

COMMONWEALTH OF MASSACHUSETTS
TOWN OF HARWICH
ANNUAL TOWN MEETING WARRANT
MAY 3, 2004

BARNSTABLE, ss:

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

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in elections and Town affairs to meet in the Community Center Gymnasium, 100 Oak Street in said Town on Monday, May 3, 2004, at 7:00 P.M., then and there to act on the following articles:

TOWN OFFICERS AND COMMITTEES

ARTICLE 1. To choose various Town Officers and Committees.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. CUSTOMARY ARTICLE. VOTE 5 TO 0.

REPORTS OF TOWN OFFICERS AND COMMITTEES

ARTICLE 2. To hear reports of all Town Officers and Committees for the year 2003.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. CUSTOMARY ARTICLE. VOTE 5 TO 0.

ELECTED OFFICIALS SALARIES

ARTICLE 3. To see if the Town will vote to fix the salaries of the elected officials of the Town for the fiscal year commencing July 1, 2004 and ending June 30, 2005 as follows; and to act fully thereon. Estimated cost: \$62,290.00.

Selectmen (5)	\$1,500.00 (each)
Moderator.....	\$300.00
Town Clerk	\$52,990.00
Water Commissioners (3)	\$500.00 (each)

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED AS FOLLOWS:

SELECTMEN (5).....	\$1,500.00 (EACH)
MODERATOR.....	\$300.00
TOWN CLERK.....	\$52,990.00
WATER COMMISSIONERS (3).....	\$500.00 (EACH)

TO SET SALARIES OF ELECTED OFFICIALS.

FUND NEGOTIATED CONTRACT – FIRE FIGHTERS

ARTICLE 4. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to be added to the FY 2005 Fire Department budget to implement the new contractual agreement between Harwich Permanent Fire Fighters, Local 2124, International Association of Fire Fighters and the Town of Harwich, and to act fully thereon. By request of the Board of Selectmen. Estimated cost: \$_____.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

FUND NEGOTIATED CONTRACT – POLICE OFFICERS

ARTICLE 5. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to be added to the FY 2005 Police Department budget to implement the new contractual agreement between Local 392 of the International Brotherhood of Police Officers and the Town of Harwich, and to act fully thereon. By request of the Board of Selectmen. Estimated cost: \$_____.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

FUND NEGOTIATED CONTRACT – POLICE SUPERIOR OFFICERS

ARTICLE 6. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to be added to the FY 2005 Police Department budget to implement the new contractual agreement between the Harwich Superior Officers Association Local 589 and the Town of Harwich, and to act fully thereon. By request of the Board of Selectmen. Estimated cost: \$_____.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

FUND NEGOTIATED CONTRACT – HIGHWAYS & MAINTENANCE

ARTICLE 7. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to be added to the FY 2005 Division of Highways & Maintenance budget to implement the new contractual agreement between the Highways & Maintenance Employees Association and the Town of Harwich, and to act fully thereon. By request of the Board of Selectmen. Estimated cost: \$_____.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

FUND NEGOTIATED CONTRACT – EMPLOYEES ASSOCIATION

ARTICLE 8. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to be added to the FY 2005 budget to implement the new contractual agreement between the Harwich Employees Association and the Town of Harwich, and to act fully thereon. By request of the Board of Selectmen. Estimated cost: \$_____.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

FUND NEGOTIATED CONTRACT – WATER DEPARTMENT

ARTICLE 9. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to be added to the FY 2005 Water Department budget to implement the new contractual agreement between the International Association of Machinists and Aerospace Workers, Local Lodge 264 of District 38, A.F.L.-C.I.O. and the Town of Harwich, and to act fully thereon. By request of the Board of Selectmen. Estimated cost: \$_____.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

AMEND PERSONNEL BY-LAW/COMPENSATION PLAN

ARTICLE 10. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to amend the Personnel By-law Compensation Plan for FY 2005 as follows; and to act fully thereon. By request of the Board of Selectmen. Estimated cost: \$_____.

TOWN OF HARWICH

PERSONNEL BY-LAW

Part 1

APPLICATION, PURPOSE, DISCRIMINATION, BENEFITS

Application: All full-time and regular part-time positions not covered by any collective bargaining agreement, other than the School Committee and positions under their control, shall be subject to the provisions of this By-law, including the following:

Computer Coordinator	Director, Highways & Maintenance
Town Engineer	Water Superintendent
Deputy Assessor	Town Accountant
Asst. Town Administrator	Personnel Director
Building Commissioner	Conservation Administrator
Golf Director	Golf Superintendent
Health Director	Natural Resources Director
Town Planner	Channel 18 Station Manager
<u>Library Director</u>	Recreation Director
Treasurer / Tax Collector	Community Center Manager
Director, Council on Aging	Administrative Secretary
Year-round Special Police Officers	Registrars of Voters
Deputy Fire Chief	Plumbing Inspector
Sealer of Weights & Measures	Gas Inspector
<u>Administrative Assistant-</u>	Wiring Inspector
(Administrator's Office)	Transfer Station Gate-Keepers
Head Clerk (Administrator's Office)	Transfer Station Monitors-
Principal Clerk (Administrator's Office)	Recycling/Scalehouse
Board Clerks:	Board Secretaries:
Planning Board	Board of Selectmen
Capital Outlay	Board of Health
Conservation Commission	
Historical Commission	

Purpose: It shall be the purpose of this By-law to provide to department heads, supervisors and employees policies for assuring the maintenance of an equitable personnel management system. The policies have as their purpose to promote the efficiency and economy of government, to promote the morale and well being of employees, and to provide equitable employment opportunities for employees and for candidates for employment in Town service.

Discrimination: Discrimination against any person in recruitment, examination, appointment, training, promotion, transfer, retention or other personnel action because of political affiliation, race, creed, color, national origin, age, sex, handicap or other non-merit factor is prohibited.

Except where the context indicates otherwise, the masculine pronouns used in this By-law should be understood to include the corresponding female pronouns.

Benefits: Employees covered by this By-law must perform work duties regularly not less than twenty (20) hours during each normal work week of employment to be eligible for any and all benefits covered by this By-law. Part-time employees scheduled to work less than twenty (20) hours shall not be entitled to any accruals and other fringe benefits.

Part 2

WORK HOURS

Normal Work Week: The regular normal work hours of Town employees covered under this By-law shall be as follows:

Office employees	35 hours per week
Other full-time employees	40 hours per week
Part-time employees	varied

Work Hours: The regular normal hours per day and days per week shall be established by the respective operating department, subject to the approval of the Town Administrator, or otherwise established by law.

Each regular full-time employee shall be provided with a one-half (1/2) hour unpaid meal period during the workday. Said meal period to be scheduled as close to the middle of the work shift as possible. All employees' work schedules shall provide for two (2) ten (10) minute coffee breaks. Each coffee break shall be scheduled as close to the middle of the first half and second half of the shift, respectively, as possible. Those employees not partaking of the coffee breaks either by choice or circumstances may, at the discretion of the Department Head, add the equivalent period to the lunch break.

Payroll Week: The Town payroll covers the seven (7) day period ending each Saturday.

EXTRA PAY/OVERTIME

All non-supervisory employees will be paid straight time for such hours up to forty (40) hours in a calendar week. If such non-supervisory employees perform work for more than forty (40) hours in any calendar week, they shall be paid for overtime work in excess of forty (40) hours at the rate of one and one-half times (1 ½) times their regular weekly pay divided by the number of hours in their normal work week schedule, unless exempted by Federal Law.

An employee may select compensatory time in lieu of overtime, subject to the approval of the Town Administrator. A maximum of three (3) days may be accrued and each accrual must be used within six (6) months.

Department Heads shall be deemed to have a continuing responsibility to serve the public and the aforesaid provisions shall not apply to them.

Overtime shall be worked only when necessary in the judgment of the Department Head and shall be authorized by the Department Head in advance.

Part 3

RECRUITMENT

Recruitment: Proposed new positions established under the Home Rule Charter paragraph 4-5-2 and this By-law, including part-time, temporary and seasonal positions, shall be recruited and filled only after review and approval of the Town Administrator.

Whenever possible, it shall be the policy of the Town to promote qualified persons, based on job performance and other factors, including seniority, from various departments to fill vacancies. Employees holding part-time positions, and who are qualified, will be considered when filling vacancies to permanent positions.

The decision to transfer or promote from within shall be made on the basis of qualifications, ability and dependability and, where such factors are relatively equal, seniority shall be the determining factor. If no applicant is qualified, the Town may fill the position from the outside.

Applications for employment may be rejected if (1) the applicant lacks the established qualification requirements for the position, (2) the applicant is physically unfit to perform the duties of the position, and (3) the applicant has been dismissed from previous employment for delinquency, insubordination, misconduct including sexual harassment, or has resigned because of delinquency or misconduct.

The Department Head, or Town Administrator, who is empowered to make the hiring decision, shall be the sole judge of qualifications, ability and dependability, provided that such judgment is not exercised arbitrarily, capriciously, or unreasonably.

The Town Administrator shall determine which test, if any, or combination of tests will be used to evaluate the relative fitness of each candidate or each position, whether it be a promotion or original appointment. A variety of tests may be employed including, but not limited to: assessment of training and experience, oral interview, written examination, performance test, physical examination and reference checks. Each test will be utilized and administered on a standardized basis to ensure equity and fairness.

Each person promoted or appointed to a permanent position shall be required to successfully complete a probationary period of six (6) months to enable the Department Head and/or the Town Administrator to observe the employee's ability to perform the various duties of the position. In the event that a promoted employee is found not to have met the requirements of the position, the employee (if transferred or promoted) shall be permitted to return to the position formerly held. The appointing authority may extend the probationary period by not more than an additional three (3) months and shall notify the employee and Department Head of such extension.

Seniority, as used in this By-law, is defined as length of service of the employee in the employment of the Town. Seniority shall not be broken by vacation leave, sick leave, maternity/paternity leave, injured leave, leave without pay, suspension, or any call to military service.

Part 4

CLASSIFICATION AND COMPENSATION PLANS

CLASSIFICATION AND COMPENSATION PLANS: The Classification Plan is a plan classifying positions covered under this By-law into groups and classes of positions, in which incumbents perform substantially similar work or have substantially equal responsibility. The Compensation Plan is a listing of salaries and wages allocated to pay grades by classes or positions. That plan is set forth below.

Part 5

DISCIPLINE AND DISCHARGE

Discipline and Discharge: An employee with six (6) months of continuous service shall not be disciplined or discharged except for just cause. Where periodic evaluations of an employee's work show that he is not performing his job in a manner deemed to be in the best interest of the Town, including sexual harassment, this shall be understood as just cause for discipline or discharge.

Any dispute concerning an employee who is disciplined or discharged and who has not completed his six (6) month probationary period shall not be subject of hearing procedures.

RIGHT OF APPEAL/GRIEVANCE PROCEDURES

Right of Appeal or grievance procedure has a maximum of two (2) steps, but may be resolved at any step in the process. Right of appeal/grievances are to be fully processed until the employee is satisfied, does not file a timely appeal or when a decision is made in the final step and the right of appeal no longer exists.

Step 1. The aggrieved employee shall submit the grievance in writing to the Town Administrator within five (5) working days after the employee knew or should have known, of the incident upon which the grievance is based. The Department Heads version of the grievance and decision will then be submitted in writing to the town Administrator. The Town Administrator will, within five (5) working days after submission to him, confer with the employee, the supervisor and any other members of management considered appropriate; investigate the issues; and communicate a decision in writing to all the parties involved.

Step 2. Appeal an unsatisfactory Town administrator decision to the Board of Selectmen. The Board of Selectmen will take the necessary steps to review and investigate the grievance and within fourteen (14) days issue a written, final and binding decision.

Part 6

RATE INCREASES AND LONGEVITY

Section 1. Step Rate Increases: Every employee in an appointive position for which step rate increases are provided under the Compensation Plan may be considered for an increase to the first or next higher step rate, as the case may be, within his compensation grade. Any such increase shall be effective on the anniversary date of his last employment or date of reclassification, whichever is later, until the maximum rate is reached. Such step rate increases shall be made only with approval of the Department Head and Town Administrator that the employee has performed satisfactorily for the previous twelve (12) months. An employee may receive a two-step increase for exceptional work at his or her anniversary date with the approval of both the department head and the Town Administrator.

Longevity: Employees who have occupied the top step of their position for a minimum of one (1) year and have a minimum of six (6) years of service with the Town completed as of their anniversary date of employment, or promotion date, whichever applies, and subject to satisfactory performance evaluation while being paid at the top step of the position, shall receive a lump sum payment based on the current rate of pay. Top step of positions for:

- 1) One year-1% of employee's current annual base rate of pay.
- 2) Two years-2% of employee's current annual base rate of pay.
- 3) Three years-3% of employee's current annual base rate of pay.
- 4) Four years-4% of employee's current annual base rate of pay.
- 5) Five years-5% of employee's current annual base rate of pay.
- 6) Six years-6% of employee's current annual base rate of pay.
- Seven or more years-7% of employee's current annual base rate of pay.

Such lump sum payment shall be considered an addition to regular annual pay and shall not be considered a part of base pay. However, when a promotion would result in a net loss of pay due to a lost longevity payment, the employee shall be assigned to a higher step, which represents an increase in pay when the lost longevity payment is considered. When a promotion to step 6 will result in equal or lost pay due to a lost longevity payment, the longevity payment shall be retained by the promoted employee.

Part 7

HOLIDAYS

The following days shall be considered as holidays and compensated for as provided for in this article:

New Year's Day	Washington's Birthday
Patriot's Day	Memorial Day
Independence Day	Martin Luther King's Birthday
Labor Day	Columbus Day
Veteran's Day	Thanksgiving Day
Christmas Day	

Any other day declared a holiday by the Governor, General Court or the Board of Selectmen.

If a holiday falls on a Saturday, it shall be celebrated on the Friday before the Saturday holiday, unless observed Statewide on another day.

If a holiday falls on an employee's regular workday, he shall receive time off without loss of pay. When a holiday falls on a regularly scheduled day off, employees will be given another day off within a reasonable period of time.

Where any of the holidays enumerated above falls during an employee's vacation or a day that would otherwise be a regularly scheduled work day, the employee shall be entitled to an additional vacation day with pay, to be taken at the convenience of the Town.

The day after Thanksgiving (Friday) shall be considered as a holiday and compensated for pursuant to the provisions of this section of the by-law.

- a) The Town, through the respective Department Heads, will determine adequate scheduling and staffing needs and arrangements for these days.
- b) In the event that it is determined that an employee cannot be granted time off as contemplated by this section, he shall be granted compensatory time off at a later time arranged in advance with the Department Head.
- c) If call back is required on either of these days, such employee shall be compensated for the call back at his regular rate of pay and be granted equivalent time off at a later time arranged in advance with the Department Head.
- d) If a non-supervisory employee not regularly scheduled to work on holidays is called in or assigned to work on December 25 or Thanksgiving Day, he shall receive in addition to another day off within a reasonable period of time, double (2X) his regular hourly rate for each hour he worked on said holiday.
- e) The Town will distribute a list of when holidays are to be celebrated on July first of each year.

Part 8

VACATIONS

Vacation leave shall be granted to employees who have successfully completed their initial hiring probationary period, subject to the following provisions:

- a) Employees who have been employed less than twelve (12) full months shall be granted vacation leave in the first partial fiscal year of employment, as follows:

Employees hired in July	10 days
Employees hired in August	10 days
Employees hired in September	9 days
Employees hired in October	8 days
Employees hired in November	7 days
Employees hired in December	6 days

Employees who have completed less than 6 months of employment shall not be entitled to vacation during their first partial (fiscal) year of employment.

- b) Thereafter, employees shall be granted vacation leave with full pay on July 1 of each year with an employee's first partial year of service before July 1 being considered a full year of service as follows:

One (1) year	Eleven (11) working days.
Two (2) years	Twelve (12) working days.
Three (3) years	Thirteen (13) working days.
Four (4) years	Fourteen (14) working days.
Five (5) years, but less than ten (10) years-Fifteen (15) working days.	

Ten (10) years, but less than sixteen (16) years	Twenty (20) working days.
<u>Sixteen (16) years</u>	<u>Twenty-one (21) working days.</u>
<u>Seventeen (17) years</u>	<u>Twenty-two working days.</u>
<u>Eighteen (18) years</u>	<u>Twenty-three working days.</u>
<u>Nineteen (19) years</u>	<u>Twenty-four working days.</u>
Twenty (20) or more years of service	Twenty-five (25) working days.

- c) In the event of termination of employment of any employee who has been in the continuous service of the Town for at least one (1) year, such employee shall be paid for any portion of his vacation which may have accrued since July 1 immediately preceding. In the event of the death of an employee, any such accrued vacation pay shall be payable to his estate.

Employees will be allowed to take vacations as they desire when reasonable notice is given to the Department Head. Where the Department Head determines that approving a requested vacation period will result in inadequate coverage to perform necessary work, he may deny the requested vacation period.

If more than one employee requests the same vacation period and the Department Head determines that only one such leave can be approved, seniority shall be the determining factor based upon length of service with the Town.

Annual vacations with pay shall be taken in the fiscal year (July 1 to June 30) in which they are due and shall not accumulate from year to year except when vacation cannot be taken for the Town's best interest, as determined by the Town Administrator, vacation may be carried forward to the next year.

Vacation pay for any regular part-time employee is to be paid according to the number of days or hours per full-time week which the employee is normally required to work.

Part 9

SICK LEAVE

Non-Occupational Sick Leave: Employees shall earn sick leave at the rate of one and one quarter (1¼) days per month for each month actually worked, up to a maximum of fifteen (15) days per year. Unused sick leave may be allowed to accumulate from year to year up to a maximum of two hundred (200) days.

- a) An employee who has exhausted his accumulated sick leave as a result of catastrophic accident or illness resulting in four (4) calendar weeks or more of disability will, upon return to work for a period of twenty-six (26) weeks without use of sick leave, be entitled to receive back twenty-five (25%) percent of the total sick leave used during the most recent period of disability. Employees shall repay the Town for any sick leave used if a third party should compensate the employee for lost wages as part of any settlement. The employee

shall provide the Town with an affidavit that he or she will not receive any other compensation for lost wages prior to this sick leave recharge taking effect.

- b) If an employee has received a written warning concerning his sick leave record, the Town may require the employee to submit a physician's certificate in future absences for sickness prior to paying the employee for his absence.
- c) The Town may require a doctor's certificate on return to work after being out sick for five (5) consecutive days.
- d) Each employee may be required to submit annually to a physical examination administered by a Town-designated physician. Examination by a Town-designated physician may be required at other times during the year where the Town has reason to doubt an employee's ability to perform his job in a safe fashion, endangering himself to others. In such instances, the physician's report and recommendations may serve as a basis for medical probation or dismissal.
- e) Employees will be allowed two (2) personal days a year. Reasonable notice must be given to the Department Head when requesting a personal day.
- f) An employee may use sick leave when an immediate family member is ill. Immediate family is defined as parents, spouse, children and Domestic Partner.
- g) An employee who retires and is eligible to receive superannuation retirement benefits shall be entitled to be paid for twenty-five (25%) percent of the accumulated sick leave at his current rate of pay. This same benefit shall be paid to the estate of an employee who dies while employed by the Town.
- h) Sick Bank: A sick bank shall be available for use by eligible employees covered by this By-law who have exhausted their own paid sick leave. The bank shall be maintained at the minimum of one (1) day (computed by hours) per employee after the first year of employment. Employees who have accumulated the maximum number (200) of sick days may donate the remainder of their unused sick leave for that year to the sick bank. Should the bank reach a maximum of two hundred (200) days or more, there shall not be any days taken from the following year's sick leave. The initial grant of sick leave by the sick bank to an eligible employee shall not exceed thirty (30) days. Upon completion of the thirty (30) day period, the period of entitlement may be extended by the Town Administrator upon demonstration of need by the applicant with a certificate from a doctor.

