder is not a safe approach, and other DPW maintenance functions. Renting a lift is an expensive proposition at approximately \$700 per day and often takes weeks to line up, while repairs wait. Although spending approximately \$80k on a used piece of equipment appears to be expensive, it would increase efficiency and dramatically improve safety for our employees.*

## REPLACE ROOF, SIDING AND GUTTERS ON THE TRANSFER STATION

**ARTICLE:** To see if the Town will vote to raise and appropriate a sufficient sum of money to replace the steel roof, siding, and gutters on the Transfer Station, and to act fully thereon. By request of the DPW Director. Estimated cost: \$122,000.

**Explanation:**

*The capital request for the Transfer Station siding in FY17, at an estimated cost of \$122,000, is to replace the building's steel roof, siding, and gutters that are 28 years old. Typically, this type of building is designed for a 20 year life. We have exceeded that by 7 years. Please note that last year we replaced the waste compaction systems of the facility and view protecting that investment as an important function to maintaining the Town's municipal solid waste.*

## **RECREATION CAPITAL BUDGET REQUESTS**

### REPLACE FENCING AT WHITEHOUSE FIELD

**ARTICLE:** To see if the Town will vote to raise and appropriate, or transfer from available funds, a sufficient sum of money to replace the fencing at Whitehouse Field, and to act fully thereon. By request of the Recreation and Youth Commission. Estimated Cost: 57,128

**Explanation:**

*To replace all fencing at Whitehouse Field in Harwich. At the suggestion of the Harwich Highway Department, the fencing needs to be replaced to keep the field safe for players and spectators alike. Whitehouse Field is one of Harwich's most valuable assets and this project will help in maintaining it's distinction as one of the preeminent amateur baseball fields in all of New England.*

*Whitehouse Field is a heavily used facility with it's primary users being the Harwich Mariners, the Monomoy Varsity Baseball Team, the Baseball Clubs of Cape Cod, Senior Babe Ruth League, as well as, the annual ECAC Collegiate Baseball Championship Tournament.*

*The current fencing at Whitehouse Field is over 20 years old and has presented a safety issue going forward. The Highway Department has been diligent in maintaining and performing patchwork projects on the fence over the years but it is now in need of total replacement. A new fence would have a life of 20-25 years.*

## **WATER/WASTEWATER CAPITAL BUDGET REQUESTS**

### PURCHASE NEW EXCAVATOR FOR THE WATER DEPARTMENT

**ARTICLE:** To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sufficient sum of money to purchase a John Deere 2016 85G Excavator, and to act fully thereon. By request of the Water Commissioners and Superintendent. Estimated cost: \$125,000.



*Explanation: This new machine will lift a much heavier payload. Allowing us the versatility to do water main projects as well as water service installations. This piece of equipment will be paid for by the Enterprise Fund.*

#### REHABILITATE THE LOTHROP AVENUE WATER STORAGE TANK

ARTICLE: To see if the Town will vote to retract the remaining \$1.4M May 2013 Special Town Meeting appropriation/article to rehabilitate the Lothrop Avenue water storage tank and vote to appropriate \$1.6M for tank replacement and for the payment of all other costs incidental and related thereto, and to determine whether this amount shall be raised by taxation, transfer from available funds, or borrowing or otherwise provided, and to act fully thereon. By request of the Water Commissioners and Superintendent. Estimated cost: \$1,600,000.

*Explanation: The Lothrop tank was constructed in 1986. The most recent tank inspection on July 13, 2013 indicated serious corrosion activity. The vicinity of this tank to seawater increases the corrosion rate. The lowest qualified bid for water tank rehabilitation, received February 6, 2014, came in at \$2.211M. Replacement of this tank with a new pumped storage system is estimated to cost \$1.6M. Replacement vs. rehabilitation at this time is more cost effective.*

#### REPLACEMENT OF EXISTING SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) SYSTEM

ARTICLE: To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to fund the replacement of the existing Supervisory Control and Data Acquisition (SCADA) System, and to act fully thereon. By request of the Water Commissioners and Superintendent. Estimated cost: \$300,000.

