

# ANNUAL TOWN MEETING “DOINGS”

**May 10, 2010**

The Annual and Special Town Meetings were held on Monday, May 10, 2010 in the Nauset Regional Middle School Gym. The Annual Town Meeting was opened at 6:40 p.m. by Moderator, Duane Landreth when a quorum of 200 voters was announced by Town Clerk, Cynthia May. There were 456 voters in attendance. Tellers sworn in were: Wally Swidrak, John Hodgkinson, Ken Mayo and Patricia Bradley. Constables on duty were John Fitzpatrick and Mary E. Stevens.

Board of Selectmen Chair, Jon Fuller announced the Selectmen’s annual Good Citizenship Award recipient: Paul W. O’Connor. Mr. Fuller presented the citation and clock and recognized Mr. O’Connor for his noteworthy service to the Town. Barbara O’Connor accepted the award for her late husband.

## **PROCEDURAL MOTION**

Mr. Fuller made a motion to dispense with the reading of the Warrant except the Preamble, Conclusion and Attestation thereof.

**ACTION:** Voted, voice vote carries unanimously.

## **PROCEDURAL MOTION**

Mr. Fuller made a motion that all Town Officials or department managers or their duly designated representatives, required to attend Town Meeting pursuant to Section 2-7-3 of the charter, and Richard Hoffman, Nauset Regional School District Superintendent, and Hans Baumhauer, Nauset Regional School District Business Manager, and Daniel Connolly, Tree Warden, and Mary Corr, Orleans Chamber of Commerce Executive Director, who are not residents of the Town of Orleans, be permitted to address the Town Meeting on matters affecting their office, department or organization, or projects for which they have performed services for the Town.

**ACTION:** Voted, voice vote carries unanimously.

## **PROCEDURAL MOTION**

Mr. Fuller made a motion, In accordance with Section 2-1-2 of the Charter, that Francesca Bignami, a non-voter, who is not a resident of the Town of Orleans, be permitted to address the meeting with respect to Article 26 of the Annual Town Meeting.

**ACTION:** Voted, voice vote carries unanimously.

## **PROCEDURAL MOTION**

Mr. Fuller made a motion to adjourn the Annual Town Meeting until the close of the Special Town Meeting.

**ACTION:** Voted, voice vote carries unanimously.

**The Special Town Meeting was opened at 6:44 p.m.**

## **PROCEDURAL MOTION**

Mr. Fuller made a motion to dispense with the reading of the Warrant except the Preamble, Conclusion and Attestation thereof.

**ACTION:** Voted, voice vote carries unanimously.

## **PROCEDURAL MOTION**

Mr. Fuller made a motion that all Town Officials or department managers or their duly designated representative, required to attend Town Meeting pursuant to Section 2-7-3 of the charter all of whom are not residents of the Town of Orleans be permitted to address the Special Town Meeting on matters affecting their office or department.

**ACTION:** Voted, voice vote carries unanimously

## **ARTICLE 1. PAY BILLS OF PRIOR YEARS**

To see if the Town will vote to transfer from available funds a sum of money to pay bills of prior years under the provisions of Chapter 179, Acts of 1941, as amended, or to take any other action relative thereto. (9/10 Vote Required)

**MOTION:** To accept and adopt Article 1 and that the sum of Five Hundred Seventy-Four and 11/100 Dollars (\$574.11) be transferred from available funds to pay the following unpaid bills:

<u>Vendor</u>	<u>Amount</u>
Election Systems & Software Inc.	\$444.16
Comcast	\$103.95
Great America Leasing Co.	\$26.00

**ACTION:** Voted, voice vote carries unanimously

## **ARTICLE 2. TRANSFER ARTICLE**

To see if the Town will vote to transfer from available funds and/or authorize the transfer from various line items within current appropriations, such sums of money as necessary to supplement the operating budgets of the various Town departments for Fiscal Year 2010 as follows:

- 1) Transfer a sufficient sum of money from the Ambulance Receipts Reserve for Appropriation Account and the Insurance Recovery Account to the Fire/Rescue Department Overtime Salary Account.
- 2) Transfer the sum of Twenty Five Thousand and 00/100 Dollars (\$25,000.00), or any other sum, from the Water Surplus Fund to the Site Improvements Expense Account.
- 3) Transfer a sufficient sum of money from the Parks & Beaches Salary Account to the Parks & Beaches Expense Account.
- 4) Transfer the sum of Three Thousand Five Hundred Dollars (\$3,500.00), or any other sum, from the Community Building Expense Account to the Community Building Salary Account. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 2 and that the following transfers be made from available funds for the purpose(s) set forth in the article.

- 1) Transfer the sum of Sixty-Six Thousand and 00/00 Dollars (\$66,000.00) from the Ambulance Receipts Reserve for Appropriation Account and the sum of Twenty Thousand and 00/100 (\$20,000.00) from the Insurance Recovery Account to the Fire/Rescue Department Overtime Salary Account.
- 2) Transfer the sum of Twenty Five Thousand and 00/100 Dollars (\$25,000.00), from the Water Surplus Fund to the Site Improvements Expense Account.
- 3) Transfer the sum of Thirty-Three Thousand and 00/100 Dollars (\$33,000.00) from the Parks & Beaches Salary Account to the Parks & Beaches Expense Account.

- 4) Transfer the sum of Three Thousand Five Hundred Dollars (\$3,500.00) from the Community Building Expense Account to the Community Building Salary Account.

**ACTION:** Voted, voice vote carries unanimously.

### **ARTICLE 3. TRANSFER FUNDS FOR POLICE STATION HVAC REPAIRS**

To see if the Town will vote to transfer from available funds a sufficient sum of money to make repairs to the HVAC system at the police station, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 3 and that the sum of Twelve Thousand Seven Hundred Ninety-Four and 85/100 Dollars (\$12,794.85) be transferred from the balance on hand from Article 9 (police station design) of the May 9, 2005 Special Town Meeting to Article 4 (police station renovation construction) of the October 23, 2006 Special Town Meeting for this purpose.

**ACTION:** Voted, voice vote carries unanimously.

### **ARTICLE 4. TRANSFER FUNDS FOR REPLACEMENT OF ELDREDGE FIELD LIGHTS**

To see if the Town will vote to transfer from available funds a sufficient sum of money to replace the Eldredge Field lights, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 4 and that the sum of Six Thousand Five Hundred Seventy-Five and 00/100 Dollars (\$6,575.00) be transferred from free cash for this purpose.

**ACTION:** Voted, voice vote carries unanimously.

### **ARTICLE 5. TRANSFER FUNDS FOR MARINE CORPS BAND CONCERT**

To see if the Town will vote to transfer from available funds the sum of Three Thousand and 00/100 Dollars (\$3,000.00) for the purpose of funding a future Marine Corps Band concert, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 5 and that the sum of Three Thousand and 00/100 Dollars (\$3,000.00) be transferred from free cash for this purpose.