Said Sick Bank shall be administered by the employees covered by this By-law.

The following criteria shall be used in determining eligibility and amount of leave.

1. Adequate medical evidence of serious illness from doctor;
2. Prior utilization of all eligible sick leave;
3. Length of service with the Town; and
4. No one case shall set a precedent for decision of subsequent cases.

Part 10

MATERNITY LEAVE

An employee is entitled to at least twelve (12) weeks of unpaid maternity/paternity leave, provided that she/he has been employed at least three (3) consecutive months, subject to the other provisions of this section.

Said employee is entitled to return to the same or similar position without loss of benefits for which she/he was eligible on the date her/his leave commenced.

Accrued sick leave benefits shall be provided for maternity leave under the same conditions and terms which apply to other temporary medical disabilities. Accrued sick leave benefits shall be provided for paternity leave up to twenty (20) days under the same

terms and conditions which apply to other temporary medical disabilities. Sick leave benefits for paternity leave may be extended beyond twenty (20) days for medical reasons with the approval of the Town administrator. A maternity/paternity leave of absence without pay commencing no sooner than three (3) months before the expected birth and terminating no later than three (3) months subsequent to the birth of the child shall be granted to a pregnant employee or domestic partner provided, as follows:

Prior to the commencement of maternity leave, the employee shall indicate in writing her intention to return to work at the termination of the leave and that she shall notify the Department Head, with a copy to the Town Administrator if she decided not to return to work.

Part 11

BEREAVEMENT LEAVE

Section 1. Bereavement leave without loss of pay for death of spouse or child may be granted by the Department Head, and the employee will be granted leave for the next seven (7) ~~calendar~~ work days.

Section 2. Bereavement leave without loss of pay for the death of a parent, brother, sister, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, grandchild, or guardian, may be granted by the Department Head, and the employee will be granted leave for three (3) ~~calendar~~ work days.

Section 3. Bereavement leave, without loss of pay not to exceed one (1) day for death of a grandparent, aunt or uncle may be granted by the Department Head.

Section 4. Extension of bereavement leave may be granted by the Department Head only if such request is based upon special conditions affecting any member covered by this By-law.

Part 12

JURY DUTY, MILITARY DUTY, LEAVE WITHOUT PAY

Section 1. Employees covered by this By-law shall be allowed full pay for not more than ten (10) worked days and shall be granted a military leave of absence without pay for the period of their required service with said forces in excess of ten (10) days.

Section 2. The Town agrees to pay the difference between an employee's wages and compensation received for Jury Duty.

Section 3. Leave without pay may be granted upon approval by the appropriate Department Head and Town Administrator. An employee may be granted leave without pay up to thirty (30) consecutive workdays. At the end of such leave, the employee shall return to the same or similar position at the same rate of pay. Failure to report promptly at the end of such leave shall be considered a resignation. During this type of leave, an employee shall not be eligible to accrue vacation leave or sick leave credits. The Department Head shall be responsible:

- a) To see that the conditions of each leave are faithfully recorded, and
- b) To see to it that the Town Administrator is notified in writing of all information relating to such leave.

Part 13

HAZARDOUS CONDITIONS
TRAINING, HEALTH AND SAFETY

Section 1. The Town agrees to pay for all Class I, Class II or other special licenses, certifications or special registrations required by the nature of an employee's job with the Town.

Section 2. In the Town's effort to promote a highly-skilled work force, employees may submit requests for reimbursement of reasonable expenses for continuing education, subject to prior approval of the Town Administrator.

Section 3. The Town will provide CPR training and flu shots to interested employees whose employment is covered by the provisions of this by-law. In addition, prophylactic immunizations (i.e., hepatitis B, tetanus) shall be provided at no cost to those employees who by the nature of their work are at risk of exposure.

Section 4. Hazardous Conditions: The Town Administrator shall take appropriate means to notify Town employees that there is no work on any day deemed hazardous by reason of weather conditions caused by snow, hurricane, tornado, or other natural phenomena, or other causes of hazardous conditions such as major power failures, fires, floods, explosions or similar disasters. Employees performing essential services, such as uniformed members of the Police and Fire Departments, will be excused from duty only at the discretion of their respective department heads. Town employees who are notified that there is no work because of hazardous conditions will be compensated as though work was actually performed on that day.

Section 5. The Town will continue to provide uniforms and specialized apparel and safety equipment to all employees required to wear a uniform or required to use safety equipment in the course of their duties.

Section 6. The Town will provide an adequate supply of foul weather gear, including jackets, boots, gloves, and rain gear for employees who must work in inclement weather.

Section 7. The decision to issue safety shoes and equipment for jobs that require them will be made by the department head. An employee's refusal to use/wear safety equipment provided by the Town shall and upon the direction of a supervisor shall be cause for disciplinary action.

This By-law shall become effective upon passage at Town Meeting.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

BUDGET

ARTICLE 11. To see if the Town will vote to raise and appropriate or transfer from available funds such sums of money as may be required to defray Town charges for the Fiscal Year 2005, and to act fully thereon. (BUDGET – SEE APPENDIX B). Estimated cost: \$_____.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$39,023,602.00. TO FUND THE TOWN BUDGET. VOTE 5 TO 0.

CAPITAL PLAN ADOPTION

ARTICLE 12. To see if the Town will vote to adopt the Capital Plan for the ensuing seven year period as adopted last year by the Town Meeting with new fiscal year 2011 as proposed by the Board of Selectmen and set forth below or as amended by vote of the Town Meeting, and to act fully thereon. By request of the Board of Selectmen.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

INTEGRATED POLICE COMPUTER SYSTEM – PHASE 2

ARTICLE 13. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money for completing the replacement of the existing in-house computer system including mobile data terminal installation, digital imaging, live-scan fingerprinting, computer aided dispatch, and support platform, and to act fully thereon. By request of the Chief of Police. Estimated cost: \$150,000.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED TO FUND IDENTIX LIVE SCAN FINGERPRINT SYSTEM, IMC INTERFACE WITH IDENTIX LIVESCAN SYSTEM, 5 CDMA MODEMS AND AIRTIME, VERIZON SWITCHOVER FEE, CABLE/REMODEL AREA FOR LIVE SCAN, TERMINAL MAINTENANCE AGREEMENT. ESTIMATED COST: \$76,956.00. TO IMPROVE TECHNICAL SUPPORT OF POLICE DEPARTMENT. VOTE 5 TO 0.

ROAD MAINTENANCE PROGRAM

ARTICLE 14. To see if the Town will vote to raise and appropriate the sum of \$500,000.00 to fund the “Road Maintenance Program,” as adopted in the Capital Plan, Article 11 of the Annual Town Meeting, May, 1999, and to act fully thereon. By request of the Director of Highways & Maintenance.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$500,000.00. TO IMPROVE TOWN ROADS. VOTE 4 TO 1.

CONSTRUCT NEW ELEVATED WATER STORAGE TANK

ARTICLE 15. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money for the proposed construction of a 1.5 million gallon elevated storage tank. This tank is to be placed on land previously acquired for this purpose. This article will fund the permitting and construction of this storage tank. This tank is scheduled to be placed into service in the summer of FY 07, and to act fully thereon. By request of the Water Commissioners. Estimated cost: \$2,800,500.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$2,800,500.00. TO IMPROVE WATER DISTRIBUTION. VOTE 5 TO 0.

FUND REPAIRS TO BROOKS ACADEMY MUSEUM

ARTICLE 16. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to be used for repairs to Brooks Academy, and to act fully thereon. By request of the Brooks Academy Museum Commission. Estimated cost: \$185,000.00.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

INSTALL NEW IRRIGATION SYSTEM AT CRANBERRY VALLEY GOLF COURSE

ARTICLE 17. To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sufficient sum of money to install a new irrigation system at Cranberry Valley Golf Course, and to act fully thereon. By request of the Golf Commission. Estimated cost: \$_____.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. TO MAKE NECESSARY IMPROVEMENT TO WATER SYSTEM. VOTE 5 TO 0.

INCREASE HARBORMASTER PRINCIPAL CLERK HOURS

ARTICLE 18. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to make the position of Principal Clerk within the Harbormaster/Natural Resources Department full-time, and to act fully thereon. By request of the Harbormaster. Estimated cost: \$11,307.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$11,307.00. TO INCREASE STAFF TO SUPPORT NEW HARBOR MANAGEMENT. VOTE 5 TO 0.

FUND HUMAN SERVICES

ARTICLE 19. To see if the Town will vote to raise and appropriate or transfer from available funds (\$76,490.00) Seventy Six Thousand Four Hundred Ninety Dollars to help defray the expenses of human service agencies and organizations providing services to Harwich residents; said funds to be expended under the direction of the Board of Selectmen, and to act fully thereon. By request of the Board of Selectmen.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

PROJECT CONTEMPORARY COMPETITIVENESS

ARTICLE 20. To see if the Town will vote to raise and appropriate or transfer from available funds for the Board of Selectmen and School Committee to award scholarships to eighth and ninth grade Harwich students to participate in Project Contemporary Competitiveness at Bridgewater State College; said monies to be used to defray the cost of tuition and related expenses, and to act fully thereon. By request of the Board of Selectmen. Estimated cost: \$8,000.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$8,000.00. TO TAKE ADVANTAGE OF EDUCATIONAL OPPORTUNITY. VOTE 5 TO 0.

DISBURSE STATE FUNDS FOR AID TO HARWICH LIBRARIES

ARTICLE 21. To see if the Town will vote to instruct the Selectmen to disburse the funds allocated by the State under the Acts of 1960, as amended by the Acts of 1963, Chapter 672, and as further amended by the Acts of 1970, Chapter 636, and the Acts of 1971, Chapter 1003, for aid to Harwich Libraries in accordance with customary procedure, and to act fully thereon. By request of the Trustees of Brooks Free Library.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. CUSTOMARY ARTICLE. VOTE 5 TO 0.

CHAPTER 90 ROAD MAINTENANCE

ARTICLE 22. To see if the Town will vote to raise and appropriate, transfer from available funds, and/or borrow in accordance with Chapter 44 of the Massachusetts General Laws, or any other authorizing authority, a sufficient sum of money to be reimbursed by funds made available by the Massachusetts Legislature as the State's contribution for local road construction work under Chapter 90 of the General Laws (funds authorized under Chapter 246 of the Acts of 2002), and to act fully thereon. By request of the Director of Highways & Maintenance. Estimated cost: \$323,173.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$323,173.00. VOTE 7 TO 0. TO IMPROVE TOWN ROADS.

PURCHASE TWO NEW GENERATORS FOR TREATMENT STATIONS 2 & 3

ARTICLE 23. 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 two new generators which will be located at

Treatment Station 2 and Treatment Station 3, and to act fully thereon. By request of the Water Commissioners. Estimated cost: \$135,159.97.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. TO INSURE PROPER WATER DISTRIBUTION WHEN ELECTRICITY IS LOST.

MAINTAIN, UPDATE, CERTIFY REAL/PERSONAL PROPERTY VALUATIONS

ARTICLE 24. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to maintain, update, and/or certify real and personal property valuations, and to act fully thereon. By request of the Board of Assessors. Estimated cost: \$17,500.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$17,500.00. VOTE 5 TO 0. TO INSURE PROPER VALUATION.

LEASE OR PURCHASE AND EQUIP VEHICLES

ARTICLE 25. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to lease or purchase and equip the following vehicles:

<u>Fire Department</u>	<u>Estimated Lease Cost</u>	<u>Estimated Purchase Cost</u>
One (1) 2004 F-350 Pickup	\$9,286.44	\$26,336.00
One (1) 2004 Explorer	9,696.89	\$27,500.00
<u>Division of Highways & Maintenance</u>		
Two (2) new 40,000 GVW Dump Trucks with plows and sanders	\$66,279.00	\$190,000.00
<u>Water Department</u>		
Two (2) new ½ ton pickups with accessories	\$13,456.68	\$38,002.00
<u>Police Department</u>		
One (1) new Animal Control pickup	\$8,812.53	\$24,692.00

and to further authorize 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:

Fire Department
One (1) 1981 GMC

Water Department
One (1) 1996 Ford F150 Van

One (1) 1993 Ford Crown Victoria

One (1) 1990 Ford Utility Truck

Division of Highways & Maintenance

One (1) 1985 GMC Dump Truck

One (1) 1986 GMC Dump Truck

Police Department

One (1) 1997 Ford Van

and to act fully thereon. By request of the Board of Selectmen. Estimated lease cost: \$107,531.54. Estimated purchase cost: \$306,530.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED WITH AN ESTIMATED COST OF \$317,467.00 TO PURCHASE THE FOLLOWING VEHICLES:

FIRE DEPT.	1 2004 F-130 PICKUP	\$22,935.00
	1 2004 EXPLORER	\$27,200.00
DIV. OF HIGHWAYS & MAINTENANCE	2 40,000 GVW DUMP TRUCKS	
	WITH PLOWS & SANDERS	\$190,000.00
WATER DEPT.	2 ½ TON PICKUPS WITH ACCESSORIES	\$38,002.00
SCHOOL	MAINTENANCE VAN	\$17,859.00
POLICE DEPT.	1 ANIMAL CONTROL PICKUP	\$24,692.00

VOTE 5 TO 0. NECESSARY VEHICLE REPLACEMENT.

PURCHASE/EQUIP NEW EQUIPMENT

ARTICLE 26. To see if the Town will vote to raise and appropriate a sufficient sum of money to purchase and equip two (2) new 40 yard Roll-Off Containers @ \$4,500 each, and to act fully thereon. By request of the Director of Highways & Maintenance. Estimated cost: \$9,000.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$9,000.00. VOTE 5 TO 0. TO REPLACE RECYCLING CONTAINERS AT LANDFILL.

RETAIN SERVICES FOR ASSESSING FUTURE NEEDS OF HIGH SCHOOL

ARTICLE 27. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to retain services for assessing the future needs of the Harwich High School building, to be spent under the direction of the School Committee, and to act fully thereon. By request of the Board of Selectmen. Estimated cost: \$20,000.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE INDEFINITELY POSTPONED. VOTE 5 TO 0. NOT NEEDED AT THIS TIME.

LEASE OF TOWN-OWNED PROPERTIES

ARTICLE 28. To see if the Town will vote to approve the proposed uses of one or more Town-owned properties and the duration of the proposed leases for these historic properties in response to Requests for Proposals as authorized by Article 40 of the May, 2003 Annual Town Meeting, and to act fully thereon. By request of the Board of Selectmen. The properties are as follows:

1. South Harwich Methodist Church, 270 Chatham Road, South Harwich as shown on Assessors Map 34 as Parcel M-3.
2. West Harwich School House, 5 Bell's Neck Road, West Harwich as shown on Assessors Map 10 as Parcel 61.
3. Former Recreation and Youth Building, 265 Sisson Road, Harwich as shown on Assessors Map 40 as Parcel Z-5.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

TRANSFER LAND TO THE GOLF COMMISSION

ARTICLE 29. To see if the Town will vote to transfer the care, custody and control of the land described in this Article from the Board of Selectmen for general municipal purposes to the Golf Commission for golf-related purposes, said land being all or a portion of the parcel shown on Assessors Map 61, Parcel A1-2, comprising 11.85 acres more or less, and to act fully thereon. By request of the Golf Commission.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. TO EXPAND AND IMPROVE PRACTICE FACILITIES.

MEDICAID SERVICES FOR SCHOOL DEPARTMENT

ARTICLE 30. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to fund a part-time School Department Medicaid Billing Clerk and fund billing services to be provided by a third party vendor in order to obtain Medicaid reimbursement for deposit to the Town General Fund, and to act fully thereon. By request of the School Committee. Estimated cost: \$29,976.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$29,976.00. VOTE 5 TO 0. TO PROCESS MEDICAID REIMBURSEMENTS.

REMOVE UNDERGROUND GAS TANK/INSTALL ABOVE GROUND GAS TANK

ARTICLE 31. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to remove and install a gasoline tank at Cranberry Valley Golf Course for the pro shop carts. Estimated cost: \$55,000.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$55,000.00. VOTE 5 TO 0. TO REPLACE DEFECTIVE UNDERGROUND TANK.

ADA IMPROVEMENTS

ARTICLE 32. To see if the Town will vote to raise and appropriate the sum of \$16,417.50 remaining in Article 67, 1997 to fund improvements for the purpose of complying with the Americans with Disabilities Act, and to act fully thereon. By request of the Disability Rights Committee.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. TO REDIRECT EXISTING ADA FUNDS.

FUND BUILDING MAINTENANCE – SCHOOLS

ARTICLE 33. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to fund building maintenance at the Elementary, Middle and High Schools; said funds to be utilized to accomplish the extraordinary maintenance goals set forth by the school administration in the fourth year of its 5-year maintenance plan, and to act fully thereon. By request of the School Committee. Estimated cost: \$65,500.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$65,500.00. VOTE 4 TO 1. TO FUND REPAIRS TO SCHOOLS.

FUND NEW WELL SOURCE INVESTIGATION

ARTICLE 34. 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 New Source Investigation, under the direction of the Water Commissioners, and to act fully thereon. By request of the Water Commissioners. Estimated cost: \$110,000.00.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

CONVERT TO MUNIS BILLING PROGRAM

ARTICLE 35 To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to convert to the MUNIS Billing Program as requested by the Town Administrator, Town Accountant and the Board of Selectmen, and to act fully thereon. By request of the Water Commissioners. Estimated cost: \$60,000.00

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$60,000.00. VOTE 4 TO 1. MAINTAIN BETTER WATER BILLING.

PLEASANT BAY ESTUARIES PROJECT

ARTICLE 36 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 conducting a study of in-depth nitrogen loading limits in Pleasant Bay to be administered by the Pleasant Bay Resource Management Alliance under the Massachusetts Estuaries Project, and to authorize the Board of Selectmen to accept any state or other grants available and further to enter into an agreement with the Commonwealth of Massachusetts and the Towns of Orleans and Chatham to undertake this project, and to act fully thereon. By request of the Pleasant Bay Management Alliance.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$24,000.00. VOTE 5 TO 0. TO CONTINUE TO IMPROVE WATER QUALITY IN PLEASANT BAY.

FUND NITROGEN STUDY IN VARIOUS HARBORS

ARTICLE 37. 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 conducting a study of in-depth nitrogen loading limits in Allen's, Wychmere and Saquatucket Harbors and Herring River under the Massachusetts Estuaries Project, and to authorize the Board of Selectmen to accept any state or other grants available and further enter into an agreement with the Commonwealth of Massachusetts to undertake this project, and to act fully thereon. By request of the Town-wide Water Quality Task Force. Estimated cost: \$234,500.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$80,000.00. VOTE 7 TO 0. TO IMPROVE WATER QUALITY.