*Explanation: The SCADA system is comprised of the computer program and hardware that is used to control and monitor the entire water system. The existing SCADA system was developed approximately 15 years ago and most of the infrastructure is original. The typical life span of the equipment in place is between 10-15 years, and the existing software that was utilized to program the system is no longer supported by the manufacturer. He appropriation will fund the development of a new interface program and replace all hardware that has come to the end of its useful life.*

#### **COMMUNITY PRESERVATION ARTICLES**

## CHARTER/M.G.L. AMENDMENTS

### ACCEPTANCE OF GENERAL LAWS CHAPTER 111, §26

ARTICLE: To see if the Town will vote to accept the provisions of Massachusetts General Laws Chapter 111, Section 26G, to allow a member of the Board of Health who is also a septic system installer to work in the Town in their trained profession, provided that they do not act as the inspector for such work and further that such work is inspected by an inspector from another municipality or a special inspector appointed by the Board of Selectmen as specified in the statute, and to act fully thereon. By request of \_\_\_\_\_

### ADOPT M.G.L., CHAPTER 59, §5, CLAUSE 56 – PERSONAL PROPERTY TAX ABATEMENT FOR NATIONAL GUARD AND RESERVISTS

ARTICLE: To see if the Town will vote to adopt MGL Chapter 59, §5, Clause 56. Upon acceptance of this section by the Town, the Board of Assessors may grant, real and personal property tax abatement up to 100% of the total tax assessed to members of the Massachusetts National Guard and to Reservists on active duty in foreign countries for the fiscal year they performed such service subject to eligibility criteria to be established by the Board of Assessors. The authority to grant abatements under this section shall expire after 2 years of acceptance unless extended by a vote of the city or town. Said change to take effect FY 2017 and act fully thereon. By request of the Harwich Veteran's Agent and Board of Assessors

### AMEND M.G.L. CHAPTER 59, §5, Clause 41C – SENIOR EXEMPTION

ARTICLE: To see if the Town will vote to support the Harwich Board of Selectmen's request to the State Legislator to pass a bill amending the Senior Exemption (as provided in Chapter 59, §5 Clause 41C) amount from a maximum of \$1000.00 to a maximum of \$1,500.00 as a local option for all cities and towns and/or as a home rule petition for the Town of Harwich, and to act fully thereon. By request of the Harwich Board of Assessors.

### CREATE SUPPLEMENTAL SENIOR EXEMPTION

ARTICLE: To see if the Town will vote to raise and appropriate or transfer from available funds to provide a sufficient sum of money to grant an additional \$500.00 exemption to each Senior Exemption granted by the Board of Assessors to a maximum of \$1,500.00, and to act fully thereon. (Subject to funding). By request of the Harwich Board of Assessors. Estimated cost: \$40,000 requested (FY15 80 exemptions granted).

**PRIVATE PETITIONS**

**MISCELLANEOUS ARTICLES**

December 7, 2015

To: Chris Clark, Town Administrator  
From: Charleen Greenhalgh  
Re: Rental Registration

As requested I have researched the topic of Rental Registration and Special Legislation for Tax on Seasonal Rental Properties.

**Rental Registration:** Currently Harwich has a General Bylaw regarding Rental Registration:

Chapter 230: RENTAL REGISTRATION

§230-1 Registration required.

Any owner or agent who shall offer for rent or lease any building or portion thereof to be used for habitation, other than duly authorized or licensed premises, for a period of 90 days or less shall first register with the Building Official, who shall determine the number of persons said building or portion thereof can legally accommodate.

§230-2 Violations and penalties.

Upon the arrest and conviction for violation of any statute of the commonwealth reported to have taken place on any such rented or leased premises as described in § 230-1, the tenant, holder of a lease, and anyone found to be in violation of the preceding section shall be punished by a fine of \$20, if at the time of said violation it was found that the number of occupants on or about any such premises exceeded 200% of the registered occupancy as required by the provisions of § 230-1 of this bylaw or the amount so to be determined by the Health Inspector if no such registration shall be in effect.

§230-3 Certificate of registration.

Any building or portion thereof registered as required by this bylaw shall have conspicuously posted therein a certificate of registration together with a copy of this bylaw.