**ACTION:** Voted, voice vote carries by the necessary majority.

## **ARTICLE 6. AUTHORIZE INTERGOVERNMENTAL AGREEMENTS RELATED TO RENEWABLE ENERGY PROJECTS**

To see if the Town of Orleans will authorize its Board of Selectmen to enter into one or more intergovernmental net metered power sales agreements not to exceed a term of twenty-five years on behalf of the Town with the Cape & Vineyard Electric Cooperative, Inc. in substantially the form of the draft "Intergovernmental Cooperative/General Member Net Metered Power Sales Agreement" on file in the Town Clerk's Office, as may be revised as necessary on such terms and conditions as the Board of Selectmen deem appropriate; or take any other action relative thereto, provided that such intergovernmental agreement(s) do not exceed a term of twenty-five years.

(Simple Majority Vote Required)

**MOTION:** That Article 6 be referred back to the Board of Selectmen for the development of further information and study.

**ACTION:** Voted, voice vote does not carry by the necessary majority.

**MOTION:** (By Kevin Galligan) To accept and adopt Article 6 as printed in the warrant.

**ACTION:** Voted, voice vote carries by the necessary majority.

## **ARTICLE 7. ACQUIRE LAND OWNED BY G.R.B.S. CORPORATION ON BEACH ROAD AND HUBLER LANE, EAST ORLEANS, MA**

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 general municipal purposes, the land located on Beach Road and Hubler Lane, East Orleans, MA, being Lot A, containing 1.68 acres  $\pm$ , Lot 1 containing .94 acres  $\pm$ , Lot 2 containing 1.02 acres  $\pm$ , Lot 3 containing 1.08 acres  $\pm$ , and Lot 4 containing .93 acres  $\pm$ , as more particularly shown on a plan entitled "Definitive Subdivision Plan land in Orleans, Mass. prepared for Elizabeth O. Hubler" dated April 29, 2002, and recorded in the Barnstable Registry of Deeds in Plan Book 576 Page 5, including a portion of a 30-foot way shown as Hubler Lane on said plan, together with a right of way over the 30-foot way between said land and Smith Neck Road; said land being more particularly described in the deed recorded in the Barnstable Registry of Deeds in Book 21908 Page 350 and Book 21400 Page 345; said lots are also shown on the Orleans Assessor's Map 38 as Parcels 16-6, 16-1, 16-2, 16-3 and 16-4; and to raise and appropriate or transfer from available funds, or borrow a sum of money for such acquisition, provided, however, that no funds, shall be borrowed hereunder unless the Town shall have voted at an election to exempt the amounts required to pay for the bond from the limitations of Proposition 2 ½ so-called, if required; and, provided that such land shall be under the control of the Board of Selectmen for general municipal purposes, 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, or to take any other action relative thereto.

(3/4 Vote Required)

**MOTION:** To accept and adopt Article 7 and that the sum of Four Million Two Hundred Thousand and 00/100 Dollars (\$4,200,000.00) be appropriated for the purpose of purchasing and/or taking by eminent domain, for general municipal purposes, the land located on Beach Road and Hubler Lane, East Orleans, MA, being Lot A, containing 1.68 acres  $\pm$ , Lot 1 containing .94 acres  $\pm$ , Lot 2 containing 1.02 acres  $\pm$ , Lot 3 containing 1.08 acres  $\pm$ , and Lot 4 containing .93 acres  $\pm$ , as more particularly shown on a plan entitled "Definitive Subdivision Plan of land in Orleans, Mass. prepared for Elizabeth O. Hubler" dated April 29, 2002, and recorded in the Barnstable Registry of Deeds in Plan Book 576, Page 5, including a portion of a 30-foot way shown as Hubler Lane on said plan, together with a right of way over the 30-foot way between said land and Smith Neck Road; said land being more particularly described in the deed recorded in the Barnstable Registry of Deeds in Book 21908 Page 350 and Book 21400 Page 345; said lots are also shown on the Orleans Assessor's Map 38 as Parcels 16-6, 16-1, 16-2, 16-3 and 16-4;

and to raise such appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow the sum of Four Million Two Hundred Thousand and 00/100 Dollars (\$4,200,000.00), pursuant to Massachusetts General Laws, Chapter 44, Section 7, Clause (3), or any other enabling authority, and to issue bonds or notes of the Town therefor, provided however that this vote shall not take effect until the Town votes to exempt from the limitations on total taxes imposed by the Massachusetts General Laws, Chapter 59 Section 21C (Proposition 2  $\frac{1}{2}$  so called) the amounts required to pay the principal and interest on the borrowing approved by this vote;

and, further, that the Board of Selectmen is authorized to take all actions necessary to carry out the acquisition of the land in accordance with the provisions of the article and this vote.

**MOTION:** (By Ken Mayo) To move the question.

**ACTION:** Voted, voice vote carries by the necessary 4/5 majority.

**ACTION:** (On the main motion). Standing vote, YES=398, NO=30, vote carries by the necessary 3/4 majority.

## **ARTICLE 8. ACQUIRE LAND OWNED BY PUTNAM FAMILY, 50 BRIDGE ROAD, ORLEANS, MA**

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 conservation, open space, passive recreation, and agriculture purposes, the land located at 50 Bridge Road,

Orleans, MA consisting of approximately 13.86 acres, and being shown on the Orleans Assessor's Map 10 as Parcel 1; and more particularly described in the deed recorded in the Barnstable Registry of Deeds in Book 10672 Page 225; and to raise and appropriate or transfer from available funds, or transfer from Community Preservation Act funds, or borrow a sum of money for such acquisition, provided, however, that no funds, shall be borrowed hereunder unless the Town shall have voted at an election to exempt the amounts required to pay for the bond from the limitations of Proposition 2 ½ so-called, if required; and, provided that the land, or a portion thereof, shall be under the control and management of the Conservation Commission and/or the control and management of the Board of Selectmen, 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, or to take any other action relative thereto. (2/3 Vote Required)

**MOTION:** To accept and adopt Article 8 and that the sum of Three Hundred Sixty Thousand and 00/100 Dollars (\$360,000.00) be appropriated for the purpose of purchasing and/or taking by eminent domain for conservation, open space, passive recreation, and agriculture purposes, the land located at 50 Bridge Road, Orleans, MA consisting of approximately 13.86 acres, and being shown on the Orleans Assessor's Map 10 as Parcel 1; and more particularly described in the deed recorded in the Barnstable Registry of Deeds in Book 10672 Page 225;

and to raise such appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow the sum of Three Hundred Sixty Thousand and 00/100 Dollars (\$360,000.00), pursuant to Massachusetts General Laws Chapter 44, Section 7, Clause (3), or any other enabling authority, and to issue bonds or notes of the Town therefor, provided however that this vote shall not take effect until the Town votes to exempt from the limitations on total taxes imposed by the Massachusetts General Laws Chapter 59, Section 21C (Proposition 2 ½ so called) the amounts required to pay the principal and interest on the borrowing approved by this vote;

and, provided that the land shall be under the control and management of the Conservation Commission under the provisions of G.L. c. 40, Section 8C;

and, further, that the Board of Selectmen and/or the Conservation Commission are authorized 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 (now, so-called LAND grants) and/or any others in any way connected with the scope of this article;

and, further, that the Board of Selectmen is authorized 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;

and, further, that the Board of Selectmen is authorized to take all actions necessary to carry out the acquisition of the land in accordance with the provisions of the article and this vote.