LEASE/PURCHASE MODULAR CLASSROOMS FOR HIGH SCHOOL

ARTICLE 38 To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to continue the lease for the 2004-05 school year or purchase the four (4) existing modular classrooms at Harwich High School; said modular classrooms to be used to alleviate crowded conditions resulting from a growing population and an expansion of course offerings, and to act fully thereon. By request of the School Committee. Estimated cost: \$_____.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

CHANGE SENIOR EXEMPTION FROM \$600 TO \$1,000

ARTICLE 39. To see if the Town will vote to accept certain provisions of Chapter 184 Section 51 of the acts of 2002 amending General Laws Section 5 Clause 41-C as follows: Change the amount of the Senior Exemption from \$600.00 to \$1,000.00 only. This change to take effect for FY 2005, and to act fully thereon. By request of the Board of Assessors. Estimated cost: \$22,800.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$22,800.00. VOTE 5 TO 0. TO PROVIDE TAX RELIEF TO ELIGIBLE SENIORS.

TRANSFER FUNDS FOR ADMINISTRATIVE COVERAGE

ARTICLE 40. To see if the Town will vote to take action to transfer the sum of two thousand dollars (\$2,000) from the Lot Sale Fund to fund on-call coverage for Highway Staff during absence of Cemetery Administrator, and to act fully thereon. By request of the Cemetery Commission.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. TO FACILITATE CEMETERY ADMINISTRATION.

DEDICATE PARCEL FOR AFFORDABLE HOUSING

ARTICLE 41. To see if the Town will vote to dedicate Parcel G3-1 as shown on Assessors Map 53, containing approximately 9 acres for the construction of affordable housing. A positive vote on this article does not serve as an approval of any specific project, type of construction, or type of ownership. And further to authorize the Board of Selectmen to issue a Request for Proposals (RFP) to garner development concepts, one of which will be voted on at Annual Town Meeting in 2005, or at a prior Special Town Meeting. Public Hearings shall be held prior to the issuance of the RFP and throughout the RFP process, and to act fully thereon. By request of the Housing Committee.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. TO ASSIST TOWN IN MEETING NEED FOR AFFORDABLE HOUSING.

TRANSFER PARCEL TO HOUSING AUTHORITY FOR AFFORDABLE HOUSING

ARTICLE 42. To see if the Town will vote to transfer the care, custody, management and control of the land shown on Town of Harwich Assessors Map 113, Parcel X5 containing 0.61 acres, more or less, on Pleasant Bay Road, East Harwich to the Harwich Housing Authority for the construction of a single family affordable rental house to be constructed under existing zoning, and to act fully thereon. Said land to be transferred in fee simple determinable on condition that, should five years elapse from the date of transfer without commencement of construction of the rental unit pursuant to a valid building permit therefore, title to the land will revert to the town. By request of the Harwich Housing Authority.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. TO ASSIST TOWN IN MEETING NEED FOR AFFORDABLE HOUSING.

AMEND TOWN CHARTER

ARTICLE 43. To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for a special act providing that legislation be adopted amending the Town Charter, as follows; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court; and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition; or take any other action relative thereto. By request of the By-law/Charter Review Committee.

SPECIAL ACT:

An act relative to the Charter of the Town of Harwich

Section I. The Charter of the Town of Harwich, which is on file in the office of the archivist of the Commonwealth, as provided in Section 12 of Chapter 43B of the General Laws, is hereby amended by deleting the text of the charter in its entirety and substituting it with the following:

TOWN OF HARWICH

CHARTER

PREAMBLE

We, the people of the Town of Harwich, Massachusetts, in order to reaffirm the customary and traditional liberties of the people with respect to the conduct of local government and to take the fullest advantages inherent in the home rule amendments to the Constitution of the Commonwealth, do hereby adopt the following Home Rule Charter for this Town.

CHAPTER 1 TOWN INCORPORATION, FORM OF GOVERNMENT, AND POWERS

SECTION 1 Incorporation

1-1-1 The present Town of Harwich, within its territorial limits as now or as may hereafter be established by law, is hereby continued as a body corporate and politic with perpetual succession under the name: Town of Harwich.

SECTION 2 Form of Government

1-2-1 This charter provides for an open Town Meeting-Board of Selectmen-Town Administrator form of Town government, and it shall be known by the title: Harwich Home Rule Charter.

SECTION 3 Scope and Construction of Town Powers

1-3-1 The Town shall possess, exercise, and enjoy all powers possible under the Constitution and Statutes of the Commonwealth as completely and fully as though they were expressly enumerated herein.

SECTION 4 Construction of Charter

1-4-1 The powers of the Town under this charter shall be construed liberally in favor of the Town, and the specific mention of particular powers in the charter shall not be construed as limiting in any measure the general powers of the Town as stated in this chapter.

SECTION 5 Severability

1-5-1 If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of this charter to any person or circumstance is held invalid, the application of this charter and its provisions to other persons and circumstances shall not be affected thereby.

SECTION 6 Intergovernmental Relations

1-6-1 Consistent with the provisions of law, the Town may exercise any of its powers, perform any of its functions, or participate in the financing thereof, by contract or otherwise, jointly or in cooperation with any one or more municipalities, civil divisions, subdivisions, or agencies of the Commonwealth, other states, or the United States Government.

CHAPTER 2 TOWN MEETING

SECTION 1 Organization and Powers

2-1-1 The legislative powers of the Town shall be exercised by a Town Meeting open to all registered voters of the Town.

2-1-2 The Town Meeting shall consider and act upon all articles included in any Town Meeting Warrant with or without amendments.

2-1-3 The Town Meeting shall possess and may exercise all powers possible under general law.

SECTION 2 Warrants

2-2-1 Warrants for all Town Meetings shall be issued by the Board of Selectmen and opened and closed in accordance with the by-laws, Chapter I, Article 1, Part 1-101.

2-2-2 The warrant for any and all Town Meetings shall be published in a newspaper of general circulation within the Town at least fourteen days prior to the meeting, and shall be posted in a public place in every precinct in the Town at least fourteen days prior to any such meeting.

2-2-3 The Board of Selectmen shall be responsible for assuring that all registered voters receive, in a reasonable and timely manner, a copy of the warrant for any and all Town Meetings. Warrants shall continue to be provided to the voters upon check-in at any Town Meeting.

SECTION 3 Procedures

2-3-1 The annual Election of Town officers shall be called pursuant to Chapter 8, clause 8-1-1. The annual Town Meeting for transaction of other Town business shall be held the first Monday in May.

2-3-2 A special Town Meeting may be called by the Board of Selectmen, and shall be called by said board upon the request, in writing, of at least two hundred registered voters of the Town.

2-3-3 The quorum for the conduct of business for any Town Meeting shall be as provided by by-law.

2-3-4 In all procedural matters, the Town Meeting shall be governed by general law, this charter, or by-law.

SECTION 4 Initiative

2-4-1 By written petition to the Board of Selectmen, any ten (10) voters of the Town may secure the inclusion of an article in a warrant for the Annual Town Meeting, and at least one hundred registered voters may secure the same for any duly scheduled Special Town Meeting.

SECTION 5 Moderator

2-5-1 A Moderator, elected in accordance with clause 6-3-1, shall preside at all sessions of the Town Meeting.

SECTION 6 Simplified Rules of Procedure

2-6-1 Rules of parliamentary procedure in simplified form shall be prepared by the Moderator and shall be included in the Town Meeting warrants prepared for distribution to Town voters.

SECTION 7 Ad Hoc Committees

2-7-1 All *ad hoc* committees established by the Town Meeting shall be appointed by the Moderator, unless the motion establishing any such committee shall name the members, provide for their election, or provide for a different appointive authority.

SECTION 8 Articles Having Fiscal Implications

2-8-1 All proposed operating expenditures shall be included in a single, omnibus-type article in the Town Meeting warrant.

2-8-2 All articles involving an expenditure of Town funds shall be considered by the Finance Committee which shall issue a written recommendation on all such articles. The chairman of the committee, or a designated representative, shall be present at the Town Meeting to provide verbal explanations of the committee's recommendations.

2-8-3 Unless the article has been submitted by petition in accordance with clause 2-4-1, no article calling for the appropriation of funds shall be included in any special Town Meeting warrant unless the proposed expenditure has been recommended by the Board of Selectmen and the Finance Committee, acting separately at separate meetings.

SECTION 9 Compulsory Attendance

2-9-1 All Town officers, the chairmen of Town agencies, division directors, and department heads, or their duly designated representatives, shall attend sessions of the Town Meeting when proposals affecting their particular office, agency, division, department, or function are included in the warrant. The absence of any such persons shall not invalidate the actions of the Town Meeting.

CHAPTER 3 BOARD OF SELECTMEN

SECTION 1 The Board of Selectmen

3-1-1 A Board of Selectmen of five members shall be elected at-large for three-year overlapping terms.

3-1-2 Vacancies in the office of selectmen shall be filled by special election in accordance with the provisions of general law.

SECTION 2 Policy Leadership Responsibilities

3-2-1 Except as otherwise provided by this charter, all executive powers of the Town shall be vested in the Board of Selectmen. The Board of Selectmen shall have all of the powers and duties given to boards of selectmen under the Constitution and General Laws of the Commonwealth, and such additional powers and duties as may be authorized by the charter, by by-law, or by any other Town Meeting vote.

3-2-2 The Board of Selectmen shall cause the laws and orders for the government of the Town to be enforced and shall cause an up-to-date record of all its official acts to be kept.

3-2-3 The Board of Selectmen shall serve as the chief policy-making agency of the Town and, as such, shall not normally administer the day-to-day affairs of the Town, but shall instead regularly direct the Town Administrator to help it in carrying out its administrative duties, and make recommendations to the Town Meeting relating to actions required to be taken by that body.

SECTION 3 General Powers, Duties and Responsibilities

3-3-1 The Board of Selectmen shall have the power to enact rules and regulations establishing Town policies, not otherwise governed by general law, this charter, or by-law, provided, however, that whenever an appropriation shall be necessary to implement such action, the vote of the board shall be effective only if such appropriation has been authorized by Town Meeting.

SECTION 4 Powers of Investigation

3-4-1 The Board of Selectmen may conduct investigations and may authorize the Town Administrator or other agent to investigate the affairs of the Town and the conduct of any Town department, office, or agency, including any doubtful claims against the Town, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The report of such investigation shall be placed on file in the office of the Town Clerk, and a report summarizing such investigation shall be printed in the next Town Report.

SECTION 5 Specific Powers, Duties, and Responsibilities

3-5-1 The Board of Selectmen shall be recognized as head of the government for all ceremonial purposes.

3-5-2 The Board of Selectmen shall act as the licensing authority of the Town and shall have the power and responsibility required to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, and to attach conditions and impose such restrictions as it considers to be in the public interest, and further, to enforce, or cause to be enforced, the laws, rules and regulations relating to all businesses for which it issues licenses.

3-5-3 The Board of Selectmen shall have the authority to designate from time to time one or more of their members to sign warrants for the payment of Town funds in the absence of the Town Administrator as referenced in Clause 4-6-1. Such designation shall be in the form of a vote by a majority of the Board at a duly called and held Public Meeting which vote shall take effect as soon as a written copy thereof signed by a majority of the Board is filed in the Office of the Town Clerk, Town Accountant and Town Treasurer.

SECTION 6 Powers of Appointment

3-6-1 Except as may otherwise be provided by General Laws, this charter, or the Personnel By-law, the Board of Selectmen shall have the power to appoint and remove: a) a Town Administrator as provided in Chapter 4; b) a Town Counsel; c) a Town Accountant; d) a Police Chief; e) a Fire Chief; f) three Assessors for overlapping three-year terms; g) three members of a Board of Registrars of voters for overlapping three-year terms; h) Election Officers; and i) one or more Constables.

3-6-2 The Board of Selectmen shall also have the power to appoint policy-making Town agencies enumerated in Chapter 7 and such other agencies as may be in existence on the effective date of this charter and for whom no other method of appointment is provided in this

charter. Unless otherwise provided, the Board shall also appoint such other agencies as may be hereafter established by general law, charter, by-law, vote of the Town Meeting, or vote of the Board of Selectmen.

SECTION 7 Prohibitions

3-7-1 Except for the purpose of investigation authorized by this charter, the Board of Selectmen or its members shall deal with Town officers and employees who are subject to the direction and supervision of the Town Administrator solely through the Town Administrator and neither the board nor its members shall give orders to any such officer or employee, either publicly or privately.

3-7-2 Members of the Board of Selectmen shall be ineligible to serve as a member of any appointive Town agency.

3-7-3 Members of the Board of Selectmen shall be eligible to serve, to the extent permitted by law, as *ex officio* members of appointed and elected Town agencies.

CHAPTER 4 THE TOWN ADMINISTRATOR

SECTION 1 Appointment

4-1-1 The Board of Selectmen, by an affirmative vote of at least four members, shall appoint a Town Administrator for an indefinite term to serve at its pleasure.

4-1-2 In selecting a Town Administrator, the Board of Selectmen shall search for candidates by placing an advertisement in the International City Management Association Newsletter or similar professional publication and in at least two newspapers having statewide or regional circulation.

SECTION 2 Qualifications

4-2-1 The Town Administrator shall be appointed on the basis of educational, executive and administrative qualifications and experience. The educational qualifications shall consist of at least a bachelor's degree, preferably in public administration, granted by an accredited degree-granting college or university. The professional experience shall include at least five years of prior full time, compensated executive service in public or business administration. Alternately, two years or more of professional experience and a master's degree in an appropriate discipline shall qualify any applicant.

SECTION 3 Duties

4-3-1 The Town Administrator shall be the chief administrative officer of the Town and shall be responsible for administering and coordinating all employees, activities and departments placed by general law, this charter, or by-law under the control of the Board of Selectmen and of the Town Administrator.

4-3-2 He shall devote his full working time to the duties of his office; he shall not become a candidate for, or hold, any elective office during his term of appointment; and he shall not engage in any business activity during his term, except with the written consent of the Board of Selectmen. He shall:

- (a) Attend all meetings of the Board of Selectmen, except when excused, and have the right to speak but not to vote.
- (b) Assemble, prepare, and present to the Board of Selectmen the annual operating budget of the Town.
- (c) Develop and annually revise the Capital Outlay Plan in consultation with the Capital Outlay Committee.
- (d) Be responsible for seeing that the budget is administered and expended as adopted by the Town Meeting and in accordance with general law, this charter, and by-law.
- (e) Keep the Board of Selectmen informed regarding all departmental operations, fiscal affairs, general problems, and administrative actions, and to this end shall submit regular reports to the board.
- (f) Keep the board informed regarding the availability of state and federal funds and how such funds might relate to unmet short-range and long-range needs.
- (g) Have the authority to seek and apply for grants.
- (h) In the absence of a Personnel Director, be responsible for the day-to-day administration of the personnel system and by-law, and administer and enforce collective bargaining contracts, the Personnel By-law, and rules and regulations adopted by the Board of Selectmen.
- (i) Be responsible for the purchasing of services, supplies, materials, and equipment for all Town divisions, departments, and offices, excepting those for the School Department, the Water Department, and for the Brooks Free Library.
- (j) Coordinate, with the approval of the Board of Selectmen, the administrative activities of all Town agencies and officers concerned with the physical, economic, and environmental development of the Town.
- (k) Develop, keep, and annually update a full and complete inventory of all property of the Town, except school property, both real and personal.
- (l) Convene regular meetings of the management advisory team established by clause 5-3-3.

- (m) Negotiate collective bargaining contracts on behalf of the Board of Selectmen, unless the board shall have designated another negotiator.
- (n) Perform such other duties as may be required by this charter, by-law, or vote of the Board of Selectmen.

SECTION 4 Responsibilities for Appointments

4-4-1 Except as may otherwise be provided by General Laws, this charter, or the Personnel By-law, and subject to the approval of three or more affirmative votes of the Board of Selectmen, the Town Administrator shall have the power to appoint, on the basis of merit and fitness alone, and remove Division Directors, Department Heads, and an Assistant Town Administrator.

4-4-2 Except as may otherwise be provided by General Laws, this charter, the Personnel By-law, or collective bargaining, the Town Administrator shall also have the authority to appoint, on the basis of merit and fitness alone, and remove: a) all full-time Town employees; b) all part-time employees; c) all employees of appointed Town agencies; d) one or more inspectors; and e) all other full-time, part-time or seasonal employees. Any such appointments or removals may be overturned only by the affirmative vote of at least four Selectmen taken within fourteen days of the Town Administrator's action in initiating such appointment or removal.

SECTION 5 Responsibilities for Administrative Reorganization

4-5-1 The Town Administrator may, with the approval of the affirmative vote of at least three members of the Board of Selectmen, establish, reorganize, consolidate or abolish any division, department or position placed by this charter under his direction and supervision, except as otherwise provided by general law, this charter or vote of Town Meeting.

4-5-2 The creation of any new full-time, compensated position which requires the approval of the Board of Selectmen shall not become effective until the position has been funded by a vote of Town Meeting.

SECTION 6 Responsibilities for Disbursements

4-6-1 The Town Administrator shall have the authority to issue warrants for the payment of Town funds and his signature thereon will be sufficient authorization for payment thereof by the Town Treasurer provided, however, in the absence of the Town Administrator or in the event of a vacancy in said office, warrants may be signed by the person or persons designated by the Board of Selectmen in accordance with Clause 3-5-3 of Chapter 3, Section 5.

SECTION 7 Evaluation

4-7-1 The Board of Selectmen shall annually evaluate the performance of the Town Administrator. The board shall adopt a written set of procedures and criteria which shall form the basis for the evaluation.

4-7-2 A copy of the evaluation shall be provided to the Town Administrator.

SECTION 8 Removal

4-8-1 The Board of Selectmen, by the affirmative vote of at least three members, may initiate the removal of the Town Administrator by adopting a resolution to that effect, stating the reasons therefor, provided that no such resolution shall be adopted within ninety days following any town election that has resulted in a change in the incumbents on the board. The vote initiating removal shall be taken at a regular scheduled public meeting of the board and in open session.

4-8-2 The adoption of said resolution shall serve to suspend the Town Administrator for a period of not more than forty-five days during which the salary shall continue to be paid. A copy of such resolution shall be delivered forthwith to the Town Administrator in person, or sent by registered mail to his place of residence.

4-8-3 Within five days following the receipt of such resolution, the Town Administrator may file a written request for a public hearing. If such a hearing is requested, the board shall schedule it within two weeks, and it shall be held in a public place. At least seven days prior to the public hearing, the board shall advertise the hearing in a newspaper of local circulation and shall cause identical notices citing the purpose, location, time and date to be posted in the Town Hall and in three other places of public access within the Town.

4-8-4 The Moderator shall preside at any such hearing.

4-8-5 At any such hearing, the reasons for the removal shall first be read aloud. The Town Administrator shall then have the right to respond, either personally or through counsel. The Board of Selectmen and the Town Administrator shall have the right to call witnesses and to subpoena any and all Town records.

4-8-6 Final removal of any Town Administrator shall be effected by the affirmative vote of at least three members of the Board of Selectmen at a public meeting of the board held within seven days of such public hearing, if requested. If no hearing has been requested, final removal may be effected by an affirmative vote of at least three members, at a public meeting of the board held not earlier than fourteen days after the vote initiating the removal. The salary of the Town Administrator shall continue to be paid for a period of sixty days after the vote effecting removal from office.

4-8-7 The Town Administrator shall provide the Board of Selectmen with at least thirty days notice of an intended resignation, provided, however, that the board may, at its discretion, shorten or waive such requirement.