The Building Department has a "Rental Density Registration" application/form. A copy is attached. It would appear that 26 applications/forms were submitted and approved for 2015. Clearly there are more than 26 houses being rented "seasonally".

In looking at other communities, Eastham and Dennis, they handle the Rental Registration somewhat the same.

Eastham: There is a Rental Registration Application with a \$75.00. If a property was rented the previous year, a renewal is automatically mailed out. Failure to register, violation of regulations or

over-utilization of the property will result in a \$300.00 per day fine. In addition, a yearly routine water quality analysis is required. Failure to do this is also subject to the fine. The regulation also notes that “*all rental dwellings are being inspected for compliance of the State Sanitary Code and Board of Health Regulations. All new applications are inspected prior to the issuance of a rental permit.*” It is the responsibility of the applicant to schedule an inspection within three (3) weeks of the filing of the Rental Registration Application.

I also know that a property owner must notify the Town if they are no longer renting or they too will be subject to the \$300.00 fine. The Town Clerk’s office handles the application; however the rules and requirements are through the Board of Health.

Dennis: There is an Application for Rental Occupancy Permit through the Board of Health, with a \$50.00 fee. There is a Housing Space & Use Bylaw within the General Bylaws. The Health Department inspects the rental unit annually prior to the issuance of the rental permit. A copy of both the Eastham and Dennis packets are attached.

The biggest question in Harwich is, how many rental properties are there. In discussion with Richard Waystack, Chair of the Board of Assessors and local Realtor, he suggests that Harwich is at approximately 50/50 relative to seasonal and residential properties. Of the second homes, most likely that 15 - 20% of those which are rentals. There is a large percentage who do not rent. VRBO (an online rental website) represents that there are 728 seasonal rental properties in Harwich, while Homeaway (an online rental website) indicates 725 rental units. Mr. Waystack indicated that there are numerous others represented by agencies, which many are exclusive, so that number would raise the overall number. His best guess is that there are in excess of 1000 properties for rent seasonally. Donna Molino, Interim Assessing Director provided that following statistic:

**HOUSING TRENDS FOR TAXABLE HOMES BY MAILING ZIP CODES  
INCLUDES STATE CLASS CODES 1010, 1020, 1040 & 1090**

Fiscal Year	Zip 02645	Zip 02646	Zip 02661	Zip 02671	Total Winter Homes	Total Summer Homes	Total Homes	New Homes
2016	3553	884	130	467	5034	4609	9643	+36
2015	3544	885	137	460	5026	4581	9607	-17
2014	3522	877	148	481	5028	4596	9624	+50
2013	3491	887	152	476	5006	4588	9574	+20
2012	3501	887	155	475	5018	4556	9574	+38
2011	3512	882	162	490	5046	4490	9536	+32
2010	3526	911	179	504	5120	4384	9504	+4
2009	3533	923	190	502	5148	4347	9495	+30
2008	3550	910	189	492	5141	4324	9465	+77
2007	3536	906	200	492	5134	4254	9388	+42
2006	3503	918	209	490	5120	4226	9346	+73
2005	3470	915	209	505	5099	4174	9273	+68
2004	3427	936	214	501	5078	4127	9205	+112
2003	3405	913	225	505	5048	4045	9093	+109
2002	3344	897	221	502	4964	4020	8984	+100
2001	3260	865	226	499	4850	4020	8870	+149
2000	3096	870	238	501	4705	4016	8721	

## Special Legislations:

Several Towns have sought Special Legislation for Taxes on Seasonal Rental for a number of years. To date, none have been successful in getting this passed. The language amongst the Towns is similar.