**MOTION:** (By Harry Mirick) To move the question

**ACTION:** Voted, voice vote carries unanimously.

**ACTION:** (On the main motion) Voted, voice vote carries by the necessary 2/3 majority.

#### **ARTICLE 9. ACCEPT M.G.L. C. 138 SECTION 33B - SALE OF ALCOHOLIC BEVERAGES BY ON-PREMISE LICENSEES ON SUNDAYS AND CERTAIN LEGAL HOLIDAYS**

To see if the Town will vote to accept the provisions of M.G.L. C. 138 Section 33B, which authorizes the licensing authority, under Section 12 of C. 138, to permit the sale of alcoholic beverages between the hours of 11:00 a.m. and 12:00 noon on Sundays, the last Monday in May, and on Christmas Day or on the day following when said day occurs on Sunday, or to take any other action relative thereto.

(Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 9 as printed in the warrant.

**ACTION:** Voted, voice vote carries by the necessary majority.

#### **ARTICLE 10. CLOSING ARTICLE**

And to act on any other business that may legally come before the meeting.

(Simple Majority Vote Required)

**MOTION:** To adjourn the Special Town Meeting.

**ACTION:** Voted, voice vote carries unanimously.

**The Special Town Meeting was adjourned at 8:16 p.m.**

## **ARTICLE 1. REPORT OF THE SELECTMEN, TOWN OFFICERS AND SPECIAL COMMITTEES**

To act upon the Annual Report of the Board of Selectmen, Town Officers and other Special Committees. (Simple Majority Vote Required)

**MOTION:** To accept and adopt the report of the Selectmen, Town Officers and all Town Committees, Commissions and Boards as published in the 2009 Annual Town Report and hear the report(s) of any other Town Committee reporting to the Town Meeting.

### ***Planning Board Report on the Orleans Comprehensive Plan***

As required by the Orleans Town Charter, I will give you a brief update on the year's progress in implementing the Orleans Comprehensive Plan.

The Comprehensive Plan is a 20 year plan for the orderly and balanced development of the town. It was developed with extensive input from residents as well as town boards and committees. It remains the blueprint for the future of our town.

The Planning Board annually makes recommendations for fiscal year spending to achieve the many goals of the Plan. The Board of Selectmen considers those recommendations as part of the budget process.

We are aware as you are of the current fiscal challenges being faced by all municipalities, and Orleans is no exception. We need to maintain what we have at present, while also planning as best we can for the future. That is why the Planning Board has chosen to concentrate its efforts on the continuation of a limited number of long-range goals that we think are necessary to the Town's future.

Progress has been made in a number of areas. As of today, 96 of the more than 180 recommended actions have been fully completed. Another 63 items are under way. Current areas of focus include:

- Finalizing a wastewater management plan;
- Maintaining our roads and correcting deficiencies;
- Planning for our public facilities needs;
- Strategic open space protection; and
- Taking steps to encourage a healthy and vibrant Village Center.

If you are interested in learning about any of these activities, please contact the Planning Department or visit the Town's website.

Thank you,  
Seth Wilkinson, Vice-Chairman  
Orleans Planning Board

**ACTION:** Voted, voice vote carries unanimously.

## **ARTICLE 2. TOWN / SCHOOL BUDGET (FY11)**

To see if the Town will vote to raise and appropriate and/or transfer from available funds a sum of money to fund and pay departmental expenses for the fiscal year commencing July 1, 2010 and ending June 30, 2011 and to authorize the Board of Selectmen to sell, trade, lease or exchange or otherwise dispose of old equipment or vehicles deemed advisable and in the best interest of the Town. The proceeds from any such disposition to be applied toward the cost of acquiring said equipment or service as the case may be, or to take any other action relative thereto.  
(Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 2 and that the Town Meeting adopt the Selectmen's adopted FY11 budget as printed in the warrant except that line fifty seven, Orleans Elementary School Expense, is reduced by Thirty-Two Thousand Six Hundred Fifty and 00/100 Dollars (\$32,650.00) to Three Million Sixty Thousand Five Hundred Eighty-Seven and 00/100 Dollars (\$3,060,587.00) and that the sum of Twenty-Five Million Seven Hundred Thirty-Eight Thousand Eight Hundred Forty-Five and 00/100 Dollars (\$25,738,845.00) be raised and appropriated, and the sum of Five Hundred Ninety-Nine Thousand Eight Hundred Seventy-Eight and 00/100 Dollars (\$599,878.00) be transferred from the Community Preservation Fund, and the sum of Seven Hundred Twenty-Five Thousand Two Hundred and 00/100 Dollars (\$725,200.00) be transferred from the Ambulance Receipts Reserve for Appropriation Account, and the sum of One Hundred Eighteen Thousand and 00/100 Dollars (\$118,000.00) be transferred from the Cable Fees Reserve for Appropriations Account, and the sum of Forty-Nine Thousand Eight Hundred Sixteen and 00/100 Dollars (\$49,816.00) be transferred from the Municipal Insurance Fund, and the sum of One Hundred and Twenty-Two Thousand and 00/100 Dollars (\$122,000.00) be transferred from the Water Ways Improvement Account, and the sum of Five Thousand and 00/100 (\$5,000.00) be transferred from the Water Pollution Abatement Trust, and the sum of Ten Thousand and 00/100 Dollars (\$10,000.00) be transferred from the Wetlands Protection Fund, and the sum of Eleven thousand Ninety Four and 00/100 Dollars (\$11,094.00) be transferred from the Fund Balance Reserve for Premiums on Bond Issue, and the sum of Twenty thousand and 00/100 (\$20,000.00) be transferred from the balance on hand in Article 7 of the May 11, 2009 Annual Town Meeting, for a total appropriation of Twenty Seven Million Three Hundred Ninety-Nine Thousand Eight Hundred Thirty-Three and 00/100 Dollars (\$27,399,833.00).

**ACTION:** Voted, voice vote carries unanimously.

### **ARTICLE 3. CAPITAL IMPROVEMENTS PLAN**

To see if the Town will vote pursuant to CHAPTER 8 FINANCIAL PROVISIONS AND PROCEDURES, Section 7, Action of Town Meeting, Subsection 8-7-1 of the Orleans Home Rule Charter, to act on the Capital Improvements Plan as published in the Warrant, by adopting said Plan with or without amendments thereto, which amendments may include an increase or decrease in the amount of money allocated to any particular line item contained therein, the addition of new line items or the deletion of line items contained therein, or to take any other action relative thereto.  
(Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 3 and that pursuant to Chapter 8, Financial Provisions and Procedures, Section 7, Action of Town Meeting, Subsection 8-7-1 of the Orleans Home Rule Charter, the Town Meeting accept the Capital Improvement Plan as printed in the warrant.

**ACTION:** Standing vote, YES=149, NO=180, motion fails.

### **ARTICLE 4. FUND COMMUNITY PRESERVATION ACT PROGRAM BUDGET**

To see if the Town will vote to act on the report of the Community Preservation Committee on the Fiscal Year 2011 Community Preservation budget and to appropriate or reserve for later appropriation monies from the Community Preservation Fund's Annual Revenues and/or available funds for the payment of debt service, the undertaking of Community Preservation projects, the Administrative Expenses of the Community Preservation Committee and all other necessary and proper expenses for FY11, or to take any other action relative thereto.  
(Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 4 as printed in the warrant and that the sum of Eight Hundred Twenty One Thousand Seven Hundred Fifty Three and 00/100 Dollars (\$821,753.00) be transferred from the Community Preservation Fund for the purposes and in the amounts set forth in the article.