SECTION 9 Filling Vacancy

4-9-1 When a vacancy arises in the office of the Town Administrator, the Board of Selectmen shall advertise the vacancy as soon as possible. The board shall fill the vacancy as soon as reasonably possible.

SECTION 10 Assistant Town Administrator/Acting Town Administrator

4-10-1 The Assistant Town Administrator shall perform such duties as may be assigned by the Town Administrator and, from time to time as necessary, shall perform the duties of that officer. The Assistant Town Administrator shall be appointed in accordance with the provisions of clause 4-4-1.

4-10-2 The Board of Selectmen shall designate, within ten days, a Town employee, other person, or a member of the Board of Selectmen to exercise the rights and perform the duties of the Town Administrator during any vacancy caused by temporary absence, or suspension, or removal, resignation or death of the Town Administrator. The appointment shall be for a period not to exceed ninety days, and it may be renewed, in the case of suspension, removal, resignation, or death only once for an additional period not to exceed ninety days. The appointee shall be eligible for appointment as Town Administrator.

CHAPTER 5 TOWN ADMINISTRATIVE ORGANIZATION

SECTION 1 General

5-1-1 The administrative functions of the Town government shall be performed within the organizational framework of two or more divisions and several departments.

5-1-2 The divisions shall include: a Division of Finance; a Division of Highways and Maintenance; and such other divisions as shall be established in accordance with the provisions of clause 4-5-1.

5-1-3 The departments shall include; a Police Department; a Fire Department; a Planning Department; and such other departments as shall be established in accordance with the provisions of clause 4-5-1.

5-1-4 Responsibility for the functions administered within the several divisions and departments shall be vested in the Town Administrator unless otherwise provided by the general laws, this charter, or the by-laws.

5-1-5 Except as otherwise provided in this chapter, the Town Administrator, with the approval of the Board of Selectmen, shall designate those divisions to be supervised by a division director and those, if any, to be supervised by the Town Administrator. If the Town Administrator is designated to act as director of one or more divisions, he shall serve in such additional capacity without additional compensation.

5-1-6 With the approval of the Town Administrator, a division director, other than the Town Administrator, may designate himself as head of one or more departments within his respective division, but if so designated he shall serve in such additional capacity without additional compensation.

5-1-7 Employees or officers of the Town who are or may be designated as directors of divisions shall be appointed subject to the provisions of clause 4-4-1. Such persons shall plan, organize, schedule, coordinate, and budget the activities of the several departments placed by this charter or by administrative reorganization within a particular division.

SECTION 2 Division of Finance

5-2-1 The administrative functions of assessment, tax and fee collections, receipts and disbursements, purchasing, and others of a fiscal nature shall be carried out within a Division of Finance.

SECTION 3 Division of Highways and Maintenance

5-3-1 A Division of Highways and Maintenance shall be established under the direction of an appointed officer, to be known as the Director of Highways and Maintenance.

5-3-2 The division shall be responsible for: a) the construction, maintenance, repair, and cleaning of roads, highways, and streets; b) the collection, if any, and disposal of solid waste and the maintenance and operation of all facilities for the disposal of same; c) the preservation, care, maintenance, and improvement of all Town-owned cemeteries; d) the care and maintenance of public grounds, including parks; e) the planting, care and pruning of all shade trees growing on Town-owned land; f) the servicing, maintenance and repair of all automotive vehicles and vehicular equipment owned by the Town, except as otherwise determined by the Board of Selectmen or in cases of emergency; g) the repair and maintenance of Town-owned buildings; h) the care, maintenance, and cleaning of parking lots, public beaches, and of the land-side and grounds of Town harbors; and, i) such other public works functions as may be assigned by this charter or by-law.

5-3-3 A management advisory team shall be established within the division. The team shall include the Director of the Division, department heads, the Town Engineer, the Superintendent of the Water Department, and such other persons as may be appointed to the team by the Town Administrator. The team shall provide advice to the director on all matters relating to the functions of the division. Regular meetings of the team shall be held in accordance with the provisions of clause 4-3-2 subsection (l) of this charter.

SECTION 4 Police Department

5-4-1 A Police Department shall be established under a Chief of Police. The Board of Selectmen shall appoint the Chief of Police and such other officers as they deem necessary, as provided by Section 97A of M.G.L. Chap. 41.

SECTION 5 Fire Department

5-5-1 A Fire Department shall be established under a fire chief, who shall be appointed by the Board of Selectmen.

SECTION 6 Planning Department

5-6-1 A Planning Department shall be established under a Town Planner, who shall be appointed in accordance with the provisions of clause 4-4-1.

5-6-2 The Town Planner shall be professionally qualified for the duties of his office by reason of education, training and experience, and shall provide his services under the general policy direction of the Planning Board, subject to the day-to day supervision of the Town Administrator.

CHAPTER 6 ELECTED TOWN OFFICERS AND TOWN AGENCIES

SECTION 1 General Provisions

6-1-1 The officers and Town agencies to be elected by vote of the Town shall be: a Moderator, a Town Clerk, a Board of Selectmen as provided in Chapter 3, a School Committee, a Water Commission, a Board of Library Trustees, and a Housing Authority.

6-1-2 Town agencies established or continued under this chapter shall perform their functions and duties in accordance with the constitution, general law, this charter, and by-laws.

6-1-3 No member of any elected Town agency established or continued under this chapter shall be eligible to accept any appointed, paid position under any such agency. This prohibition shall apply to the term for which an office holder has been elected, and for one year following the expiration of said term of office.

SECTION 2 Vacancies

6-2-1 Except as otherwise provided, vacancies in elected Town agencies established or continued under this chapter shall be filled by the Board of Selectmen together with the remaining members of the respective board, in accordance with the provisions of the general law.

SECTION 3 Moderator

6-3-1 A Moderator shall be elected for a three-year term. The Moderator shall: a) preside at all Town Meetings; b) appoint the members of the Finance Committee; c) appoint *ad hoc* committees of the Town Meeting in accordance with clause 2-7-1; d) preside at any hearing called to discuss the suspension or removal of the Town Administrator; and e) annually attend at least three meetings of the Finance Committee.

SECTION 4 Town Clerk

6-4-1 A Town Clerk shall be elected for a three-year term.

6-4-2 The Town Clerk shall carry out such duties as are, and may be, provided by general law, this charter, by-law and by vote of the Town Meeting.

SECTION 5 School Committee

6-5-1 A School Committee of five members shall be elected at large for three-year overlapping terms.

6-5-2 The School Committee shall conduct a public hearing prior to submitting a budget to the Town Administrator. The committee shall have preliminary summaries of its recommendations available at said hearing which shall be distributed to those requesting them.

6-5-3 Except as otherwise voted by the Town, the School Committee shall be responsible for the maintenance and repair of all school buildings.

SECTION 6 Water Commission

6-6-1 A Water Commission of three members shall be elected for three-year overlapping terms.

6-6-2 The Water Commission shall possess and exercise all powers given to said board under Chapter 165 of the Acts of 1935.

6-6-3 The commission shall appoint a Water Superintendent, and shall request said officer to cooperate with, and be responsive to, requests emanating from the Town Administrator's office.

SECTION 7 Library Trustees

6-7-1 A board of Library Trustees of seven members shall be elected for three-year overlapping terms.

6-7-2 The board shall be responsible for the administration and operation of the Brooks Free Library, including staffing of professional library staff, acquisitions of books, journals, periodicals, and other materials relating to the library function, and the promulgation of library rules and regulations.

SECTION 8 Housing Authority

6-8-1 There shall be a Housing Authority of five members, one of whom shall be appointed under authority of the Commonwealth and four of whom shall be elected. The elected members shall serve five-year overlapping terms.

CHAPTER 7 APPOINTED TOWN AGENCIES

SECTION 1 Advertising of Vacancies and Appointing Town Agencies

7-1-1 To ensure a diverse citizen representation on all appointed Town agencies, the Board of Selectmen shall make a concentrated effort to seek out qualified persons from the entire Town when filling vacancies and year-round Harwich residents shall be given preference for appointment to any Town agency.

7-1-2 To further promote a maximum level of qualified, active, and interested citizen participation on appointed Town agencies, the Board of Selectmen shall advertise all vacancies and impending appointments. Said advertising shall enumerate the vacancies that are to be filled and shall solicit the submission of a Citizen Activity Record Form from persons willing and able to serve. Such advertisements shall be published in a newspaper of general circulation in the Town and shall be made once a week for a minimum of two (2) weeks after the vacancy arises.

7-1-3 The Board of Selectmen shall give careful consideration to statutory, regulatory and by-law requirements for appointments to Town agencies and shall consider any specific recommendations from the chairman of such agency when filling vacancies.

7-1-4 Prior to making appointments to the Finance Committee, the Moderator shall also make an effort to seek out qualified persons to serve and shall cause a notice to be published enumerating the vacancies to be filled and setting forth the location, time and date when the Moderator will be available to interview persons willing and able to serve. The advertising of vacancies on the Finance Committee shall also be published in a newspaper of general circulation in the Town and shall be made once a week for a minimum of two (2) weeks after a vacancy arises.

SECTION 2 General Provisions

7-2-1 Town agencies established by or continued under this chapter shall possess and exercise all powers given to them under the Constitution and Laws of the Commonwealth, and shall have and exercise such additional powers and duties as may be authorized by this charter, by-law, or vote of the Town Meeting.

7-2-2 All Town agencies of the Town shall; a) organize annually; b) elect necessary officers; c) adopt rules of procedure and voting; d) maintain minutes and records of attendance, copies of which shall be a public record and regularly filed with the Town Clerk; and e) nominate prospective employee(s) of their choice, who shall then be considered for appointment by the Town Administrator, as provided in clause 4-4-2.

7-2-3 All such Town agencies shall meet with the Board of Selectmen at least once in each year.

7-2-4 All such Town agencies shall conduct their meetings in accordance with the open meeting provisions of the Open Meeting Law.

7-2-5 Members of Town agencies established or continued under this chapter may receive such compensation for their services as may be authorized by the Town Meeting, unless prohibited by the General Laws of the Commonwealth. During the term for which a member is appointed and for one year following expiration of such term, no member of any appointed Town agencies shall be eligible to accept any paid position under any such agency.

7-2-6 Any person duly appointed to any such Town agency shall take up the duties of his office immediately upon taking the oath of office.

7-2-7 The unexcused absence, without good cause, of a member from four or more consecutive meetings of any such Town agency shall serve to vacate the office. When such a vacancy has been created, it shall be filled within thirty days, in accordance with general law or this charter.

7-2-8 Except as otherwise provided by the Laws of the Commonwealth of Massachusetts or elsewhere in this charter, a quorum of any Town agency established or continued under this charter shall consist of a majority of the members required to be appointed to that Town agency.

SECTION 3 Change in Composition of Appointed Town Agencies

7-3-1 The Town Meeting may, by by-law, enlarge or decrease the number of persons to serve as members of appointed Town agencies established or continued under this charter, provided, however, that all such agencies shall always consist of an odd number of voting members.

SECTION 4 Board of Health

7-4-1 A Board of Health of five members shall be appointed by the Board of Selectmen for three-year overlapping terms. One member, at least, shall be a doctor of medicine, or a person with significant experience in public health.

7-4-2 A Health Director shall be appointed by the Town Administrator, as provided in clause 4-4-1. The Health Director shall be subject to the day-to-day supervision of the Town Administrator within the scope of the general policy and direction established by the Board of Health.

SECTION 5 Planning Board

7-5-1 A Planning Board of (9) nine members and (2) two alternate members shall be appointed by the Board of Selectmen for three-year overlapping terms.

7-5-2 The Planning Board shall make recommendations to the Town Administrator and to the Board of Selectmen on all matters concerning the physical, economic, and environmental development of the Town.

7-5-3 The Planning Board shall be responsible for the development and periodic updating of a master plan or portions thereof. A summary of such plan(s) shall be submitted to the Town Meeting, which shall act thereon, with or without amendments.

7-5-4 After the summary has been acted on by the Town Meeting, the Planning Board shall utilize the plan in making zoning and other recommendations to the Town Meeting. The board shall report annually on the status of the master plan(s).

7-5-5 Whenever the Planning Board recommends proposed amendments to the zoning by-law, it shall provide explanations of its recommendations to the Town Meeting.

SECTION 6 Board of Assessors

7-6-1 A Board of Assessors of three members shall be appointed by the Board of Selectmen for three-year overlapping terms. One member, at least, shall be professionally qualified for the duties of the office.

7-6-2 The Deputy Assessor shall be subject to the day-to-day supervision of the Town Administrator within the scope of the general policy and direction established by the Board of Assessors.

SECTION 7 Conservation Commission

7-7-1 A Conservation Commission of seven members and two alternate members shall be appointed by the Board of Selectmen for three-year overlapping terms.

7-7-2 The Conservation Administrator shall be subject to the day-to-day supervision of the Town Administrator within the scope of the general policy and direction established by the Conservation Commission.

SECTION 8 Council on Aging

7-8-1 A Council on Aging of nine members shall be appointed by the Board of Selectmen for three-year overlapping terms.

7-8-2 The Director of the Council on Aging shall be subject to the day-to-day supervision of the Town Administrator within the scope of the general policy and direction established by the Council on Aging.

SECTION 9 Historical Commission

7-9-1 An Historical Commission of seven members shall be appointed by the Board of Selectmen for three-year overlapping terms.

SECTION 10 Recreation and Youth Commission

7-10-1 A Recreation and Youth Commission of seven members shall be appointed by the Board of Selectmen for three-year overlapping terms.

7-10-2 The commission shall develop and carry out programs designed to meet the opportunities, challenges and problems of youth in the Town of Harwich. It shall be responsible for the development of comprehensive, year-round, indoor and outdoor recreation programs and policies including management of beach and pond activities and properties. Such policies and

programs shall be designed to meet the recreational needs of children, youth, adults and the elderly.

7-10-3 The policies adopted by the commission shall be administered by the Director of Youth and Recreation who shall be subject to the day-to-day supervision of the Town Administrator within the scope of the general policy and direction established by the commission.

SECTION 11 Cultural Council

7-11-1 A Cultural Council of five members shall be appointed by the Board of Selectmen for three-year overlapping terms in accordance with the provisions of the General Laws of the Commonwealth. Members shall not be eligible to serve more than two consecutive terms.

SECTION 12 Zoning Board of Appeals

7-12-1 A Zoning Board of Appeals of five members and five associate members shall be appointed by the Board of Selectmen for three-year overlapping terms.

SECTION 13 Golf Committee

7-13-1 A Golf Committee of seven members shall be appointed by the Board of Selectmen for three-year overlapping terms.

7-13-2 The committee shall have full power and responsibility for the maintenance and operation of the municipal golf course.

7-13-3 The Director of Golf Operations, or employee having the general powers of supervision of the golf course shall be under the day-to-day supervision of the Town Administrator within the scope of the general policy and direction established by the Golf Committee.

SECTION 14 Waterways Committee

7-14-1 A Waterways Committee of seven members and two alternate members shall be appointed by the Board of Selectmen for three-year overlapping terms, and shall be advisory to that Board.

7-14-2 The Waterways Committee shall be responsible for the development of regulations for all waterways including marine ramps, docks, piers, moorings, and aquaculture.

7-14-3 The Harbormaster shall administer the policies adopted by the Board of Selectmen and shall be subject to the day-to-day supervision of the Town Administrator within the scope of the general policy and direction established by the Waterways Committee.

SECTION 15 Cemetery Commission

7-15-1 A Cemetery Commission of three members shall be appointed by the Board of Selectmen for three-year overlapping terms.

7-15-2 The Commission shall be responsible for the administration of cemetery funds, and shall develop policies for the management of Town-owned cemetery properties.

7-15-3 The policies adopted by the commission shall be administered by the Cemetery Administrator who shall be subject to the day-to-day supervision of the Town Administrator within the scope of the general policy and direction established by the Commission.

SECTION 16 By-law/Charter Review Committee

7-16-1 A By-law/Charter Review Committee of five members shall be appointed by the Board of Selectmen for three-year overlapping terms. The committee shall regularly review the by-laws of the Town and submit proposed revisions to the Town Meeting at least once every five years. In addition, the committee shall regularly review the charter and submit proposed amendments thereto to the Board of Selectmen in accordance with the provisions of Chapter 10, Section 2 of this charter.

7-16-2 The By-law/Charter Review Committee shall also be responsible for reviewing all articles proposing to change the by-laws or charter and all such articles shall be submitted by the Board of Selectmen to the By-law/Charter Review Committee not later than fourteen (14) days after the deadline for submission of articles.

SECTION 17 Historic District Commission

7-17-1 A Historic District Commission shall be appointed by the Board of Selectmen in accordance with the provisions of the General Laws as outlined in Article V of the by-laws.

CHAPTER 8 ELECTION AND RECALL

SECTION 1 Town Elections

8-1-1 The regular election for all Town officers who are chosen by ballot shall be held the third Tuesday in May. The warrant calling said election may include other ballot questions as determined by the Selectmen.

8-1-2 All general law provisions with regard to Town elections shall apply, except as may herein be provided by this charter.

SECTION 2 Town Elections to be Nonpartisan

8-2-1 All Town elections shall be nonpartisan, and election ballots shall be printed without any party mark or designation whatsoever.

SECTION 3 Eligibility of Town Voters

8-3-1 Any registered voter of the Town shall be eligible for election to any elective office or board of the Town.

SECTION 4 Time of Taking Office

8-4-1 Any person duly elected to any office or board shall take up the duties of his office immediately following his certification.

SECTION 5 Recall of Elective Officers

8-5-1 Any elective officer of the Town may be recalled and removed from office by the voters as herein provided. Any voter may file with the Town Clerk an affidavit signed and sworn to under the penalty of perjury containing the name and title of the elective officer whose removal is sought and a statement of grounds for recall. The Town Clerk shall thereupon deliver to the voter a sufficient number of copies of petition blanks demanding such recall. The blanks shall be issued by the Town Clerk, and shall contain the Town Clerk's official seal and signature. The petitions shall be dated and addressed to the Board of Selectmen, and shall contain the name of the person to whom they are issued, the name of the person whose recall is sought, the grounds for recall as stated in the affidavit, and shall demand the election of a successor to such office. For all elective officers, such petition must be signed by the qualified voters of the Town equal in number to at least twenty percent (20%) of those registered at the last regular Town Election. Such recall petition must be filed within fourteen (14) days following its initial date of issuance.

8-5-2 The Town Clerk and Board of Registrars shall, within seven (7) days following receipt of the petition, certify the names thereon. If the petition shall be found and certified by the Town Clerk to be sufficient, the Town Clerk shall without delay submit the same with a certificate to the Board of Selectmen. The Board of Selectmen shall forthwith schedule a recall election to be held not earlier than the 64th day from the date the election is called, and not later than the 90th day. Provided, however, that if the regular Town election or another special election shall be held within 100 days after the date of the certificate that a sufficient petition has been filed, and provided further that such election is at least 64 days from the date the election is called, the Board of Selectmen shall postpone the holding of the recall election to the date of such other election, and shall order the recall election to be held in conjunction therewith. All procedures for voting upon the recall question and filling any vacancy caused by the recall of an officer shall be in the same manner as provided by general law for the conduct of elections.

8-5-3 Any officer sought to be removed may be a candidate to succeed to the same office and, unless the officer requests otherwise in writing, the Town Clerk shall place the name of the officer on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections. The form of the question to be voted upon shall be substantially as follows:

“Shall (here insert the name and title of the elective officer whose recall is sought) be recalled? Yes _____ No _____”

Under the ballot question shall appear the word “Candidates” and the directions for voters as required by law, and below that shall be the names of candidates nominated.