### Truro:

ARTICLE 20: ROOM OCCUPANCY TAX: To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation applying the local room occupancy tax to seasonal rentals as set forth below; provided, however, that the General Court may make clerical or editorial changes of form only to said bill, unless the Board of Selectmen approves amendments thereto prior to enactment by the General Court, and provided further that 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 APPROVING THE APPLICATION BY THE TOWN OF TRURO OF THE LOCAL OPTION ROOM OCCUPANCY EXCISE TO SEASONAL RENTAL PROPERTIES IN THE TOWN OF TRURO

Section 1. Notwithstanding the provisions of any general or special law to the contrary, in addition to the authority to impose a local excise tax upon any transfer of occupancy of any room or rooms as may be set forth in and authorized by Chapter 64G section 3A of the Massachusetts General Laws or other law, as the same may be amended from time to time, the town of Truro shall, commencing on the first day of the fiscal year that begins after the effective date of this Act, be authorized to impose a local excise tax upon the transfer of occupancy of any room in a seasonal rental property or other transient accommodations located within said town by any operator at the rate of up to but not exceeding six (6) percent of the total amount of rent of each such occupancy.

Section 2. For the purposes of this chapter, all terms used herein shall, unless the context requires otherwise, have the same meanings as set forth in Chapter 64G section 1 of the Massachusetts General Laws and as follows:

“Occupancy”, the use or possession, or the right to the use or possession, of any room or rooms in a bed and breakfast establishment, bed and breakfast home, hotel, lodging house, motel, seasonal rental property or other transient accommodation designed and normally used for sleeping and living purposes, or the right to the use or possession of the furnishings or the services and accommodations, including breakfast in a bed and breakfast establishment or bed and breakfast home, accompanying the use and possession of such room or rooms, for a period of ninety consecutive calendar days or less, regardless of whether such use and possession is as a lessee, tenant, guest or licensee.

“Seasonal rental property or other transient accommodations” shall mean any bed and breakfast home, as defined by Chapter 64G section 1 of the Massachusetts General Laws and any residential or commercial dwelling, dwelling unit or part thereof, unit of a condominium as defined by Chapter 183A of the Massachusetts General Laws or time-share as defined by Chapter 183B of the Massachusetts General Laws, used for the lodging of guests or invitees in exchange for rent.

or take any other action relative thereto.

**Nantucket:**

ARTICLE X To see if the Town will vote to petition the General Court for enactment of a Home Rule special act and to request the Town's representatives to the General Court to introduce a Special Act as set forth below, and further to authorize the General Court, with the approval of the Board of Selectmen, to make constructive changes in language as may be necessary or advisable towards perfecting the intent of this legislation in order to secure passage, and to take any other action related thereto:

AN ACT APPROVING THE APPLICATION BY THE TOWN OF NANTUCKET  
OF THE LOCAL OPTION ROOM OCCUPANCY EXCISE TO  
SEASONAL RENTAL PROPERTIES IN THE TOWN OF NANTUCKET

Section 1. Notwithstanding the provisions of any general or special law to the contrary, in addition to the authority to impose a local excise tax upon any transfer of occupancy of any room or rooms as may be set forth in and authorized by Chapter 64G section 3A of the Massachusetts General Laws or other law, as the same may be amended from time to time, the town of Nantucket shall, commencing on the first day of the fiscal year that begins after the effective date of this Act, be authorized to impose a local excise tax upon the transfer of occupancy of any room in a seasonal rental property or other transient accommodations located within said town by any operator at the rate of up to but not exceeding six (6) percent of the total amount of rent of each such occupancy.

Section 2. For the purposes of this chapter, all terms used herein shall, unless the context requires otherwise, have the same meanings as set forth in Chapter 64G section 1 of the Massachusetts General Laws and as follows:

“Occupancy”, the use or possession, or the right to the use or possession, of any room or rooms in a bed and breakfast establishment, bed and breakfast home, hotel, lodging house, motel, seasonal rental property or other transient accommodation designed and normally used for sleeping and living purposes, or the right to the use or possession of the furnishings or the services and accommodations, including breakfast in a bed and breakfast establishment or bed and breakfast home, accompanying the use and possession of such room or rooms, for a period of ninety consecutive calendar days or less, regardless of whether such use and possession is as a lessee, tenant, guest or licensee.

“Seasonal rental property or other transient accommodations” shall mean any bed and breakfast home, as defined by Chapter 64G section 1 of the Massachusetts General Laws and any residential or commercial dwelling, dwelling unit or part thereof, unit of a condominium as defined by Chapter 183A of the Massachusetts General Laws or time-share as defined by Chapter 183B of the Massachusetts General Laws, used for the lodging of guests or invitees in exchange for rent.