**ACTION:** Voted, voice vote carries by the necessary majority.

**MOTION:** (By Len Short) That the Town act on Article 28 at this time, after Article 4 is considered.

**ACTION:** Voted, voice vote carries by the necessary 2/3 majority to take Article 28 out of order.

**ARTICLE 28. FUND LAYOUT OF BEACH ROAD FROM MAIN STREET TO NAUSET BEACH – BY PETITION**

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of \$71,000 for the purpose of developing a road layout survey and plan of Beach Road from Main Street to Nauset Beach, or to take any other action relative thereto. (3/4 Vote Required)

**MOTION:** To accept and adopt Article 28 and that a preliminary feasibility study be conducted for potential layout options for Beach Road and that the sum of Six Thousand and 00/100 Dollars (\$6,000.00) be raised and appropriated for this purpose. (Simple Majority Required)

**ACTION:** Voted, voice vote carries by the necessary majority.

**ARTICLE 5. HIGHWAY DEPARTMENT – WATER QUALITY DRAINAGE IMPROVEMENTS**

To see if the Town will vote to raise and appropriate, borrow and/or transfer from available funds the sum of One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00), or any other sum, for the purpose of funding the design and construction of improvements to the town's drainage infrastructure systems, including all expenses incidental and related thereto; provided however that such vote shall not take effect until the Town votes to exempt from the limitations of total taxes imposed by Massachusetts General Law Chapter 59 § 21C (Proposition 2 1/2) amounts required to pay the principal and interest of the borrowing approved by such vote, and further authorize the Board of Selectmen and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose, and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or to take any other action relative thereto. (2/3 Vote Required)

**MOTION:** To accept and adopt Article 5 as printed in the warrant and that the sum of One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) be appropriated for this purpose and for costs incidental and related thereto, and to raise such appropriation the Treasurer, with approval of the Board of Selectmen, is authorized to borrow the sum of One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00), pursuant to Massachusetts General Laws Chapter 44, Section 7 Clauses (1) and (6), or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor, provided however that this vote shall not take effect until the Town votes to exempt from the limitations on total taxes imposed by the Massachusetts General Laws Chapter 59, Section 21C (Proposition 2 1/2 so called) the amounts required to pay the principal and interest on the borrowing approved by such vote.

**ACTION:** Voted, voice vote carries by the necessary 2/3 majority.

## **ARTICLE 6. HIGHWAY DEPARTMENT – TOWN PAVEMENT MANAGEMENT PROGRAM**

To see if the Town will vote to raise and appropriate, borrow and/or transfer from available funds the sum of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) for the purpose of funding the local share of the town's ongoing pavement management program to repair, resurface, and reconstruct town roadways, including all expenses incidental and related thereto; provided however that such vote shall not take effect until the Town votes to exempt from the limitations of total taxes imposed by Massachusetts General Law Chapter 59 § 21 C (Proposition 2 1/2) amounts required to pay the principal and interest of the borrowing approved by such vote and further authorize the Board of Selectmen and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or to take any other action relative thereto.  
(2/3 Vote Required)

**MOTION:** To accept and adopt Article 6 as printed in the warrant and that the sum of Three Hundred Thousand and 00/100 Dollars (\$300,000.00) be appropriated for this purpose and for costs incidental and related thereto, and to raise such appropriation the Treasurer, with approval of the Board of Selectmen, is authorized to borrow the sum of Three Hundred Thousand and 00/100 Dollars (\$300,000.00), pursuant to Massachusetts General Laws Chapter 44, Section 7 Clauses (1), (5) and (6), or any other enabling authority, and to issue bonds or notes of the Town therefor, provided however that this vote shall not take effect until the Town votes to exempt from the limitations on total taxes imposed by the Massachusetts General Laws Chapter 59, Section 21C (Proposition 2 ½ so called) the amounts required to pay the principal and interest on the borrowing approved by such vote.

**ACTION:** Voted, voice vote carries unanimously.

## **ARTICLE 7. FUND REPLACEMENT OF FIRE DEPARTMENT PUMPER TRUCK**

To see if the Town will vote to raise and appropriate, borrow and/or transfer from available funds a sufficient sum for the purpose of purchasing a new pumper truck for the Fire Department, including all expenses incidental and related thereto; provided however that such vote shall not take effect until the Town votes to exempt from the limitations of total taxes imposed by Massachusetts General Law Chapter 59 § 21C (Proposition 2 1/2) amounts required to pay the principal and interest of the borrowing approved by such vote and further authorize the Board of Selectmen and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, and to authorize the Board of Selectmen to sell, trade, lease or exchange or otherwise dispose of old equipment or vehicles

deemed advisable and in the best interest of the Town, the proceeds from any such disposition to be applied toward the cost of acquiring said pumper truck, or to take any other action relative thereto. (2/3/ Vote Required)

**MOTION:** To accept and adopt Article 7 as printed in the warrant and that the sum of Four Hundred Eighty Thousand and 00/100 Dollars (\$480,000.00) be raised and appropriated for this purpose and for costs incidental and related thereto, to raise such appropriation the Treasurer, with approval of the Board of Selectmen, is authorized to borrow the sum of Four Hundred Eighty Thousand and 00/100 Dollars (\$480,000.00), pursuant to Massachusetts General Laws Chapter 44, Section 7 Clause (9), or any other enabling authority, and to issue bonds or notes of the Town therefor, provided however that this vote shall not take effect until the Town votes to exempt from the limitations on total taxes imposed by the Massachusetts General Laws Chapter 59, Section 21C (Proposition 2 ½ so called) the amounts required to pay the principal and interest on the borrowing approved by such vote.

**ACTION:** Voted, voice vote carries by the necessary 2/3 majority.

#### **ARTICLE 8. FUND REPLACEMENT OF HIGHWAY DEPARTMENT FRONT END LOADER**

To see if the Town will vote to raise and appropriate, borrow and/or transfer from available funds a sufficient sum for the purpose of purchasing a new front end loader for the Highway Department, including all expenses incidental and related thereto; provided however that such vote shall not take effect until the Town votes to exempt from the limitations of total taxes imposed by Massachusetts General Law Chapter 59 § 21C (Proposition 2 1/2) amounts required to pay the principal and interest of the borrowing approved by such vote and further authorize the Board of Selectmen and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, and to authorize the Board of Selectmen to sell, trade, lease or exchange or otherwise dispose of old equipment or vehicles deemed advisable and in the best interest of the Town, the proceeds from any such disposition to be applied toward the cost of acquiring said front end loader, or to take any other action relative thereto. (2/3/ Vote Required)

**MOTION:** To accept and adopt Article 8 as printed in the warrant and that the sum of One Hundred Fifty-Five Thousand and 00/100 Dollars (\$155,000.00) be raised and appropriated for this purpose and for costs incidental and related thereto, to raise such appropriation the Treasurer, with approval of the Board of Selectmen, is authorized to borrow the sum of One Hundred Fifty-Five Thousand and 00/100 Dollars (\$155,000.00), pursuant to Massachusetts General Laws Chapter 44, Section 7 Clause (9), or any other enabling authority, and to issue bonds or notes of the

Town therefor, provided however that this vote shall not take effect until the Town votes to exempt from the limitations on total taxes imposed by the Massachusetts General Laws Chapter 59, Section 21C (Proposition 2 ½ so called) the amounts required to pay the principal and interest on the borrowing approved by such vote.