8-5-4 If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected; provided, however, that at least twenty-five percent (25%) of those qualified to vote in the election shall have voted on the question of recall. If a majority of votes on the question of recall is in the negative, or less than twenty-five percent (25%) of those qualified to vote have voted on the question of recall, the ballots for the candidates shall not be counted.

CHAPTER 9 FINANCIAL PROVISIONS AND PROCEDURES

SECTION 1 Finance Committee

9-1-1 A Finance Committee of nine members shall be appointed by the Moderator for three-year overlapping terms. No member shall serve more than three consecutive terms. Any member who has been appointed for a period of at least two years to complete an unexpired term shall be deemed to have served a full three-year term and any member who has been appointed for a period of less than two years to complete an unexpired term shall be eligible to serve three consecutive three-year terms in addition to the period of the unexpired term.

9-1-2 Any person duly appointed to the Finance Committee shall take up the duties of the office on July 15 of each year.

9-1-3 Vacancies in the Finance Committee shall be filled by the Moderator within thirty days after he has been notified, in writing, of the vacancy on the committee. Any person appointed to fill out an unexpired term shall take up the duties immediately upon taking the oath of office.

9-1-4 No member of the Finance Committee shall hold any other elected or appointed Town office, except the Capital Outlay Committee.

SECTION 2 Submission of Budget and Budget Message

9-2-1 On or before the first day of October of each year, the Town Administrator shall present the Board of Selectmen with the current financial assessment of the Town including the latest estimated revenues for the ensuing fiscal year and any specific related fiscal data.

9-2-2 On or before the first Tuesday of October of each year, the Board of Selectmen, after consulting with the Town Administrator, shall issue a general policy statement to guide the Town Administrator in developing the budget requests for the ensuing year.

9-2-3 All division directors, department heads and Town agencies shall submit their budget requests to the Town Administrator on or before the first Friday in November of each year.

9-2-4 On or before the second Tuesday in January the Town Administrator shall submit to the Board of Selectmen a comprehensive budget for all Town functions for the ensuing fiscal year and shall submit to the Selectmen a budget message.

9-2-5 The budget message shall explain the budget both in fiscal terms and in terms of what specific projects are contemplated in the year ahead. It shall: a) outline the proposed financial policies of the Town for the ensuing fiscal year; b) describe the important features of the budget; c) indicate any major changes from the current year in financial policies, expenditures, and revenues, together with the reasons for such changes; d) summarize the Town's debt position; and e) include such other material as the Town Administrator may deem appropriate.

9-2-6 The budget shall provide a complete financial plan for all Town funds and activities and shall be in such format as the Finance Committee may suggest, provided the format suggested is compatible with commonly accepted standards of municipal budgeting. The budget shall indicate proposed expenditures for both current operations and capital projects during the ensuing fiscal year, detailed by divisions, departments, offices, and Town agencies.

SECTION 3 Action on the Proposed Budget

9-3-1 The Board of Selectmen and the Finance Committee shall meet jointly or severally in such budget hearings as are deemed necessary to adequately review the proposed budget of the Town Administrator.

9-3-2 On or before the first Tuesday in March of each year, the Board of Selectmen shall submit to the Finance Committee a budget which has been approved with or without amendments to the Town Administrator's proposed budget.

9-3-3 The Finance Committee shall conduct one or more public hearings on the proposed budget after it has been submitted to it by the Selectmen and by March 31 of each year shall submit its written recommendations on the budget and on all articles to appear in the Warrant. Said written recommendations shall be made available for distribution to the public at least ten (10) days prior to the scheduled date of Town Meeting. To assist in its preparation of recommendations, the committee may require the Town Administrator, the head of any division or department or any other Town officer or member of a Town agency to furnish it with appropriate data.

9-3-4 The Board of Selectmen shall present the budget to Town Meeting.

SECTION 4 Budget Adoption

9-4-1 The Town Meeting shall adopt the budget, with or without amendments, prior to the beginning of the fiscal year.

SECTION 5 Capital Outlay Committee

9-5-1 A Capital Outlay Committee of seven (7) members shall be appointed for three-year overlapping terms. Two (2) members shall be appointed by the Finance Committee, two (2) members shall be appointed by the Board of Selectmen, one (1) member shall be appointed by the Planning Board, and two (2) members shall be appointed by the Town Administrator.

9-5-2 The Capital Outlay Committee shall assist the Town Administrator in the development of the Capital Outlay Plan.

SECTION 6 Capital Outlay Plan

9-6-1 The purpose of the seven (7) year Capital Outlay Plan is to provide the Town with a long-range forecast of the Town's capital improvement needs, and to attempt to keep debt borrowing levels as even as possible from year to year.

9-6-2 A Capital Outlay shall be defined as the acquisition, construction, or renovation of buildings, equipment or land having a total cost of \$100,000 during any budget year and/or planning funds for any such capital outlays, except that the acquisition of land for conservation, open space, or watershed purposes is excluded from this definition.

9-6-3 The Town Administrator shall submit a seven (7) year Capital Outlay Plan which shall consist of the six (6) remaining years of the previously voted plan plus one (1) additional year as the seventh year of the plan, to a joint meeting of the Board of Selectmen and the Finance Committee, during the month of December of each year.

9-6-4 The Board of Selectmen shall hold a joint public meeting on the submitted Capital Outlay Plan with the Finance Committee and the Capital Outlay Committee on or before the second Friday in January.

9-6-5 The Board of Selectmen shall prepare articles to be included in the May Annual Town Meeting Warrant, seeking adoption of the seven (7) year Capital Outlay Plan, and funding of the current year of that plan.

9-6-6 A simple majority vote of the Town Meeting shall be required to adopt the seven (7) year Capital Outlay Plan as submitted.

9-6-7 Additions, revisions or amendments to the first six (6) years, as outlined in Section 9-6-3 above, of the submitted seven (7) year Capital Outlay Plan shall be done as amendments to the main motion adopting the plan, and shall require a two-thirds majority vote in order to pass.

9-6-8 If any part of the current year of the plan fails to receive funding at the Annual Town Meeting, the unfunded portion shall be dropped from the plan and may only return under the provisions previously set forth in Sections 9-6-3 or 9-6-7 above.

9-6-9 If any part of the current year of the plan receives funding support at the Annual Town Meeting but fails at any necessary Debt Exclusion, Capital Exclusion or Proposition 2 ½ override ballot votes, the unsupported portion shall be returned to the seven (7) year capital plan in year one (1) of the next seven (7) year plan, and will be subject to the provisions set forth in Section 9-6-7 above.

9-6-10 Any article included in an Annual or Special Town Meeting Warrant, which requests a Capital Outlay as defined in Section 9-6-2 above shall be considered an amendment to the Capital Outlay Plan and shall require a two-thirds majority vote in order to pass.

SECTION 7 Notice of Public Hearing on Capital Outlay Plan

9-7-1 The Finance Committee shall publish, in one or more newspapers of general circulation in the Town, the general summary of the Capital Outlay Plan and a notice stating: a) the times and places where copies of the Capital Outlay Plan are available for inspection; and b) the date, time, and place, not less than seven days following such publication, when the committee shall conduct a public hearing on said plan.

SECTION 8 Annual Audit

9-8-1 Prior to the end of each fiscal year, the Board of Selectmen shall retain a certified public accountant or a certified accounting firm to make an audit of all Town accounts, books, records, and transactions of every division, department, office and Town agency.

9-8-2 A copy of every auditor's report shall be filed with the Town Clerk, shall be a public record, and the entire report and a summary thereof shall be available for inspection at the office of the Town Clerk.

CHAPTER 10 ADDITIONAL PROVISIONS

SECTION 1 Continuation of Existing Laws

10-1-1 Except as specifically provided in this charter, all special laws, Town by-laws, votes, rules and regulations of or pertaining to the Town which are in force when this charter takes effect and which are not inconsistent with the provisions of this charter shall continue in full force and effect until amended or rescinded by due course of law or expire by their own limitation.

SECTION 2 Charter Amendment

10-2-1 This charter may be replaced, revised, or amended in accordance with the procedures made available by Articles eighty-nine and one hundred and thirteen of the amendments to the Constitution of the Commonwealth, commonly known as the Home Rule Amendments, and M.G.L. Chap. 43B, commonly known as the Home Rule Procedures Act.

SECTION 3 Definitions

10-3-1 Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in this charter shall have the following meanings:

- (a) *Ad Hoc* Committee. The words “*ad hoc* Committee” shall mean a committee appointed to carry out a specific task, at the completion of which it automatically ceases to exist.
- (b) By-laws. The word “by-laws” shall mean the General By-laws of the Town and shall not include the Zoning By-laws of the Town.
- (c) Certification. The word “certification” shall mean that person has been declared elected.
- (d) Charter. The word “charter” shall mean this Harwich Home Rule Charter and any amendments to it made through any of the methods provided under Articles eighty-nine and one hundred and thirteen of the amendments to the Constitution of the Commonwealth.
- (e) Commission. The word “Commission” shall mean any Town agency which has been charged with performing a specified function on behalf of the Town and which has such powers and performs such duties as are provided for in the General Laws. The term shall include Boards, Councils and any other Town agencies authorized to act under the authority of the General Laws.
- (f) Committee. The word “Committee” shall mean any Town agency which has been charged with performing a specified function on behalf of the Town but without statutory authority, except for the School Committee, Finance Committee and Capital Outlay Committee, which function under statutory authority.
- (g) *Ex Officio*. The words “*ex officio*” shall mean a member of a Town agency who may enter into discussions but who has no right to make motions or vote and is not counted in determining a quorum.
- (h) General Laws. The words “General Laws” shall mean the General Laws of the Commonwealth of Massachusetts.
- (i) He/His. The words “he,” or “his” or any other use of a masculine noun or pronoun in this charter shall include the feminine.
- (j) Majority Vote. The words “majority vote” shall mean a majority of those present and voting provided that a quorum of the body is present.
- (k) Officer. The word “officer” shall mean any individual elected or appointed to office.

- (l) Town. The word “Town” shall mean the Town of Harwich.
- (m) Town agency. The words “Town agency” shall mean any commission or committee of the town government consisting of two or more persons, whether appointed or elected.
- (n) Voters. The word “voters” shall mean the registered voters of the Town of Harwich.

Section 2. Notwithstanding the provisions of Chapter forty-three B of the General Laws or of any other general or special law to the contrary, actions taken by the Town in accordance with the provisions of the Town Charter as it existed prior to this Act are hereby validated, ratified and confirmed.

Section 3. Section one of this Act shall be submitted for acceptance to the voters of the Town of Harwich at an annual or special Town election in the form of the following question which shall be placed on the official ballot:

“Shall an Act passed by the General Court in the year 2004, entitled ‘An act amending the Charter of the Town of Harwich’ be accepted?”

If a majority of the votes cast in answer to the question is in the affirmative, section one of this Act shall take effect, but not otherwise.

Section 4. Sections two and three of this Act shall take effect upon passage.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

AMEND GENERAL BY-LAWS - PUBLIC AND PRIVATE WAYS

ARTICLE 44. To see if the Town will vote to amend the Town By-law by adopting the following new section; and to act fully thereon. By request of the Board of Selectmen.

Improvements to Private Ways
3-104

- 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 15th 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, 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 & Maintenance 48 hours in advance of each phase of the project and certify, in writing, to the Director of the Division of Highways & Maintenance that each phase of the project has been completed to the Project Manager's satisfaction. The Director of the Division of Highways & 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 B 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 by-law need not be brought up to full Town road standards. Any private way improved under the provisions of this by-law shall continue to remain a private way.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. TO CLARIFY PUBLIC AND PRIVATE WAYS BY-LAW.

AMEND GENERAL BY-LAWS – ANTI-NOISE REGULATIONS

ARTICLE 45. To see if the Town will vote to amend the Town By-Laws, Sections 4-807 and 4-808, entitled Anti-Noise Regulations – Penalty, by striking these sections in their entirety and inserting the following; and to act fully thereon. By request of the Board of Selectmen.

- 4-807 A. It shall be unlawful for any person or persons to cause or allow any noise which emanates from any building, boat, structure, vehicles or premises, which is plainly audible at a distance of one hundred and fifty (150) feet from any such building, boat, structure, vehicle or premises. The fact that the noise is plainly audible at a distance of one hundred-fifty (150) feet from the building, structure, vehicle, boat or premises in which or from which it originates shall constitute prima facie evidence of a violation of this section. Any person violating this shall be, first, issued a written warning. If such warning is ignored, the violator(s) shall be punished by a fine of one hundred and fifty dollars (\$150.00) for each offense. Each such act which constitutes a violation of this section, which either continues or is reported more than thirty (30) minutes after the

issuance of a warning to cease said activities, shall be considered a separate offense and shall be prosecuted as a separate offense in accordance with section 4-808.

B. Any person shall be deemed in violation of this by-law, who shall make or aid in, cause or suffer or countenance or assist in the making of the aforesaid and described improper noises, disturbance, breach of the peace or a diversion tending to a breach of the peace and the presence of any person or persons in or about the building, dwelling, boat or conveyance or any part thereof during a violation of this by-law shall constitute prima facie evidence that they are a countenancer to the violation. Any person violating this by-law shall be punished by a fine of one hundred and fifty dollars (\$150.00) for each offense. Each such act which constitutes a violation of this section, which either continues or is reported more than thirty (30) minutes after the issuance of a warning to cease said activities, shall be considered a separate offense and shall be prosecuted as a separate offense in accordance with section 4-808.

C. For the purpose of this by-law, noises which disturb the reasonable quiet, comfort, repose or health of others include: 1) loading or unloading activities, 2) use of power tools, 3) use of radios, 4) use of televisions, 5) use of amplifiers, 6) use of musical instruments, 7) use of lawn or landscaping equipment, 8) loud outcries, or 9) other loud or boisterous noises which are not specifically exempted by section 4-808 and which are plainly audible at a distance of 150 feet from their source between 10:00 p.m. and 7:00 a.m. as outlined in 4-807, sections A and B.

4-808

A. Procedure upon violation. It shall be deemed a breach of the peace and it shall be the duty of any police officer of this town to order any person or persons so acting as to violate the provisions of this by-law to cease any prohibited activities which are specified in 4-807, sections A, B and C, and if the person or persons so ordered does not forthwith obey, the officer may arrest said person(s) or the officer may issue a non-criminal citation for the violation.

B. Exemptions. The following uses and activities shall be exempt from the noise level regulations:

- 1) Noises of safety signals, warning devices and emergency pressure relief valves during public emergencies.
- 2) Noises resulting from any authorized vehicle(s) responding to an emergency call or acting in time of emergency.
- 3) Noises resulting from emergency and maintenance work performed by the town or its agents, by the state or by public utility companies or their agents.
- 4) Noises resulting from activities of a temporary duration permitted by law and for which a license or permit has been granted by the town.
- 5) Parades and public gatherings for which the Selectmen have issued a permit. Bells, chimes or carillons.
- 6) Noises for which a special permit has been granted by the Board of Selectmen under 4-808, section C.

- C. Application for Special Permit. Application for a permit for relief from the noise level designated in this chapter on the basis of undue hardship may be made to the Board of Selectmen. Any permit granted by the Selectmen shall set forth all conditions pertaining to the specified noise and a reasonable time limit for its abatement.

- D. Severability Clause. If any part of this by-law is deemed to be contrary to State or Federal law by the Attorney General, that part can be severed without affecting any other part of this by-law.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. TO ALLOW FOR BETTER ENFORCEMENT PROCEEDINGS.

AMEND ZONING BY-LAW - DEFINITIONS

ARTICLE 46. To see if the Town will vote to amend §II of the Harwich Zoning By-laws (Definitions) by making the following changes; and to act fully thereon. By request of the Planning Board.

- 1) Delete the existing definition for “Dwelling – Two Family” and replace it with the following:

A building containing two (2) dwelling units, whether side-by-side, over each other or in any other combination provided there is a common roof or a series of roofs connecting the dwelling units.

- 2) Delete the existing definition for “Hotel, Motel and Guest House Unit” and replace it with the following new definitions (in alphabetical order):

Hotel: A building or complex of buildings containing thirteen (13) or more units providing transient lodging, food and other related services within which access to the individual units is provided by common interior corridors. The individual units do not have cooking facilities.

Motel: A building or complex of buildings providing transient lodging accommodations with separate outside entrances for each unit. The individual units do not have cooking facilities.

- 3) Delete the existing definition for “Guest House” and replace it with the following:

Guest House: A building in which living space, with or without common cooking facilities is let for compensation to four (4) or less persons, but not including hotel or motel.

- 4) Delete the existing definition for “Home Occupation” and replace it with the following:

Home Occupation: A business, trade or profession, exclusive of real estate offices, firms or establishments, conducted in the proprietor’s legal residence or within an accessory building.

- 5) Delete the existing definition for “Sign” and for “Sign, Surface, Area of” and replace them with the following:

Sign: (Refer to Section VII)

Sign, Surface, Area of: (Refer to Section VII)

- 6) Add the following new definitions:

Access: the point from which one enters a property.

Accessory Building – Residential: A detached structure located on the same lot with the principal structure to which it is accessory, and not used for either seasonal or year-round living. Such structures include, but are not limited to, tool shed, boathouse, playhouse, shelter for domestic pets, private swimming pool and one private garage for not more than three automobiles.

Adult Entertainment: (Refer to Section XIII)

Agriculture Use: The commercial raising of agricultural crops and/or livestock, horticultural and floricultural products on the same lot or abutting lots in the same ownership. Necessary structures and storage of equipment used on the premises are included.

Animal Hospital: A place where animals or pets are given medical or surgical treatment by or under the supervision of a veterinarian and boarding is short-term care incidental to hospital use and care.

Animal Kennel, Commercial: A commercial establishment for the raising, boarding, breeding and/or training of small domestic animals (dogs, cats, etc.).

Animal Kennel, Residential: The keeping of more than four (4) small domestic animals as pets and not for commercial purposes.

Apartment(s) Incidental to Commercial: See Section X.G.11

Aquaculture Use: The science, art, and business of cultivating marine or freshwater food fish or shellfish such as oysters, clams, salmon, and trout, under controlled conditions.

Assisted Living Facility: A residential facility for the elderly or physically disabled that provides rooms, or individual apartments, meals, personal care, and supervision of self-administered medication. It may also have communal dining facilities and services such as housekeeping, organized social and recreational activities, transportation service, and other support services appropriate for the residents.

Automotive Service and Repair Facility: Any premises upon which the business of maintenance, serving, repair, or painting of vehicles is conducted or rendered, without the dispensing or sale of vehicular fuels.

Bed and Breakfast: A residence, where an owner/occupant in its home provides lodging and a morning meal to no more than five (5) transients for compensation.

Boat Storage: The commercial storage of boats and water crafts. This excludes repair and maintenance, sales and service. See Marine Use.

Church or Other Religious use: Any structure or use entitled to the religious exemption set forth in M.G.L. c.40A, §3.

Construction Industry: A premises, other than a construction site on which a building permit is issued, which is used by a building contractor or any other tradesman or landscaper, for the fabrication of subassemblies or the storage of supplies or equipment.

Educational – For-Profit: Any building or part thereof which is designed, constructed or used for education or instruction in any branch of knowledge.

Educational - Non-Profit: Any structure or use entitled to the education exemption set forth in M.G.L. c.40A, §3.