Section 3. No excise shall be imposed upon for the transfer of occupancy of any room in a seasonal rental property or other transient accommodations if the total amount of rent is less than fifteen dollars per day or its equivalent or if the accommodation, other than a bed and breakfast home, is exempt under the provisions of Chapter 64G section 2 of the Massachusetts General Laws.

Section 4. All operators of seasonal rental property or other transient accommodations shall be responsible for assessing, collecting reporting and paying such local excise tax as set forth in Chapter 64G sections 3, 4, 5, 6 and 7A of the Massachusetts General Laws and shall be liable in the same manners as operators in Chapter 64G section 7B of the Massachusetts General Laws.

Section 5. This act shall take effect upon its passage.

**Eastham:**

Article 7: To see if the town will vote to authorize the Board of Selectmen to petition the Great and General Court to approve a Home Rule Petition generally in the form set forth below; 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 with shall be within the scope of the general public objectives of the petition, and as follows:

AN ACT AUTHORIZING THE TOWN OF EASTHAM TO APPLY THE LOCAL OPTION ROOM OCCUPANCY EXCISE TAX TO ALL SEASON RENTAL PROPERTIES IN THE TOWN.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding the provision of any general or special law to the contrary, in addition to the authority to impose a local excise tax upon any transfer of occupancy of any room or rooms as may be set forth in and authorized by G.L. c.64G, §3A or any other applicable law, as the same may be amended from time to time, commencing on the first day of January that begins after the effective date of this Act, the town of Eastham shall be authorized to impose a local excise tax upon the transfer of occupancy of any room in a season rental property or other transient accommodations located within said town by any operator at the rate of four (4) percent of the total amount of rent of each such occupancy.

Section 2. For the purposes of this chapter, seasonal rental property or other transient accommodations shall mean a rental for a term of ninety (90) days or less. All other terms used herein shall have the same meanings as set forth in G.L. c.64G, §1, unless the context requires otherwise.

or take any action relative thereto.



December 2, 2015

To: Chris Clark, Town Administrator  
 From: Charleen Greenhalgh  
 Re: Land Use Breakdown for Harwich

Following the Assessors classification hearing for the question came up as to the break out of the types of uses (Residential, Commercial, etc.) within Harwich. Assessing Director Dave Scannell provided me with a number of different documents and lists to assist with this question. Based on the materials provided by Dave I can present you with the following breakdown based on current FY16 data:

Use Type	Acres	No. of Parcels	Percentage of Total Area	Total Value Taxable
Residential <sup>1</sup>	8,843.00	10,781	66%	\$4,429,977,300
Commercial & Industrial <sup>2</sup>	938.00 <sup>3</sup>	508 <sup>4</sup>	7%	\$309,361,870
Agricultural	121.00	33	1%	\$517,100
Exempt <sup>5</sup>	3,493.00	820	26%	\$325,809,800
<b>Total Acres</b>	<b>13,395.00<sup>6</sup></b>	<b>12,142</b>	<b>100%</b>	<b>\$5,065,666,070</b>

Notes:

- 1) This includes single family, two family, three family, residential condominiums, apartments, vacant residential land, open space; and include roads.
- 2) This includes all commercial and industrial uses.
- 3) The land area includes lands associated with commercial/industrial condominiums and mixed-use condominiums (commercial/residential). There are a total of 29 properties with commercial condominiums; with 10 of those also containing residential condos. In order to establish the land area associated with each of the commercial condos these needed to be looked at on a parcel by parcel basis.
- 4) This number includes all commercial, industrial, mixed-use condominiums and mix-use (commercial/residential) parcels.
- 5) This includes all town-owned parcels, Conservation Trust and all other not-for-profit owned properties.
- 6) The total acreage amount includes all roads within the town. As noted in Note 1 above, the area of the roads has been included in the residential information as there is no clean and clear way to break them out of the land area. With the number of residential condominiums (843) it would much too time consuming to review each one to determine the land areas involve with each as was done with the commercial properties.