**ACTION:** Voted, voice vote carries by the necessary 2/3 majority.

**ARTICLE 9. WATER DEPARTMENT – I&M PLANT FILTER MEMBRANE RACK REPLACEMENT**

To see if the Town will vote to raise and appropriate, borrow and/or transfer from available funds the sum of Two Hundred Eighty-five Thousand and 00/100 Dollars (\$285,000.00) for the purpose of funding the replacement of Water Treatment Plant membranes, as needed, including all expenses incidental and related thereto; provided however that such vote shall not take effect until the Town votes to exempt from the limitations of total taxes imposed by Massachusetts General Law Chapter 59 § 21 C (Proposition 2 1/2) amounts required to pay the principal and interest of the borrowing approved by such vote and further authorize the Board of Selectmen and/or Town Administrator to apply for and accept any Federal, State, County or other funds that may be available for this purpose and to enter into Intermunicipal Agreements for acceptance of any such grants or funds which shall be used to offset the total appropriation authorized herein, or to take any other action relative thereto.  
(2/3 Vote Required)

**MOTION:** To accept and adopt Article 9 as printed in the warrant and that the sum of Two Hundred Eighty-Five Thousand and 00/100 Dollars (\$285,000.00) be appropriated for this purpose and for costs incidental and related thereto, to raise such appropriation, the Treasurer, with approval of the Board of Selectmen, is authorized to borrow the sum of Two Hundred Eighty-five Thousand and 00/100 Dollars (\$285,000.00), pursuant to Massachusetts General Laws Chapter 44, Section 7 Clause (9) and Section 8 Clause (7C), or any other enabling authority, and to issue bonds or notes of the Town therefor, provided however that this vote shall not take effect until the Town votes to exempt from the limitations on total taxes imposed by the Massachusetts General Laws Chapter 59, Section 21C (Proposition 2 ½ so called) the amounts required to pay the principal and interest on the borrowing approved by such vote.

**ACTION:** Voted, voice vote carries unanimously.

## **ARTICLE 10. ACCEPT PROVISIONS OF M.G.L. CHAPTER 64L §2(a) – LOCAL OPTION SALES TAX ON RESTAURANT MEALS**

To see if the Town will vote to accept the provisions of M.G.L. c. 64L, § 2(a) to impose a local sales tax on the sale of restaurant meals originating within the town of Orleans by a vendor at the rate of .75 percent of the gross receipts of the vendor from the sale of restaurant meals, or to take any other action relative thereto.  
(Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 10 as printed in the warrant.

**MOTION:** (By Ben Buck) To move the question.

**ACTION:** Voted, voice vote carries by the necessary 4/5 majority.

**ACTION:** (On the main motion) Standing vote, YES=164, NO=105, vote carries by the necessary majority.

## **ARTICLE 11. ACCEPT TRANSPORTATION BOND BILL FUNDS**

To see if the Town will vote to authorize the Board of Selectmen to accept and enter into a contract for the expenditure of any funds allocated or to be allocated from year to year by the Commonwealth of Massachusetts and/or Barnstable County for the construction, reconstruction and improvements of roads and bikeways within the Town of Orleans, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 11 and that said funds and their earned interest shall be expended to repair and resurface certain Town roads under the direction of the Board of Selectmen.

**ACTION:** Voted, voice vote carries unanimously.

## **ARTICLE 12. HOLDING STATE HARMLESS FOR WORK**

To see if the Town will vote to assume liability in the manner provided by Section 29 of Chapter 91 of the General Laws, as most recently amended by Chapter 5 of the Acts of 1955, for all damages that may be incurred by work to be performed by the Massachusetts Department of Environmental Management for the improvement, development, maintenance and protection of tidal and non-tidal rivers and streams, harbors, tide-waters, foreshores and shores along a public beach, in accordance with Section 11 of Chapter 91 of the General Laws and authorize the Selectmen to execute and deliver a bond of indemnity therefore to the Commonwealth, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 12 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

### **ARTICLE 13. AUTHORIZATION TO SELL SURPLUS EQUIPMENT & ACCEPT GIFTS**

To see if the Town will vote to authorize the Town Administrator to dispose of surplus supplies and equipment under such terms and conditions as the Town Administrator deems advisable, provided all proceeds from any such disposition are returned to the General Fund, Water Surplus Fund or Reserve for Appropriation account where applicable and to accept any gift items that may be given to the Town on behalf of the citizens of Orleans, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 13 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

### **ARTICLE 14. ADOPT M.G.L. CHAPTER 44, SECTION 53E ½ - REVOLVING ACCOUNTS**

To see if the Town will vote to authorize the establishment of the following Revolving Accounts, in accordance with Massachusetts General Law Chapter 44, § 53E ½;

- 1) The Home Composting Bin/Recycling Containers Account, said account not to exceed Fifteen Thousand and 00/100 Dollars (\$15,000.00). The Account will be used to purchase additional composting bins and recycling containers. Said funds to be spent under the direction of the department manager and the Town Administrator.
- 2) The Council on Aging Account, said account not to exceed Seventy-Five Thousand and 00/100 Dollars (\$75,000.00). Monies on hand in the Account will be used to fund programs, class instructor fees, fees for reservations and tickets related to trips and functions, and an annual volunteer appreciation function. All funds to be spent under the direction of the department manager and the Town Administrator.
- 3) The Council on Aging Van Transportation Account, said account not to exceed Ten Thousand and 00/100 Dollars (\$10,000.00). The Account will be used to fund driver salaries, vehicle maintenance and other necessary expenses related to the van transportation program. Said funds to be spent under the direction of the department manager and the Town Administrator.
- 4) The Conservation Properties Account, said account not to exceed Ten Thousand and 00/100 Dollars (\$10,000.00). The Account will be used to pay utility bills and other necessary expenses associated with the rental of the Town owned properties under the jurisdiction and control of the Conservation Commission. Said funds to be spent under the direction of the Conservation Commission and the Town Administrator.

- 5) The Gavigan Property Account, said account not to exceed Eighteen Thousand and 00/100 Dollars (\$18,000.00). The Account will be used to pay utility and other necessary expenses associated with the rental of the property located on Wildflower Lane. Said funds to be spent under the direction of the department manager and the Town Administrator.
- 6) The Cultural Council Awards Account, said account not to exceed Two Thousand and 00/100 Dollars (\$2,000.00). The Account will be used for awarding of cash prizes for participants and reception expenses for special art gallery showings. Said funds to be spent under the direction of the Cultural Council and the Town Administrator.(Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 14 as printed in the warrant and that the Revolving Accounts as set forth in the article be established in accordance with Massachusetts General Laws Chapter 44, Section 53E ½.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 15. ADOPT M.G.L. CH. 71, § 16B – ASSESSMENT FORMULA – NAUSET REGIONAL SCHOOLS**

To see if the Town will vote to accept the provisions of Massachusetts General Law Chapter 71, § 16B, which would reallocate the sum of the member towns' contribution to the Nauset Regional School District in accordance with the Regional Agreement rather than the Education Reform Formula, so-called, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 15 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 16. TRANSFER WATER SERVICE CONNECTION FUNDS**

To see if the Town will vote to transfer the sum of Fifty Thousand and 00/100 Dollars (\$50,000.00), or any other sum, from the Water Service Connection Funds Reserved for Appropriation Account to the Water Service Connection Account, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 16 as printed in the warrant and the sum of Fifty Thousand and 00/100 Dollars (\$50,000.00) be transferred from the Water Service Connection Funds Reserved for Appropriations Account to the Water Service Connection Expense Account for this purpose.