Filling Station: Any building, land area, or other premises, or portion thereof, used for the retailed dispensing or sales of vehicular fuels and oil.

Frontage: The boundary of a lot coinciding with a Road, Street or Way as defined in this by-law.

Hospice: A facility designed to provide a caring environment for supplying the physical and emotional needs of the terminally ill.

Hotel or Motel, Incidental Uses to: Uses, including but not limited to stores selling dry good, apparel and accessories, gifts, notions, photo supplies, personal and health care supplies, personal services, travel agency, car rental office, tennis courts, swimming pools, restaurant, private pool or beach club, which are incidental to a hotel or motel use.

Inn: A building or complex of buildings containing at least five (5) but no more than twelve (12) units providing transient lodging accommodations, and may include food service. The individual units do not have cooking facilities.

Institutional Use, Other: A public service use operated by a nonprofit corporation or organization which is not entitled to exemption from zoning requirements as set forth in M.G.L. c.40A, §3.

Lodging House: A building in which five (5) or more units, with or without cooking facilities is let for compensation on a long term transient basis, but not including hotel, inn or motel.

Manufacturing: A use involving the processing, assembling, or packaging of previously prepared or refined materials.

Marine Use: A commercial or industrial activity serving or deriving its nature from water crafts, including but not limited to boat repair or maintenance, sales and service of water crafts, motors, electronics, and other goods or services associated exclusively with water crafts. This may include dispensing of marine fuels. See Boat Storage.

Municipal Use: A use, whether in a structure and/or on a parcel of land, owned and/or operated by the Town of Harwich.

Nursing Home: a privately or publicly operated establishment providing maintenance and personal or nursing care for persons (as the aged or the chronically ill) who are unable to care for themselves properly.

Outside display for retail sales: The outdoor display of goods sold on the premises for retail sale, provided the goods are not located within required setbacks for the zoning district or in the public right-of-way.

Outside Storage: The open storage of construction, manufacturing, service wholesale equipment, materials, junk or heavy motorized equipment of any type or open storage of unregistered motor vehicles, automobiles or other vehicles.

Overlay District: a specifically delineated area that overlays an existing zoning district and provides for specific regulations and requirements. Overlay districts in Harwich include:

Drinking Water Resource Protection District – See Section X.G.2

Elderly Affordable Housing – See Section XII

Personal Wireless Service Overlay District – See Section XI

Six Ponds Special District – See Section XVII

Village Commercial Overlay District – See Section X.G.11

Parking Lot/Garage, Commercial: A structure or designated area used for the parking and storage of motor vehicles that is operated as a business and open to the public for a fee.

Personal Service Establishment: An establishment primarily engaged in providing services involving the care of a person or his or her apparel. These uses include, but are not limited to beauty shops, barbershops, shoe repair, etc.

Professional or Business Office: An office or place of business where professional or business services are offered and do not involve the sale of goods, or the keeping of a stock in trade.

Recreation and Amusement Services: Establishments engaged in providing amusement, entertainment, sports or leisure time activities or facilities for a fee or admission charge.

Repair Service, miscellaneous: Any premises upon which the business of maintenance, serving, repair, or painting of equipment or goods, other than motorized vehicles, is conducted or rendered.

Restaurant or Lounge: An establishment where food and drink is prepared served and consumed primarily on the premises.

Retail Sales: The selling of goods or merchandise to the general public and providing services incidental to the sale of such goods.

Scientific Research or Development: An activity or accessory activities that are necessary in connection with scientific research or scientific development or related production.

Self-Storage Facility: A building or buildings made up of smaller individual storage units for the keeping of goods and property for lease or rent and does not include outside storage on the premises.

Stable, Riding Ring – Commercial: The commercial housing of four (4) or more horses by means of rental of stalls and/or stables and/or the use of property for the purposes of horseback riding lessons, horse training and similar uses. It does not include the breeding of horses, which is considered an agricultural use.

Storage Trailers/Containers: A structure standing, which may be on wheels, that is towed or hauled by another vehicle and used for the storage of goods and/or equipment.

Warehousing: The storage of goods and materials by the owner of the goods or operated for a specific commercial establishment or group of establishment in a particular industrial or economic field which shall not include the bulk storage of nuclear or radioactive products and/or toxic waste chemicals. Such use may include the transportation of such goods or materials by motor freight.

Wholesale trade: A business or establishment primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers; or buyer merchandise for, or selling merchandise to, such individuals or companies.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

AMEND ZONING BY-LAW – USE REGULATIONS & SCHEDULES

ARTICLE 47. To see if the Town will vote to amend Section V of the Harwich Zoning By-Laws (Use Regulations and Schedules) as follows; and to act fully thereon. By request of the Planning Board.

1) Change existing subsections C, D and E to D, E and F and add a new Section V.C. as follows:

V.C. – Prohibited Uses in All Zoning Districts:

The following uses are strictly prohibited in all zoning districts.

1. Trailers used for dwelling purposes, when occupied on said premises.
2. Fast Food Restaurant.
3. Food sales with drive-up or drive through facilities.
4. Airport, landing strip and helicopter pad, except for emergency purposes.
5. Bituminous concrete or cement mixing plants or establishments.
6. Metal plating establishments.
7. Chemical and bacteriological laboratories.
8. Uses involving the storage of commercial fertilizers as defined in MGL c128, §64 unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
9. Non-residential uses involving the generation, storage, treatment or disposal of hazardous materials as defined in MGL c21E unless such storage is above ground level, on an impervious surface, and in an area that has a containment system designed and operated to hold either 10% of total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is larger.
10. Use involving the storage of animal manure unless said storage is in a manner consistent with all applicable state and local regulations relative thereto and as determined by the Board of Health.
11. The commercial raising or keeping, for use or sale, of swine or fur-bearing animals.

2) Amend Section V.F. (formerly V.E) to read as follows:

V.F. Table of Use Regulations: The Table of Use Regulations is divided into paragraphs, as follows:

- Paragraph I – Residential Uses
- Paragraph II – Public and Quasi-Public Uses
- Paragraph III – Agricultural and Related Uses
- Paragraph IV – Commercial Uses

And, delete in its entirety Table 1 and replace it with the following:

3) Add a new Section V.G as follows:

V.G. – Supplemental Regulations

1. A trailer, houseboat or other boat shall not be less than 25 feet from any street lot line and not used at any time for sleeping or living purposes.
2. Agricultural uses consistent with MGL c.40A, §3 are permitted by right on lots containing a minimum of five (5) acres. For lots less than five (5) acres, such agricultural uses shall be by special permit.
3. Animal hospitals and/or kennels and their activities, including the keeping of animals, shall be completely enclosed in pens or other structures.
4. The non-commercial raising and keeping of not more than two (2) pigs. Pigs and or swine shall be kept in an enclosure approved by the Board of Health, said enclosure shall be not less than 50 feet from any bound, boundary line or building used for human habitation in any residential zone, and in no case shall the keeping and raising of pigs and/or swine be permitted on any lot containing less than 40,000 square feet.
5. Horse(s) are allowable provided they meet the necessary requirements of the Board of Health. The horse(s) shall be owned by the owner/occupant of the property. There shall be no commercial use of the horse on-site, including, but not limited to riding lessons except for lots greater than 5 acres. Horses are allowable in the Water Resource Protection District with a special permit pursuant to Section X.G.2.
6. Automotive service and repair facilities shall not include a junk yard of any kind or open storage of unregistered vehicles.
7. Construction industry, including suppliers, shall store all equipment and materials within a building or buildings.
8. The storage for resale of heating fuels includes but is not limited to, oil, coal and gas.
9. Manufacturing is permitted per Table 1, provided that at no time will such use result in or cause: excessive dust, smoke, smog, observable gas, fumes or odors, or other atmospheric pollution, objectionable noise, glare, or vibration discernable beyond the property lines of the industry, hazard of fire or explosion or other physical hazard to any adjacent building or land, or to surface or groundwater.
10. Outside storage of materials and supplies displayed for retail sales on the premises, does not require screening. All other outside storage, including storage of construction, manufacturing, service wholesale equipment, materials, junk or heavy motorized equipment of any type or open storage of unregistered motor vehicles, automobiles or other vehicles shall be completely enclosed by a solid fence or wall not less than eight (8) feet nor more than twelve (12) feet in height or dense shrubbery, which when planted, individual plants are at least three (3) feet in height, with the exception of vehicular entrance and exits not to exceed twenty-four (24) feet in width. Said fence shall be set back a minimum of 15 feet from abutting road sidelines.
11. Miscellaneous repair services shall be conducted entirely within an enclosed building.
12. Storage trailers shall be screened from view at the lot frontage.
13. Yard sales shall not exceed three (3) such sales in any calendar year per property.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

AMEND ZONING BY-LAW – OFF STREET PARKING & LOADING

ARTICLE 48. To see if the Town will vote to amend Section IX of the Harwich Zoning By-law (Off Street Parking and Loading Requirements) by deleting the existing language and replacing it with the following; and to act fully thereon. By request of the Planning Board.

**SECTION IX
OFF STREET PARKING AND LOADING REQUIREMENTS**

9.1 Objective It is the intent of this section that adequate off-street parking and loading shall be provided to serve all parking demand created by new construction whether through new structures or additions to existing ones, or through change of use which creates higher parking demand.

9.2 Applicability Existing buildings, structures and land uses are not subject to these off street parking and loading requirements and may be rebuilt, changed or repaired, but not enlarged, altered or subject to a change in use so as to increase demand, without becoming subject to these requirements.

9.3 Off Street Parking Schedule

9.3.1 These standards are the minimum requirement. The Planning Board, under Site Plan Review, may vary the required number of spaces if the nature and scale of a proposed use warrants such a change. In determining the number of spaces required, only actual or delineated spaces shall be calculated. In the case of multiple uses on a single lot, the required number of parking spaces will be equal to the combined total of parking spaces for each use.

USE	PARKING SPACES
RESIDENTIAL USES	
Single Family Dwelling, Two Family Dwelling	2 spaces
Single Family Dwelling with Accessory Apartment, Multi-Family or Apartment Incidental to a Commercial (or Industrial) Use	1.5 spaces per unit
Home Occupation	1 per employee/apprentice or 2 per 400 s.f. of space dedicated to home occupation
Dormitory	1 per room
Lodging House, Hotel, Cottage Colony, Motel, Inn, Guest House, Bed & Breakfast	1.25 per guest room or suite
PUBLIC AND QUASI PUBLIC USES	
School, Municipal Building, Library, Charitable Institution or similar use	1 per employee, plus 1 per 3 seats in area of public assembly

Church, Assembly Hall, Club or Similar Place of Public or Semi-Public Amusement or Assembly	1 per 3 seats, plus 1 per classroom and office
Movie Theater	1 per 2 seats
Nursing Home and/or Personal Care Facilities	1 per 3 beds, plus 1 per employee max. shift
RECREATIONAL USES	
Standard Golf, Par-3, and Other Outdoor Recreational Uses including, but not limited to, amusement parks and other similar attractions	1 per employee max. shift, plus 1 per 3 patrons at max. capacity of facility as determined by the Building Commissioner
Golf Teaching Facility	1 per employee, plus 1 per student, max. capacity
Miniature Golf Course	1 per employee max. shift, plus 1 per 2 patrons at max. capacity of facility as determined by the Building Commissioner
Playing Fields (parking is per field)	1 per 2 players, plus 1 per 2 bleacher seats, plus 20 spaces
Public Swimming Pools	1 per employee max. shift, plus 1 per max. rated capacity for pool and any associated decks
Stable; Commercial or Riding School	1 per 2 stalls, plus 1 per employee max. shift, plus area for storing trailers
Indoor Recreational Uses, including, but not limited to, Tennis Clubs, Health Clubs	1 per employee max. shift, plus 2 per tennis court, plus 1 per 2 players for other court sport, plus 1 per three spectator seats
COMMERCIAL USES	
Auction Galleries, Gift Shops, Arts & Crafts, Antique Shops, General Merchandise, Apparel & Accessories, Other Retail Sales and Customer Service	1 per 150 s.f. of floor area dedicated to customer use or display, but not less than 70% of the total area
Food Stores and Supermarkets	1 per 200 s.f. customer area, plus 1 per employee max. shift

Furniture and Home Furnishings, Large Appliances, Lumber, Showroom or Other Retail Display of Large Items	1 per 700 s.f.
Restaurant, Lunchroom, Bar, Tavern, Private Club or Other Similar Use	1 per 4 seats including outdoor seating, plus 1 per employee max. shift
Establishments offering entertainment including public & private clubs and restaurant areas dedicated solely to entertainment	1 per 2 patrons max. capacity of facility as determined by the Building Commissioner, plus 1 per employee on max. shift
Medical Office	1 per employee max. shift, plus 1 per 2 seats in waiting room, plus, 1 per treatment room
Professional or Administrative Office, Bank or other Financial Institutions and General Business Office	1 per employee max. shift, plus 1 per 250 square feet of floor area
Funeral Home	1 per 2 seats maximum capacity of facility as determined by the Building Commissioner
Animal Hospital and Animal Kennel	1 per employee max. shift, plus 1 per 2 seats in waiting room, plus, 1 per treatment room
MOTOR VEHICLE OR BOAT – TRANSPORTATION USES	
Sales or Rental of Motor Vehicles	1 per 3,000 s.f. of indoor or outdoor vehicle or boat display area, plus 1 per employee max. shift
Filling Station Automotive Service and Repair Facility Automobile Service Station	1 per employee max. shift, plus 2 per service bay, including spray paint booth, plus 2 per 150 s.f. service waiting area, plus 1 per car stored overnight
Car Wash	1 per employee maximum shift
Other Transportation Uses	1 per employee max. shift, plus as determined by Site Plan Approval
Marina or Boat Yard Use	1 per employee max. shift, plus

1 per slip, or 1 space per dry storage capacity, whichever is greater, and 1 per each 2 moorings assigned to the Marina or Boat Yard

INDUSTRIAL, UTILITY AND OTHER USES

Light Industry and Manufacturing

1 per employee max. shift, plus
1 per 2,500 s.f. of floor area

Warehousing and Wholesale Trade

1 per employee max. shift, plus
1 per 1,000 s.f. floor area

Other Industrial

1.3 per employee max. shift, plus
1 per 200 s.f. Office Space

9.3.2 Parking company-owned vehicles - in addition to the requirements outlined above, 1 space will be required for each company-owned vehicle kept on the premises, including trailers and heavy machinery. The space provided must be of an adequate size to accommodate the equipment utilizing the space.

9.3.3 Loading Requirements - Every building herein after erected, altered, enlarged, or occupied for business, industrial or institutional purposes which has over five-thousand (5,000) square feet of gross building area shall provide a minimum of one (1) area for the loading and unloading of service vehicles. Loading and unloading areas shall be provided in addition to off-street parking spaces and shall not be considered as supplying required parking spaces. One additional area shall be provided for every additional twenty thousand (20,000) square feet of gross floor area in the building. Unless otherwise authorized by the Planning Board under Site Plan Review, loading and unloading areas shall be located in the rear of the building.

9.3.4 Location Requirements

9.3.4.1 Parking and loading areas and garages shall be provided on the same lot as the use they are required to serve, except as provided in Section 9.3.7.1.

9.3.4.2 No parking area/space shall be used for disposal containers (dumpsters). An additional area, outside, but adjacent to the parking area shall be required for each disposal container.

9.3.5 Design Requirements

9.3.5.1 A parking area or loading area shall be designed to provide for adequate backing and turning movements for the type of vehicle being maneuvered and to eliminate the need to back a vehicle out onto any public or private street or way, except that single-family residences and single-family residences with accessory apartments which front on other than a State maintained and/or designated roadway, may provide for backing out of vehicles.

9.3.5.2 Area and access driveways thereto shall be graded and drained so as to dispose of on-site all surface water accumulation on the site.

9.3.5.3 A substantial bumper of masonry, steel or heavy timber or a concrete curb or berm or curb, which is backfilled, shall be placed at the edge of paved parking areas, except driveways, in order to protect abutting structures, properties and sidewalks.

9.3.5.4 Any fixture used to illuminate a parking area shall be so arranged as to direct light away from the street and away from adjoining properties used for residential purposes.

9.3.5.5 There shall be no commercial repair of motor vehicles within the required parking or loading area.

9.3.5.6 There shall not be any storage of materials or equipment or display of merchandise within the required parking or loading area. In addition, there shall be no placement of outdoor seating within the required parking or loading area.

9.3.5.7 For any multi-family, commercial or industrial parcel of land, there shall be no more than two driveways per roadway frontage.

9.3.5.8 Any entrance or exit driveway shall not exceed twenty four (24) feet in width at its intersection with the front lot line, except that in any commercial or industrial zone, any entrance or exit driveway shall not exceed thirty (30) feet in width when measured in the aforesaid manner. Notwithstanding the foregoing, in any case where state regulations or requirements mandate a different driveway width or location, the provision of said regulations or requirements shall govern and supercede this provision. The radius of the access drive at the road shall be twenty-five (25) feet. The radius of any access road shall not extend beyond the property line of the property which it serves. The minimum distance between the sidelines of such drives and the sidelines of any intersection street and any other street access drive, measured between where such street and driveway sidelines intersect the adjacent street line shall be as follows:

TYPES OF DRIVE	FROM INTERSECTING STREETS	FROM OTHER DRIVES	FROM SIDE LOT LINE
Drives serving a dwelling	50	20	--
Drives serving a hotel or motel	50	50	--
Drives serving other permitted principal structures/uses in a:			
Residential District	50	50	10
Commercial District	50	50	10
Industrial District	50	50	10

9.3.5.9 No parking spaces shall be established in the right-of-way of any road or way except that the Town of Harwich may establish on-street parking spaces in accordance with the applicable provisions of State Law.

9.3.5.10 Parking and loading areas shall be graded, surfaced with a non-dusting material, drained and suitably maintained to the extent necessary to avoid the nuisance of dust or erosion. The parking lot shall be designed such that no surface water is allowed to flow onto streets or adjoining property. Access drives serving unpaved parking areas shall be constructed with a paved apron meeting the minimum construction requirements described below. Said apron shall extend from the paved road edge to the street line. Paved or unpaved parking areas containing more than five (5) spaces shall conform to construction requirements as follows:

Base - Two (2) feet of frost free material. Sub-base - Four inches (4") of gravel as the subbase plus two inches (2") of processed stone. Pavement - A minimum dept of asphalt

composed of one and one-half inch (1½") binder course plus one inch (1") top course after rolling or compacting. For all parking areas of five (5) or more parking spaces drainage systems serving the parking and vehicular access areas shall be designed in accordance with the Rational Method, or equivalent, based on a twenty-five (25) year storm frequency.

Calculations shall be made by using topographic maps for the entire drainage area, including those areas outside the site plan area. Copies of all drainage calculations shall be submitted with the Site Plans. Percolation tests shall be required at all proposed drainage locations (leaching areas). Subsurface leaching systems shall be utilized meeting the current Planning Board Subdivision Rules and Regulations standards.

In addition, all paved parking areas containing more than 5 spaces shall utilize a system of absorbent pillows or similar device to absorb vehicle fluids in runoff. This system will be maintained twice a year, with written proof of maintenance provided to the Planning Board.

9.3.5.11 Parking areas for passenger vehicles shall typically be laid out to meet the following design criteria:

	ANGLE SPACE LENGTH (in feet)	SPACE LENGTH (Perpendicular to aisle)	AISLE WIDTH (in feet)	TOTAL WIDTH (in feet)
45°	9	17.5	15	50
60°	9	19	18	56
90°	9	20	24	64

The above chart is for parking areas with double-loaded aisles. For single loaded aisles, subtract the space length from the total width. Aisle with for 45° and 60° are for one way directional flow patterns.

The Board, at its discretion, may allow the use of a maximum 2-foot overhang strip as part of the space length. This strip shall be solely designated for the purpose of vehicular parking and shall not be part of any walkway, planting area or front or side yard indicated in 9.3.4.2.

9.3.5.12 Parking and loading zone setbacks for all uses except single family, two family and single family with accessory apartment shall be as follows:

Parking Setbacks¹

Zone	Street	Sideline	Rear
RR, RM, RL, RH-1, RH-2, and RH-3	20	10	10
CV, CH-1 and CH-2	20	10	10
IL	15	5	5
MRL and MRL-1	50	50	50

¹No parking area containing more than four (4) spaces or a loading area shall be located within a required front yard, except that those buildings utilizing the provisions of section X.G.11 (Village Commercial Overlay District) shall not locate any parking within the front yard.

For commercial structures, wheel stops for parking spaces perpendicular to or at an angle to a structure shall be located so as to provide a clear area of 3 feet between the end of a vehicle parked in the space and the nearest structure.

9.3.6 Landscape Requirements

Unless otherwise authorized by the Planning Board on special permit under the site plan provision of this By-law all parking areas containing over five (5) spaces, including automobile service and drive-in establishments, shall be either contained within structures, or subject to the following:

9.3.6.1 The parking area shall be effectively screened on each side which adjoins or faces the side or rear lot line of a lot situated in any residential district or any lot used for residential purposes. The screening shall consist of a solid fence or wall not less than three (3) feet nor more than six (6) feet in height or a planting screen which shall be composed of shrubs which are planted in such a manner so as to effectively screen the parking area from view of the adjoining residential lot or lots. Such shrubs shall be evergreen varieties which are no less than three (3) feet in height upon planting. Either type of screening shall be at least two (2) feet from a non-street line and fifteen (15) feet from any street lot line, and all maintained in good condition. All planted materials shall be maintained in such a manner so as not to create an obstruction to motorists' vision of traffic and pedestrians.

9.3.6.2 Parking areas containing more than five (5) spaces shall include or be bordered within five (5) feet of the spaces by at least one (1) tree of three inch (3") caliper, measured six inches (6") off the ground for each five (5) spaces. Trees within parking area shall be in curb or berm protected plots of at least ninety (90) square feet per tree. No such protective plot shall be paved with any impervious material.

9.3.6.3 At least 10 (10%) percent of the interior area of any parking area containing twenty (20) or more parking spaces shall consist of landscaped islands which shall be composed of shrubs and trees and other landscaping materials. The interior area of a parking area shall be derived by computing the area within the general perimeter of contiguous area containing parking spaces, maneuvering areas behind the spaces and landscaping areas within such perimeter, except that required parking setback areas and required buffers shall not be included in the interior area computation.

9.3.7 Special Cases

9.3.7.1 Parking space may be provided on lots separate from a non-residential use they are to serve, and be credited to such use in meeting the requirements of this By-Law, provided they are legally available, are not designated as off-site parking for another use, and are within three hundred (300) feet of the principal structure, measured within street rights of way. Proof of legal availability shall be required and failure to retain the availability of such parking spaces for the need they are required to serve shall be sufficient cause to deny or revoke a Use Permit until such spaces are restored or replaced. When such parking spaces are part of town-owned and town-operated parking lots, the Planning Board shall determine availability based on Town need and the applicant shall not be required to furnish proof of such availability.

9.3.7.2 The number of parking spaces required for a multiple dwelling may, by Special Permit, be reduced to not less than one (1) per family for the duration of any special

occupancy upon Planning Board determination that sufficient area is available and will be retained to provide such otherwise required spaces.

9.3.7.3 No structure subject to site plan approval may be elevated to allow parking in the structure or open parking beneath the structure unless for each parking space so provided the site coverage is reduced by a minimum of three hundred twenty-five (325) square feet.

9.3.7.4 In certain cases the Planning Board may allow the applicant to delineate a number of parking spaces as a reserve area that is available to be constructed in the future as specified by the Planning Board. It is the responsibility of the applicant to provide documentation showing that the proposed use of the property does not require the number of spaces listed under Section 3.1.3. Plans shall incorporate and detail all design aspects of the reserve parking area.

As it is the intent of this special delineation to preserve as much of the site's natural state as possible, the proposed reserve area shall be dedicated for parking only. In any case in which the Board permits an applicant to create a reserve parking area, in lieu of development of the required parking area, then the Board shall require, as a condition of approval, that the resulting site plan special permit shall be reviewed on a periodic basis in order to monitor the adequacy of the constructed parking and the need to construct all or a portion of the reserve area. After such review, if appropriate, the Board may require that all or a portion of the reserve area be actually constructed.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

AMEND ZONING BY-LAW – NON CONFORMING STRUCTURES AND USES

ARTICLE 49. To see if the Town will vote to amend Section X.J of the Harwich Zoning By-law by deleting the existing language and replacing it with the following; and to act fully thereon. By request of the Planning Board.

J. NON CONFORMING STRUCTURES AND USES

1. Non-Conforming Structures

- A. A pre-existing non-conforming single or two family residential structure may be altered or extended by right if the Building Official determines that it meets the following criteria:
 - i. The proposed addition/extension will conform to current setbacks and coverage for the zoning district in which the existing structure and addition/extension are located, and
 - ii. The non-conformance concerns the size of the lot in question and/or the frontage of said lot and/or an encroachment of the existing structure

In addition, a pre-existing, non-conforming single or two family structure may be altered by right through the addition of a dormer or dormers if the Building Official determines that it meets the following criteria:

- iii. The proposed dormer or dormers do not increase the pre-existing non-conformance of the existing structure, and
- iv. The proposed dormer or dormers do not allow for any increase in the square footage of the single or two family dwelling, and
- v. The non-conformance concerns the size of the lot in question, and/or the frontage of said lot and/or an encroachment of the existing structure.

In making such determination, the Building Official, after identifying the particular respect or respects in which the structure or lot does not presently conform to the Zoning By-law, shall consider whether the proposed addition/extension meets the criteria stated above. If the Building Official determines that the addition/extension meets the criteria stated above, the Building Official may allow the addition/extension or rebuild by right.

B. If the Building Official determines that a proposed addition/extension to a non-conforming single or two family residential structure increases the non-conforming nature of the structure, the applicant may seek a new determination from the Board of Appeals. If the Board of Appeals determines that the alteration or extension will increase the non-conforming nature of the structure, no such alteration or extension may occur unless the Board of Appeals issues a special permit for alteration or extension after finding that the alterations or extension will not be substantially more detrimental to the neighborhood than the existing non-conformity. An addition/extension that increases the non-conforming nature of the structure would include:

- i. A structure built in the same footprint to an increased building height.
- ii. A structure built in the same footprint that does increase the habitable floor area.
- iii. A structure that continues along the same line as an existing encroachment without increasing that encroachment

C. A single or two-family residential structure is determined to be demolished and replaced if the area of the existing structure to be removed meets the definition of Demolition in this by-law.

D. A lawfully pre-existing non-conforming single or two-family residential structure may, by right, be demolished and replaced with a new structure on the same site, provided that:

- ii. The proposed new construction will conform to current setbacks and coverage for the zoning district in which the lot is located, and
- iii. The non-conformance concerns the size of the lot in question and/or the frontage of said lot

E. A lawfully pre-existing non-conforming single or two-family residential structure, may, by Special Permit, be demolished and replaced with a new structure on the same site, provided that it is determined by the Board of Appeals that:

- i. The replacement of the structure will not be substantially more detrimental to the neighborhood than the existing structure,

- ii. The replacement of the structure will not cause or contribute to any undue nuisance, hazard or congestion in the neighborhood, zoning district or Town, and
 - iii. The replacement structure will not increase the non-conforming nature of the structure as defined in B. above.
- F. A proposal to demolish and replace a single or two-family residential structure which will increase the non-conforming nature of the structure will require a variance from the Board of Appeals pursuant to Chapter 40A Section 10 of the Massachusetts General laws.
- G. A pre-existing non-conforming structure other than a single or two family residential structure may be altered or extended by right if the Building Official determines that it meets the following criteria:
 - i. The proposed addition/extension will conform to current setbacks and coverage for the zoning district in which the existing structure and addition/extension are located, and
 - ii. The non-conformance concerns the size of the lot in question and/or the frontage of said lot and/or an encroachment of the existing structure

All other non-conforming structures shall require a variance from the Board of Appeals pursuant to Chapter 40A Section 10 of the Massachusetts General laws for any alteration/extension, or reconstruction.

2. Non-Conforming Uses

- A. A lawfully pre-existing structure, whether conforming or not, used for a lawfully non-conforming use, may, by Special Permit, be altered/extended, or razed and replaced with a new structure on the same site, provided that it is determined by the Board of Appeals that:
 - i. The replacement, alteration or extension of the structure will not be substantially more detrimental to the neighborhood as is the existing structure,
 - ii. The replacement, alteration or extension of the structure will not cause or contribute to any undue nuisance, hazard or congestion in the neighborhood, zoning district or Town, and
 - iii. The replacement, alteration or extension structure will be used for the same use or for a conforming use.
- B. In no case shall a non-conforming use be changed to another non-conforming use.
- C. Notwithstanding the provisions hereof, non-conforming uses, actual use of which have been discontinued for a period of two (2) consecutive years shall be conclusively presumed to be abandoned and thereafter shall not be re-established, changed (except to a conforming use), or extended without a variance from the Board of Appeals.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

AMEND ZONING BY-LAW – AREA, HEIGHT & BULK REGULATIONS

ARTICLE 50. To see if the Town will vote to amend Section VI, D – Area, Height and Bulk Regulations/Further Regulations of the Harwich Zoning By-Laws by adding a new subsection as follows; and to act fully thereon. By request of the Planning Board.

16. A lot with the required legal frontage must take access along the required legal frontage. No alternate access may be granted from other streets, roads, or ways, nor should access be taken from an easement across an adjacent property without the issuance of a Special Permit from the Planning Board. In issuing a Special Permit, the Planning Board shall make the following findings:
 - a) The alternate access proposed is superior to the access along the frontage;
 - b) The proposed alternate access is cleared to a minimum of 16 feet in width and 16 feet in height; and
 - c) When access is proposed from an easement across another lot, the lot providing the easement will have the required legal frontage for the zoning district.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

AMEND ZONING BY-LAW – HARWICH CENTER OVERLAY DISTRICT

ARTICLE 51. To see if the Town will vote to Amend Section X.G of the Harwich Zoning By-Laws by adding a new subsection 14 – Harwich Center Overlay District, as follows; and to act fully thereon. By request of the Planning Board.

14. Harwich Center Overlay District

14.1 Purpose

The Harwich Center Overlay District enables the development and redevelopment of Harwich Center to be in keeping with its historic development patterns, including the size and spacing of structures and provision of open space. The redevelopment of existing structures will encourage them to come into compliance with current plumbing, electric and building codes, as well as the latest fire and handicapped access regulations.

14.2 Scope

Within the Harwich Center Overlay District, only property that is currently within the Commercial Village (CV) Zoning District in Harwich Center is permitted to utilize this section, with the following two exceptions. Property located on the southeast corner of the intersection of Sisson Road and Parallel Street, just east of Forest Street currently shown on Assessors Map 40 as Parcel Z5 and the parcel located at the southwest corner of the intersection of Bank Street and Parallel Street, currently shown on Assessors Map 41 as Parcel N4, are also permitted to utilize this section. All property owners, including the Town of Harwich, are required to locate the majority of structures on the street frontage portion of the property and to locate parking, septic and open space to the rear of the property.

The dimensional requirements, including building set backs, maximum site coverage and heights of these structures are outlined in Section 14.5 of this document.

This By-Law is intended to be used in conjunction with other regulations of the town, including site plan review and other by-laws designed to encourage appropriate and consistent patterns of village development.

Applicants, with the approval of the Board of Health, and other agencies as required are encouraged to utilize new and improved technologies for septic treatment and stormwater drainage purposes.

14.3 Location

The Harwich Center Overlay District is shown on the following map: Harwich Center Overlay District, October 2003, prepared by the Town of Harwich Planning Department. The Harwich Center Overlay District is bounded on the south by Parallel Street from Bank Street to Sisson Road, but including the parcel on the south side of Parallel Street at Bank Street (also shown on Harwich Assessors Map 41, as Parcel N4) and the parcel on the south side of Parallel Street at Sisson Road (also shown on Harwich Assessors Map 40, as Parcel Z5); the District is bounded on the west by Sisson Road, Route 39 (Main Street) and Route 124 (Pleasant Lake Avenue); the District is bounded on the north by Old Colony Way to the west boundary line of Parcel C4-B, on Assessors Map 41; the District is bound on the east by the west boundary line of Parcel C4-B, on Assessors Map 41, and the east boundary line of the Town of Harwich owned land (Parcel C302 and C5, on Assessors Map 41) and Bank Street to the south east corner of Parcel N4 at Bank Street.

14.4 Procedure

- a. The Planning Board shall serve as the Special Permit Granting Authority for developments within the Harwich Center Overlay District.
- b. Prior to the submission of an application for Special Permit under this by-law, the applicant may meet with the Planning Board at a public meeting for a pre-application conference to discuss the proposed development in general terms and establish the plan filing requirements. The Planning Board shall schedule a meeting for a pre-application conference following a written request from the applicant, inviting preliminary comments from the Board of Health, Conservation Commission, and any other interested officials or agencies. The purpose of this pre-application conference is to inform the Planning Board as to the nature of the proposed project. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Planning Board of the scale and overall concept of the proposed project and its relationship to abutting properties.
- c. Special Permit applications shall comply with and be subject to the requirements of Section X.K – Site Plan Approval.

14.5 Dimensional Requirements

- a. Setback requirements:

1. Front setback requirements shall be determined at the time of site plan review based on existing development patterns and the elements of the proposed project.
2. Side lot line setback shall be 10 feet.
3. Rear lot line setback shall be 10 feet
- b. Parking shall be permitted at the side or rear of the property.
- c. Maximum site coverage shall not exceed 80%.
- d. The maximum permitted height for new constructions shall not exceed 30 feet or 2½ stories.
- e. The Board may waive or modify these dimensional requirements if it finds that such waiver or modification will not substantially derogate from the purpose and intent of this By-Law and that such waiver or modification may be granted without substantial detriment to the neighborhood or overall public good.

14.6 Uses

Uses permitted by right or special permit for the under laying zoning district remain. However, the following additional use are allowable by Special Permit in the Harwich Center Overlay District, provided all other zoning requirements herein are met: Inn, Bed and Breakfast, and Lodging House.

And further to amend the Section II – Definition “Overlay District” by adding alphabetically the following: “Harwich Center Overlay District – See Section X.G.14”

And further to amend the Town Zoning Map to include the Harwich Center Overlay District.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

AMEND ZONING BY-LAW – CERTIFICATION OF DWELLING UNITS

ARTICLE 52. To see if the Town will vote to Amend Section X.G of the Harwich Zoning By-Law by adding a new subsection 15 – Certification of Dwelling Units, as follows; and to act fully thereon. By request of the Planning Board.

Zoning By-law Section X.G.15

15. Certification of Dwelling Units

- A. An accessory apartment or any dwellings in existence on the effective date of this by-law that were not in compliance with existing zoning when constructed may be granted a special permit from the Board of Appeals to allow the use to continue provided that any units (either the main or accessory unit or a number of units equal to the number not permitted) is deed restricted to remain Affordable as defined by the Department of Housing and Community Development for a period of 20 years, and that the Board of Appeals finds that the issuance of the special permit will not be detrimental to the

neighborhood. Prior to appearance before the Board of Appeals the dwelling in question must be inspected and found to comply with all building codes and Board of Health regulations.

- B. For the purpose of this section, any accessory apartment or dwelling being brought up to code within 60 days of the discovery of the violations will remain eligible for a special permit. Once the violations are corrected, if zoning violations are also present, an application for a special permit to the Board of Appeals is required, pursuant to X.G.9.A. above.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

DEFRAY EXPENSES – CHASE AND HARWICH PORT LIBRARIES

ARTICLE 53. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to help defray the expenses of the Chase Library and Harwich Port Library; said funds to be expended under the direction of the Board of Selectmen, and to act fully thereon. By request of the Board of Selectmen. Estimated cost: \$_____.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$22,730.00. VOTE 3 TO 2. TO GIVE \$100.00 EXTRA TO CHASE ON ITS 100TH BIRTHDAY AND TO PROVIDE ADDITIONAL LIBRARY SERVICES TO THE TOWN.

ESTABLISH AN AGRICULTURAL COMMISSION

ARTICLE 54. To see if the Town will vote to direct the Board of Selectmen to establish and charge an Agricultural Commission to represent the Town of Harwich’s agricultural community and interests, and to act fully thereon. By request of the Board of Selectmen.

The Selectmen and said Commission, once appointed, shall develop a work plan to guide its activities. Such activities shall include, but not be limited to, the following: serve as facilitators for encouraging the pursuit of agriculture in Harwich; promote agricultural-based economic opportunities in the Town; act as mediators, advocates, educators, and/or negotiators in an advisory capacity on farming issues for established town committees and departments; work for the preservation of agricultural lands currently owned by the Town; and pursue all initiatives appropriate to creating a sustainable agricultural community.

The Commission shall consist of seven members appointed by the Board of Selectmen. The terms shall stagger on three year intervals with the initial terms being; three members for three years, two members for two years; two members for one year, and three years thereafter.

Whereas; the Town currently owns substantial agricultural land;
Whereas; current Town committees are faced with agricultural issues;
Whereas; Town department heads are faced with agricultural sensitive decisions;

The creation of an Agricultural Commission will aide committees and departments along with the agricultural community to preserve, revitalize, and sustain farming as a vital part of the future of the Town of Harwich.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. TO PROVIDE AGRICULTURAL SUPPORT SERVICES.

SELL LAND ON HOLMES ROAD

ARTICLE 55. To see if the Town will vote to authorize and direct the Board of Selectmen to sell the land and buildings located on Holmes Road in Harwich, MA, shown as Lot 15 on a plan of land entitled "Subdivision Plan of Land in (East) Harwich, Massachusetts for Massachusetts Mortgage Co., Inc." dated August 24, 1962, recorded in the Barnstable County Registry of Deeds in Plan Book 173 Page 65 and being also shown as Parcel S6-15 on Harwich Assessor's Map 74, to the abutting land owner, Steven M. Eldredge, Trustee of the 990 Queen Anne Road Nominee Trust; and to authorize the Board of Selectmen to negotiate the sale of the land on such terms and conditions as the Board shall determine and to execute any and all instruments as may be necessary to accomplish the sale in accordance with Massachusetts General Laws, or to take any other action relative thereto. By request of the Board of Selectmen.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

ESTABLISH HOUSING TRUST FUND FOR AFFORDABLE HOUSING

ARTICLE 56. To see if the Town will vote to establish a Housing Trust Fund, under the control of the Board of Selectmen, to be used to support future affordable housing programs and to authorize the deposit of funds received pursuant to the terms of the lease agreement between the Town and Sprint Spectrum, L.P. to authorize the construction of a cellular antenna on Town-owned land on Route 137, to be deposited into said Trust Fund, and to act fully thereon. By request of the Board of Selectmen.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE INDEFINITELY POSTPONED. NOT SPECIFIC ON IMPLEMENTATION.