**ACTION:** Voted, voice vote carries unanimously.

**ARTICLE 17. FUND VISITOR MANAGEMENT SERVICES BY ORLEANS CHAMBER OF COMMERCE**

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of Eighteen Thousand Five Hundred Fifty and 0/100 Dollars (\$18,550.00), or any other sum, to be spent under the direction of the Orleans Chamber of Commerce, Inc. and the Board of Selectmen for the purposes of managing summer visitors, making the Town more user-friendly and improving the visual image of the Town, or to take any other action relative thereto.  
(Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 17 as printed in the warrant and that the sum of Eighteen Thousand Five Hundred Fifty and 00/100 Dollars (\$18,550.00), be raised and appropriated for this purpose.

**ACTION:** Voted, voice vote carries by the necessary majority.

**ARTICLE 18. FUND HUMAN SERVICES AGENCIES (FY11)**

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of Sixty-Four Thousand Eight Hundred Seventy-One and 0/100 Dollars (\$64,871.00), or any other sum, to fund the following human services organizations for the period July 1, 2010 to June 30, 2011.

Cape Cod Child Development	2,500
CapeAbilities	5,827
Community Connections	1,200
Consumer Assistance Council	250
Elder Services of Cape Cod and the Islands	2,500
Gosnold on Cape Cod	7,000
Homeless Prevention Council	5,244
Independence House, Inc.	4,500
Lower Cape Outreach Council	7,000
Nauset Together We Can/Juice Bar	5,000
Orleans After School Activities Program	15,000
Outer Cape Health Services	6,000
Sight Loss Services	850
South Coast Legal Services	<u>2,000</u>

TOTAL \$64,871

Said funds to be expended under the direction of the Board of Selectmen, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 18 as printed in the warrant, and that the sum of Sixty-Four Thousand Eight Hundred Seventy-One Dollars (\$64,871.00) be raised and appropriated for this purpose.

**ACTION:** Voted, voice vote carries by the necessary majority.

#### **ARTICLE 19. FUND FOURTH OF JULY PARADE**

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of Seven Thousand Five Hundred and 00/100 Dollars (\$7,500.00), or any other sum, for the purpose of funding the July 4<sup>th</sup> parade within the Town of Orleans. Said funds to be expended under the direction of the Town Administrator, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 19 as printed in the warrant, and that the sum of Seven Thousand Five Hundred and 00/100 Dollars (\$7,500.00) be raised and appropriated for this purpose.

**ACTION:** Voted, voice vote carries unanimously.

#### **ARTICLE 20. FUND ELECTED OFFICIALS COMPENSATION (FY11)**

To see if the Town will vote to fix the salaries of elected officials for the twelve month period beginning July 1, 2010 as follows:

- |                           |                |
|---------------------------|----------------|
| 1) Board of Selectmen (5) | \$1,000.00     |
| 3) Moderator (1)          | \$ 150.00      |
| 4) Constables (2)         | \$ 100.00 each |

and to raise and appropriate and/or transfer from available funds the sum of Five Thousand Three Hundred Fifty and 00/100 Dollars (\$5,350.00) or any other sum, for this purpose, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 20 as printed in the warrant and that the sum of Five Thousand Three Hundred Fifty and 00/100 Dollars (\$5,350.00) be raised and appropriated for this purpose as follows:

- |                           |                 |
|---------------------------|-----------------|
| 1) Board of Selectmen (5) | \$1,000.00 each |
| 2) Moderator (1)          | \$150.00        |
| 3) Constables (2)         | \$100.00 each   |

**ACTION:** Voted, voice vote carries by the necessary majority.

#### **ARTICLE 21. AMEND GENERAL BYLAWS, CH. 40: PERSONNEL**

To see if the Town will vote to amend the General Bylaws by amending Chapter 40, Personnel. The amendment removes outdated references, reflects changes in the

law and standardizes policies, all as more fully set forth in the amendment on file with the Town Clerk; or take any action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 21 as printed in the warrant.

**ACTION:** Voted, voice vote carries unanimously.

## **ARTICLE 22. ADOPT GENERAL BYLAW, CH. 138: SECOND HAND MERCHANDISE DEALERS AND COLLECTORS**

To see if the Town will vote to amend the General Bylaws, by adding the following new General Bylaw:

Chapter 138 – Secondhand Dealers and Secondhand Collectors

§138-1. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ACCEPTABLE IDENTIFICATION - means either:

A. A current driver's license that includes the date of birth, photograph, and physical description of the person offering the identification; or

B. Two other pieces of current identification, at least one of which is issued by a governmental agency or subdivision and includes the date of birth, photograph and physical description of the person offering the identification.

POLICE CHIEF - The Chief of Police of the Town of Orleans or her or his designee.

REGULATED PROPERTY - means the following used property:

A. Precious metals, including but not limited to, any metal valued for its character, rarity, beauty or quality, including gold, silver, copper, platinum or other metals, whether as a separate item or in combination with other items.

B. Precious gems, including but not to limited to any gem valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or other precious or semiprecious gems or stones, whether as a separate item or in combination with other items or as a piece of jewelry.

C. Watches and jewelry containing precious metals or precious gems, including but not limited to, rings, necklaces, pendants, earrings, brooches, chains, pocket watches, wristwatches, or stopwatches.

D. Sterling silver flatware, including but not limited to knives, forks, spoons, candlesticks, coffee and tea sets, or ornamental objects.

E. Any electronic audio, video or photographic and optical equipment, along with computer or computer equipment or recordings in any form.

F. Any power tools or equipment.

G. Musical instruments.

H. Sporting equipment.

I. Automobiles, boats, planes, motorcycles, in whole or taken in parts, or any other type machinery.

J. Collectibles, including objects of art, coins, currency and antique objects, but not including those items identified in §138-8.H, below.

SECONDHAND COLLECTOR Has the same meaning as the term "junk collector" in MGL c. 140, § 56.

SECONDHAND DEALER Has the same meaning as the term "junk dealer" and "keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles" in MGL c. 140, § 54.

The term Secondhand Collector and Secondhand Dealer shall not include consignment shops and non-profit organizations that are exempt from taxation under section 501 (c)(3) of the Internal Revenue Code) that accept donations for resale.

§ 138-2. Issuance, renewal and revocation of licenses.

A. Secondhand collectors and secondhand dealers must obtain a license to conduct said activities.

B. The Licensing Authority of the Town of Orleans may, after notice and a public hearing, deny an original or renewal application for a secondhand dealer or secondhand collector license or revoke an issued license if it has probable cause to believe any of the following conditions exist after a public hearing:

(1) The applicant, or any person who in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business, has owned or operated a secondhand dealer or secondhand collector business regulated under this regulation or any substantially similar license and, within the five years prior to the application date:

(a) Has had a secondhand dealer or secondhand collector license revoked for a reason that would be grounds for a denial or revocation pursuant this chapter; or

(b) The secondhand dealer or secondhand collector business has been found to constitute a public nuisance.