INCREASE RESIDENT BEACH STICKER FEE

ARTICLE 57. To see if the Town will vote to increase the resident beach sticker fee from \$5.00 to \$10.00 to increase Town revenues, and to act fully thereon. By request of the Recreation and Youth Commission.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

INCREASE NON-RESIDENT BEACH STICKER FEES

ARTICLE 58. To see if the Town will vote to increase the non-resident beach sticker fees as follows for the purpose of increasing Town revenues, and to act fully thereon. By request of the Recreation and Youth Commission.

Non-Resident Beach Sticker Fee Increases

Non-Resident One Week	from	\$25.00	to	\$40.00
Non-Resident Two Week	from	\$40.00	to	\$55.00
Non-Resident Season	from	\$50.00	to	\$75.00
Daily Red River – All Days	from	\$ 5.00	to	\$10.00
Daily Earle Road Beach	from	\$ 0.00	to	\$10.00
Daily Long Pond Beach	from	\$ 0.00	to	\$10.00

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 4 TO 1. TO INCREASE TOWN REVENUES.

ACQUIRE LAND OF MITCHELL

ARTICLE 59. To see if the Town will vote to authorize and direct the Board of Selectmen to acquire by gift, by purchase, by eminent domain or otherwise, for any of the purposes specified

in the Cape Cod Land Bank Act (Chapter 293 of the Acts of 1998, as amended by Section 211 of Chapter 127 of the Acts of 1999), all or a portion of the land owned by John C. and Joan P. Mitchell and located on Walkers Pond in East Harwich and shown on the Town of Harwich Assessor's Map 84 as Parcel A1 containing 5.4 acres, more or less, and also shown on a plan recorded in Barnstable Registry of Deeds Plan Book 278 Page 68 and further described in Barnstable County Registry of Deeds Book 7485 Page 313 and to raise and appropriate, or transfer from available funds, or borrow a sufficient sum of money for such acquisition; and, further, to authorize the Board of Selectmen and/or the Conservation Commission to file on behalf of the Town any and all applications deemed necessary for grants and/or reimbursement from the Commonwealth of Massachusetts deemed necessary under the Self-help Act (Chapter 132A, §11) and/or any others in any way connected with the scope of this article, and, further, to authorize the Board of Selectmen to negotiate the purchase of the land and to make the decision to enter into any agreement to purchase the land and to execute any and all instruments as may be necessary on behalf of the Town, including the grant of a conservation restriction, if required, or to take any other action relative thereto. By request of the Real Estate and Open Space Committee. Estimated cost: \$_____.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. TO ACQUIRE OPEN SPACE.

ACQUIRE LAND OWNED NOW OR FORMERLY BY THE ESTATE OF LAURA
FERNANDES AND/OR THE ESTATE OF LOUIS FERNANDES

ARTICLE 60. To see if the Town will vote to authorize and direct the Board of Selectmen to acquire by gift, by purchase, by eminent domain or otherwise, for any of the purposes specified in the Cape Cod Land Bank Act (Chapter 293 of the Acts of 1998, as amended by Section 211 of Chapter 127 of the Acts of 1999), all or a portion of the land located in Harwich owned now or formerly by the Estate of Laura Fernandes and/or the Estate of Louis Fernandes and being identified as Parcel F2 on Harwich Assessor's Map 59 containing .33 acres, more or less, Parcel F3 on Map 59 containing .73 acres, more or less, Parcel F1 on Map 59 containing 2.50 acres, more or less, Miscellaneous Parcel 2138000 containing 4 acres, more or less, Miscellaneous Parcel 6210000 containing 4.70 acres, more or less, Miscellaneous Parcel 6210001 containing 1 acre, more or less, Miscellaneous Parcel 6230000 containing 1 acre, more or less, Miscellaneous Parcel 6235000 containing .40 acres, more or less, Miscellaneous Parcel 6240000 containing 1.50 acres, more or less, Miscellaneous Parcel 6245000 containing 1.75 acres, more or less, Miscellaneous Parcel 6265001 containing .44 acres, Miscellaneous Parcel 18659001 containing .80 acres, more or less, and Parcel X1-C on Map 69 containing 1 acre, more or less; and further described in Barnstable County Registry of Deeds Book 5420 Page 60; Book 938 Page 598; Book 4040 Page 64; Book 695 Page 518; Book 2178 Page 270; Book 524 Page 200; Book 569 Page 409; Book 563 Page 523; Book 641 Page 67; Book 542 Page 187; Book 392 Page 326; Book 2855 Page 328; and to raise and appropriate, or transfer from available funds, or borrow a sufficient sum of money for such acquisition; and, further, to authorize the Board of Selectmen and/or the Conservation Commission to file on behalf of the Town any and all applications deemed necessary for grants and/or reimbursement from the Commonwealth of Massachusetts deemed necessary under the Self-Help Act (Chapter 132A, §11) and/or any others in any way connected with the scope of this article, and, further, to authorize the Board of Selectmen to negotiate the purchase of the land and to make the decision to enter into any agreement to purchase the land and to execute any and all instruments as may be necessary on behalf of the Town, including the grant of a conservation restriction, if required, or to take any other action relative thereto. By request of the Real Estate and Open Space Committee. Estimated cost: \$_____.

**THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE
ACCEPTED AND ADOPTED. TO ACQUIRE OPEN SPACE.**

DEFRAY EXPENSES OF THE HARWICH ATHLETIC ASSOCIATION

ARTICLE 61. To see if the Town will vote to raise and appropriate or transfer from available funds the sum of Three Thousand (\$3,000.00) Dollars to help defray the cost of the Harwich Athletic Association, Inc. in sponsoring the Harwich Town Baseball Team (Harwich Mariners) a member of the Cape Cod Baseball League and other community athletic events. Said money to be spent under the direction of the Board of Selectmen, and to act fully thereon. By Petition.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 3 TO 2. TO SUPPORT MARINERS BASEBALL TEAM.

PROMOTE TOWN OF HARWICH

ARTICLE 62. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money for the Harwich Chamber to promote the Town of Harwich. Said monies to be used for promotional publication pieces and advertisements touting the town to potential visitors, and to act fully thereon. By Petition.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE INDEFINITELY POSTPONED. INAPPROPRIATE USE OF TOWN FUNDS.

COMPENSATING BALANCE AGREEMENT

ARTICLE 63. To see if the Town will vote to authorize its Treasurer to enter into a compensating balance agreement or agreements with banking institutions for fiscal year 2005 pursuant to Chapter 44, Section 53F of the General Laws, and to act fully thereon. Customary article.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. CUSTOMARY ARTICLE.

LIABILITY TIDAL/NON-TIDAL RIVERS

ARTICLE 64. To see if the Town will assume the liability in the manner provided by Section 29 of Chapter 91 of the General Laws as amended by Chapter 516 and 524, Acts of 1950, for all damages that may be incurred by work to be performed by the Department of Public Works of Massachusetts, for improvement, development, maintenance and protection of tidal and non-tidal rivers, streams, harbors, tide waters, foreshore and shores along a public beach outside of Boston Harbor, including the Merrimack and Connecticut Rivers in accordance with Section 11 of Chapter 91 of the General Laws and to authorize the Selectmen to execute and deliver a bond of indemnity to the Commonwealth. Customary article.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. CUSTOMARY ARTICLE.

HERRING FISHERIES

ARTICLE 65. To see what action the Town will take in regard to the Herring Fisheries, and to act fully thereon. Customary article.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. CUSTOMARY ARTICLE.

UNPAID BILLS

ARTICLE 66. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to pay unpaid bills of prior years as provided for in Chapter 170 of the Acts of 1941 and to act fully thereon. By request of the Town Accountant. Estimated cost: \$_____.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

STABILIZATION FUND

ARTICLE 67. To see if the Town will vote to raise and appropriate or transfer from surplus revenue or available funds a sum of money to be added to the Stabilization Fund, and to act fully thereon. By request of the Board of Selectmen.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

SURPLUS REVENUE

ARTICLE 68. To see if the Town will vote to transfer certain unused balances of articles appropriated in past years to surplus revenue, and to act fully thereon. By request of the Board of Selectmen.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 5 TO 0. CUSTOMARY ARTICLE.

COMMONWEALTH OF MASSACHUSETTS
TOWN OF HARWICH
SPECIAL TOWN MEETING WARRANT
MAY 4, 2004

BARNSTABLE, ss:

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

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in elections and Town affairs to meet in the Community Center Gymnasium, 100 Oak Street in said Town on Tuesday, May 4, 2004 at 9:00 P.M., then and there to act on the following articles:

SUPPLEMENT FINANCE COMMITTEE RESERVE FUND ACCOUNT

ARTICLE 1. To see if the Town will vote to raise and appropriate, or transfer from available funds, a sufficient sum of money to supplement the FY '04 Finance Committee Reserve Fund Account, and to act fully thereon. By request of the Finance Committee. Estimated cost: \$_____.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 7 TO 0. TO PAY BILLS.

CHAPTER 90 ROAD MAINTENANCE

ARTICLE 2. To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sufficient sum of money to be reimbursed by funds made available by the Commonwealth of Massachusetts as the State's contribution for local road construction work under Chapter 90 of the General Laws, for FY 2005, and to act fully thereon. By request of the Director of Highways & Maintenance. Estimated cost: \$323,173.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE INDEFINITELY POSTPONED. UNCERTAIN OF STATE REIMBURSEMENT. VOTE 7 TO 0. ESTIMATED COST: \$323,173.00.

REPLENISH POLICE & FIRE CLAIMS TRUST FUND

ARTICLE 3. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to replenish the Police and Fire Claims Trust Fund in order to

pay certain medical bills related to police officer or fire fighter line of duty illness or injury, and to act fully thereon. By request of the Board of Selectmen. Estimated cost: \$_____.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 7 TO 0. TO PAY CLAIMS.

AMEND GENERAL BY-LAWS - CULTURAL COUNCIL

ARTICLE 4. To see if the Town will vote to amend the Town by-laws by striking Article IX, Council on Aging, in its entirety and inserting the following; and to act fully thereon. By request of the Cultural Council.

ARTICLE IX

Cultural Council

9-101 The Arts Council established by Charter provision 7-11-1 shall hereafter be named the Cultural Council and shall have nine (9) members.

9-102 To accomplish the expansion of the Council as provided in 9-101, the Selectmen shall appoint in accordance with Charter procedure four additional members to serve from July 1, 2004 to June 30, 2005. Thereafter, appointments shall be made for three-year overlapping terms.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 6 TO 1. TO EXPAND PARTICIPATION.

GRANT EASEMENT FOR SERVICES TO SUPPORT CELL TOWER IN EAST HARWICH

ARTICLE 5. To see if the Town will vote to authorize the Board of Selectmen to grant to Verizon New England, Inc. and Commonwealth Electric Company perpetual rights and easements for telephone and electric services to support the telecommunications facilities installed by Sprint Spectrum LLC on the land located at the intersection of Route 137 and Route 39 shown on Assessors Map 87 as Parcel J1 and known as the East Harwich Fire Station property, on such terms and conditions and for such consideration as the Selectmen may determine, which may be nominal consideration, or take any action relative thereto. By request of the Board of Selectmen.

THE FINANCE COMMITTEE RECOOMEDNS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 7 TO 0. TO PROVIDE POWER TO SUPPORT TELECOMMUNICATIONS FACILITIES.

FUNDS FOR AFFORDABLE HOUSING

ARTICLE 6. To see if the Town will vote to dedicate the proceeds from the sale of land on Great Western Road as voted by Annual Town Meeting as Article 55 of 1999 to the creation of affordable housing in the Town of Harwich, and to act fully thereon. By request of the Housing Committee.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE INDEFINITELY POSTPONED. VOTE 5 TO 2. PURPOSE OF ARTICLE IS UNCLEAR.

AMEND ZONING BY-LAWS – SIX PONDS SPECIAL DISTRICT

ARTICLE 7. To see if the Town will vote to amend Section XVII (Six Ponds Special District), 4.1 (Conditional Uses) by adding the following to the end of 4.1; and to act fully thereon. By request of the Planning Board.

Within the underlying commercial district:

1. Apartment(s) Incidental to Commercial

NO RECOMMENDATION PENDING FURTHER INFORMATION.

AMEND ZONING BY-LAWS
RECONSTRUCTION AFTER FIRE, NATURAL DISASTER OR ACCIDENT

ARTICLE 8. To see if the Town will vote to add the following language at the end of Section IV (Interpretation and Application) paragraph B (Application) to read as follows; and to act fully thereon. By request of the Planning Board.

Any lawfully nonconforming building or structure which has been damaged or destroyed by fire or other accident or natural disaster may be repaired or rebuilt to its original dimension, either in its original location or in a more conforming location, provided the owner shall apply for a building permit and start operations for restoring and rebuilding of said premises within eighteen (18) months after such catastrophe. Further, said reconstruction shall comply with all other applicable State laws and regulations and such construction shall be completed within thirty (30) months of the date of the catastrophe or such reconstruction must comply with the current Zoning By-law.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. VOTE 7 TO 0. TO HELP IN THE RECONSTRUCTION OF RESIDENCES AFTER CATASTROPHIC LOSS.

ESTABLISH REVOLVING FUND FOR SIDEWALK CONSTRUCTION

ARTICLE 9. To see if the Town will vote to establish a revolving fund for the purpose of funding sidewalk construction in the Town of Harwich, pursuant to Chapter 44, Section 53E ½ of the Massachusetts General Laws. Expenditure of funds will be under the jurisdiction of the Board of Selectmen with input from the Planning Board and Traffic Safety Committee. By request of the Planning Board.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE INDEFINITELY POSTPONED. VOTE 7 TO 0. INAPPROPRIATE METHOD OF SIDEWALK CONSTRUCTION.

ESTABLISH REVOLVING FUND FOR FIRE DEPARTMENT PERSONNEL

ARTICLE 10. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to fund a Harwich Fire Department Detail Revolving Fund for the purpose of paying Detail Pay for Fire Department personnel, and to act fully thereon. By request of the Fire Chief. Estimated cost: \$2,000.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$2,000.00. TO IMPROVE THE TIMING OF DETAIL PAY.

ACQUIRE LAND OF MARINI ON CHURCH STREET
EAST HARWICH AND ADJOINING LAND IN CHATHAM

ARTICLE 11. To see if the Town will vote to authorize and direct the Board of Selectmen to acquire by gift, by purchase, by eminent domain or otherwise, for any of the purposes specified in the Cape Cod Land Bank Act (Chapter 293 of the Acts of 1998, as amended by Section 211 of Chapter 127 of the Acts of 1999), all or a portion of the land owned now or formerly by Antonio Marini and Barbara B. Marini, and located on Church Street in East Harwich, MA and shown on the Town of Harwich Assessor's Map 75 as Parcel J3-2 containing 14.22 acres, more or less, and being also shown on a plan recorded in Barnstable County Registry of Deeds in Plan Book 299 Page 14 and the adjoining land located in the Town of Chatham and shown on the Chatham Assessor's Map 5I-7-TL, containing, 1.50 acres, more or less; said land being further described in Barnstable County Registry of Deeds in Book 2000 Page 243; and to raise and appropriate, or transfer from available funds, or borrow a sufficient sum of money for such acquisition; and, further, to authorize the Board of Selectmen and/or the Conservation Commission to file on behalf of the Town any and all applications deemed necessary for grants and/or reimbursement from the Commonwealth of Massachusetts deemed necessary under the Self-Help Act (Chapter 132A, §11) and/or any others in any way connected with the scope of this article, and, further, to authorize the Board of Selectmen to negotiate the purchase of the land and to make the decision to enter into any agreement to purchase the land and to execute any and all instruments as may be necessary on behalf of the Town, including the grant of a conservation restriction, if required,

or to take any other action relative thereto. By request of the Real Estate and Open Space Committee.

NO RECOMMENDATION PENDING FURTHER INFORMATION.

PRE-CONSTRUCTED RESTROOM FACILITY AT RED RIVER BEACH

ARTICLE 12. To see if the Town will vote to raise and appropriate or transfer from available funds a sufficient sum of money to place a pre-constructed restroom facility at Red River Beach, and to act fully thereon. By request of the Recreation and Youth Commission. Estimated cost: \$45,000.00.

THE FINANCE COMMITTEE RECOMMENDS THAT THIS ARTICLE BE ACCEPTED AND ADOPTED. ESTIMATED COST: \$45,000.00. VOTE 5 TO 0. TO PROVIDE RELIEF.

RESOLUTION TO PROTECT THE CIVIL LIBERTIES OF HARWICH RESIDENTS

To see if the Town will vote to adopt the following Resolution to protect the civil liberties of Harwich residents, and to act fully thereon. By request of the Board of Selectmen.

WHEREAS, in 1774 patriots of the Town of Harwich, including the North Parish now known as the Town of Brewster, joined with other Cape towns to block the opening of the September session of the King's Courts, Common Pleas and General Sessions, in Barnstable, in the first overt resistance on Cape Cod to the tyranny of King George III; and

WHEREAS, the Town of Harwich has a long and distinguished history of protecting and expanding civil rights and civil liberties; and

WHEREAS, the Town of Harwich has with gratitude for their supreme sacrifice memorialized those in the Armed Forces who have died in battle protecting these same cherished rights and liberties; and

WHEREAS, once again Massachusetts towns including Orleans, Eastham, Wellfleet, Provincetown and Brewster are joining in resistance to these Acts and are adopting resolutions to protect the rights of their residents; and

WHEREAS, the rights and liberties of the citizen and non-citizen residents of Harwich are enumerated in the Constitution of the Commonwealth and the United States, and the Bill of Rights; and

WHEREAS, the Constitutional protections of Harwich residents are threatened under provisions of the USA Patriot Act and various acts and executive orders which authorize or would authorize:

- detaining Harwich citizens and residents without due process, and denying their right to counsel;
- monitoring residents' telephone, Internet and library use, video rentals, book and grocery purchases, banking and medical records and other activities without evidence of criminal behavior and without court order;

- spying on domestic organizations without evidence of wrongdoing;
- secretly searching the homes of Harwich residents when they are absent;

THEREFORE, be it resolved that the good citizens of Harwich, acting in the spirit and history of our community, direct all local officials, and request all non-local officials in Harwich, in the absence of probable cause of criminal activity and to the extent legally permissible, to refrain from:

1. Participating in or cooperating with any inquiry, investigation, surveillance or detention which has not been judicially sanctioned;
2. Profiling based on race, ethnicity, citizenship, religion or political views.

And, be it further resolved that local law enforcement officials are directed, to the extent legally permissible, to report to the Board of Selectmen regularly and publicly all their actions under the cited and allied laws and executive orders;

And, be it further resolved that the Harwich Town Clerk shall communicate this Resolution to all town departments, to all federal, state and local law-enforcement officials within the town, the Governor of Massachusetts, the President and Attorney General of the United States, and the Massachusetts Congressional delegation; and ask that the delegation act to repeal such provisions of the cited and allied laws and executive orders as violate and protections of the Massachusetts and U.S. Constitutions.

Finally, BE IT RESOLVED that if any part of these provisions or their applicability is declared invalid by a court of competent jurisdiction, that part shall be severable and the remainder shall remain in full force and effect.

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