(2) The licensee applicant, or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business, has been convicted of a felony or any crime involving a false statement within 15 years prior to the application date.

(3) The applicant has:

(a) Knowingly made a false statement in the application;

(b) Knowingly omitted information requested to be disclosed in the application; or

(c) Completed the application with reckless disregard for the truth or accuracy of the statements made therein.

(4) A lawful inspection of the secondhand dealer or secondhand collector business premises by the Police Chief or his designee has been unjustifiably refused by a person who, in part or whole, manages or operates the business.

(5) The secondhand dealer or secondhand collector business, the applicant or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business has more than five violations of this Bylaw, any state or federal law, or any combination thereof within a two-year period, including the two years prior to the application date.

(6) The secondhand dealer or secondhand collector business, the applicant or any person who, in part or whole, owns, manages or operates the secondhand dealer or secondhand collector business has been convicted of any law of the Commonwealth of Massachusetts that is contrary to the type of secondhand business to be conducted, such as, but not limited to, receiving stolen property, any form of breaking and entering, larceny from a person or any other form of larceny, or any form of aggravated assault, as verified by a CORI by the Police Chief or his designee.

(7) Such other grounds as the Licensing Authority determines to be in the public interest or in violation of the conditions of the license or any law or regulation of the commonwealth or the Town of Orleans.

### § 138-3 Inspection of property and records.

A. Whenever necessary to make an inspection to enforce the provisions of this chapter, or when the Police Chief or his designee has reasonable grounds to believe more likely than not that a specific item of regulated property held by a secondhand dealer or secondhand collector is associated with criminal conduct, the Police Chief or his designee may enter the premises of the secondhand dealer or secondhand collector at any reasonable time, provided that the premises is occupied at the time of entry and the Police Chief or his designee presents proper official identification at or

near the time of entry. If entry is refused, the Police Chief or his designee shall have recourse to every remedy provided by law to secure entry, including an administrative search warrant or a criminal search warrant.

B. Authority to inspect secondhand dealer or secondhand collector premises under this regulation is in addition to and not in limitation of the authority the Town or the Police Chief or any police officer would otherwise have to enter the business premises.

C. Once allowed to enter the premises of the secondhand dealer or secondhand collector, the Police Chief or his designee may inspect property kept there. The Police Chief or his designee may also inspect the business records associated with regulated property and perform any duty imposed upon the Town or the Police Chief by this Bylaw.

#### § 138-4. Recordkeeping.

A. The Police Chief or his designee shall design a purchase report form and make copies available to all secondhand dealers or secondhand collectors. Secondhand dealers or secondhand collectors shall utilize these forms, or any other substantially similar form approved by the Police Chief, to record purchases of regulated property. The form may request any information reasonably calculated to help the Police Chief identify the purchaser, the seller or the property associated with the purchase of regulated property.

B. Whenever a secondhand dealer or secondhand collector purchases regulated property for business purposes, the secondhand dealer or secondhand collector shall obtain acceptable identification from the seller along with the seller's current residence address. The secondhand dealer or secondhand collector shall fill out a purchase report form in all relevant aspects at the time of the purchase. A purchase report form as required to be filled out by this section shall be filled out in legible English. The seller shall sign his or her name on the filled-out form.

C. A digital photograph will be taken of each item purchased as defined under "regulated property" in §138-1. The photographs may be stored electronically, but are subject to the same recordkeeping requirements as listed in §138-4.A. Copies of the photographs will be made available to the Chief of Police in a timely manner and are subject to the same rights of inspection as listed in §138-8.

D. The licensee shall cause to be delivered to the Orleans Police Department, on a weekly basis, a copy of all transactions recorded in the ledger on the form provided. If during the preceding week such secondhand dealer or secondhand collector has taken no articles in, he/she shall make out and deliver to the Police Department a report of such fact.

#### § 138-5. Posting of licenses and notices.

A. All licenses shall be conspicuously posted in an accessible place on the licensed premises, available at all times to the proper authorities.

B. A secondhand dealer shall post the following notice, no smaller than 8 ½ inches by 11 inches with lettering no smaller than ¼ of an inch in height, outside each point of entry intended for patron use and at or near each place where a secondhand dealer purchases used property in the regular course of business. If a significant number of the patrons of the regular secondhand dealer use a language other than English as a primary language, the notice shall be worded in both English and the primary language or languages of the patrons.

NOTICE:

The sale or attempted sale of property to a secondhand dealer without consent of the property's owner is punishable by a civil penalty not to exceed \$300 per item. Don't sell property without consent of the property's owner. You will be held strictly liable for violation of this law.

§ 138-6. Purchases by dealers or collectors.

A. A secondhand dealer or secondhand collector shall not make any cash purchase in an amount that exceeds \$50.

B. A secondhand dealer must not carry on the business of buying or selling secondhand property except at the premises designated in the dealership license.

C. A secondhand dealer must not purchase any property whose serial number or other identifiable marking has been wholly or partially tampered with or removed.

D. A secondhand dealer or secondhand collector may not purchase any item from any person under the age of 18.

§ 138-7. Unauthorized sale of property.

No secondhand dealer or secondhand collector may purchase or sell any property of any type without the consent of the owner.

§ 138-8. Holding periods.

A. A copy of every purchase report form filled out as required by this chapter shall be kept on the premises of the secondhand dealer or secondhand collector business during normal business hours for at least three years from the date of purchase. The report form shall be subject to inspection by the Police Chief or his designee. The secondhand dealer or secondhand collector shall not be required to keep the purchase report forms in excess of 3 years.

B. All regulated property in the categories of precious metals or precious gems, defined in §138-1, A.-D., purchased by a secondhand dealer or secondhand collector

and required to be recorded on a purchase report form, shall be held by the secondhand dealer or secondhand collector for at least 21 days from the date of purchase.

C. All other regulated property purchased by a secondhand dealer or secondhand collector and required to be recorded on a purchase report form shall be held by the secondhand dealer or secondhand collector for at least 15 days from the date of purchase.

D. The secondhand dealer or secondhand collector shall maintain the property in substantially the same form as when purchased and shall not alter, exchange or commingle the property. During the holding period the regulated property shall be kept on the business premises during normal business hours and shall be subject to inspection by the Police Chief or his designee.

E. The Police Chief or his designee may give written notice to a secondhand dealer or secondhand collector holding regulated property that the Police Chief or his designee has reasonable grounds to believe that more likely than not a specific item of regulated property is associated with criminal conduct. The secondhand dealer or secondhand collector holding the regulated property shall then continue to hold the property specified in the notice in the same manner and place as required under subsection B of this section until released by the Police Chief.

F. The holding period for any item of regulated property shall not exceed 180 days from the date of purchase.

G. A secondhand dealer or secondhand collector may from time to time request, in writing, that the Police Chief shorten the length of the holding period. If the Police Chief or his designee determines relief from the holding period is appropriate due to unreasonable hardship, the Police Chief or his designee shall provide the secondhand dealer or secondhand collector who requested relief with written authorization to sell, transfer or otherwise dispose of the regulated property. The request shall identify the property and state the basis of the unreasonable hardship. The authorization shall be effective only upon delivery of the written authorization to the secondhand dealer or second hand collector.

H. Secondhand dealers retailing or wholesaling used property, limited to the following are exempt from subsection B. and C. above:

(1) Used clothing, furniture, costume jewelry, knickknacks, footwear, and houseware items such as dishes, pots, pans, cooking utensils, and cutlery; or

(2) Used clothing, furniture, costume jewelry, footwear and houseware items such as dishes, pots, pans, cooking utensils and cutlery, obtained only from or through a registered charity or by donations; or

(3) Used books, papers, or magazines.

§ 138-9. Testing of weighing and measuring devices.

All weighing or measuring devices used by a licensee in the conduct of the licensed business shall be tested and sealed by the Town of Orleans prior to being placed in service.

§ 138-10. Violations and penalties.

A. Violation of any provision of this chapter may be prosecuted as a criminal matter or as an administrative procedure or by the noncriminal disposition method provided in MGL c. 40, §21D. Each violation shall be considered separately.

B. Whoever violates the provisions of this chapter shall be fined not more than \$300. The Licensing Authority may suspend, revoke or modify any license issued by it whenever it has reasonable cause to believe the licensee has violated the terms, conditions or regulations pertaining to such license. Any violation of this chapter enforced by the methods provided in MGL c.40 § 21D shall be subject to a fine of \$250.

§ 138-11. Severability.

Each provision of this chapter shall be construed as separate. If any part of this chapter shall be held invalid for any reason, the remainder shall continue in full force and effect. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 22 as printed in the warrant, except that under Section 138-1, REGULATED PROPERTY, sections E, F, G, H, I and J be deleted.

**MOTION:** (By Ben Buck) To indefinitely postpone.

**MOTION:** To move the question to indefinitely postpone.

**ACTION:** Voted, voice vote carries unanimously.

**ACTION:** Standing vote, YES=97, NO=98, motion to indefinitely postpone fails.

**ACTION:** Standing vote, YES=109, NO=95, the main motion passes.

Five voters challenged the quorum. Tellers conducted a standing count of voters in the hall. Total number of voters counted was 218. The quorum requirement was met and Town Meeting continued.

## **ARTICLE 23. ADOPT GENERAL BYLAW, CH. 127: PUBLIC TREES**

To see if the Town will vote to amend the General Bylaws by adopting Chapter 127, Public Trees, as follows:

### Chapter 127 – Public Trees

#### 127-1. Purpose

The purpose of this bylaw is to promote a diverse, healthy and sustainable community forest in order to provide for the general welfare of Orleans' citizens. Public trees define public spaces and create a civic identity. This bylaw protects public trees located on public rights of way from removal or preventable damage.

#### 127-2. Definitions

Diameter breast height (DBH): The diameter of the trunk of a tree 4½ feet above the existing grade at the base of the tree.

Drip line: A vertical line running through the outermost portion of the crown (outer branch tips) of a tree and extending to the ground.

Public tree: Any tree located within the boundaries of a public right of way.

Remove (including removing and removal): The cutting down of any public tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of a public tree, including, but not limited to, excessive or improper pruning, excavation, or construction damage.

#### 127-3. Applicability

This bylaw applies to all public trees. The Tree Warden shall have jurisdiction over all public trees. This bylaw is intended to supplement Chapter 87 of the Massachusetts General Laws, known as the Shade Tree Act.

#### 127-4. Activities Requiring a Permit

- A. Planting a tree on public property or right-of-way
- B. Removal of a public tree
- C. Pruning of a public tree, including root pruning or disturbance
- D. Construction activities within the drip line of a public tree that may be damaging to the tree.

#### 127-5. Prohibited activities

- A. Carving
- B. Breaking of limbs
- C. Poisoning
- D. Cutting or digging of roots
- E. Girdling, nailing
- F. Posting of signs

- G. Topping or otherwise damaging
- H. Injuring or otherwise putting public trees at risk

127-6. Emergencies

Pruning or removal is allowed without a permit for any public tree which is determined by utility or emergency response officials to create a public hazard so as to immediately endanger the public health, safety or welfare or cause an immediate disruption of public services. A written record shall be completed within a reasonable time and kept on file with the Tree Warden.

127-7. Permit and Application process

A person who wishes to initiate any activity affecting a public tree for which a permit is required shall make application to the Tree Warden. Applications are available at the Town Clerk, and office of the Tree Warden. There is no fee for filing an application.

In the case of a proposed removal, a public hearing will be required. For activities except removal, the Tree Warden shall issue or deny the permit within 14 business days of receipt of a completed application. A permit will be valid for one hundred twenty (120) days from issuance unless specified in the permit.

Where a public hearing is required, the Tree Warden shall cause a notice of the time and place of the hearing for the removal of public trees, which notice shall identify the size, type and location of the public trees to be cut down or removed, to be posted in two or more public places in the Town of Orleans and upon the tree at least seven days before such hearing and published in a newspaper of general circulation in the Town of Orleans once in each of two successive weeks, the first publication to be not less than seven days before the day of the hearing or if no such local newspaper exists then in accordance with the provisions of M.G.L. Chapter four, Section six; provided however, that when a public hearing must be held under the provisions of this section and under M.G.L. Chapter forty, Section fifteen C prior to the cutting or removal of a tree, such hearings shall be consolidated into a single public hearing before the Tree Warden and the Planning Board. Cost for posting and notice shall be borne by the applicant.

127-8. Approval Criteria

The criteria for granting removal of a public tree, after a public hearing, are as follows:

- A. The public tree interferes with structures, utilities, streets, sidewalks or proposed necessary improvements, and there is no alternative to removal;
- B. The public tree is dead, diseased, injured, in danger of falling, dangerously close to existing structures, causing disruption of public utility service, causing drainage or passage problems upon rights-of-way, or posing a threat to pedestrian or vehicular safety; or
- C. The removal of the public tree is necessary and/or desirable as determined by the Tree Warden.

The Tree Warden shall not grant a permit for the cutting down or removal of a public tree if, at or before a public hearing as provided in this section, objection in writing is made by one or more persons, unless such cutting or removal or permit to cut or remove is approved by the Board of Selectmen.

#### 127-9. Tree replacement

The removal of a public tree shall require its replacement, which shall be provided as follows.

- A. The replacement tree shall be of the same or similar species or such other species as deemed advisable by the Tree Warden and shall have the same or equivalent size as measured in DBH inches as that of the public tree that was removed. Installation shall be included.
- B. In the event that a tree of equivalent size cannot be obtained or is not appropriate, multiple smaller replacement trees may be used if approved by the Tree Warden.
- C. If multiple smaller trees are not approved, a payment to the Town of the value of the tree, as determined by a qualified arborist, shall be made.

Replacement may be waived if the Tree Warden finds it is in the interest of the Town to remove the subject tree(s).

#### 127-10. Waivers

The requirements of this bylaw may be waived by the Tree Warden within a specified period of an emergency such as a hurricane, windstorm, flood or other natural event.

#### 127-11. Enforcement and Penalties

Any person who violates any of the provisions of this bylaw shall be notified by the Tree Warden of the specific violation, including a time frame to address the violation and penalties.

Any person who removes or alters a public tree without a permit shall be assessed a penalty equal to the cost of replacing the tree in addition to the fixed penalty amount described below:

- A. Removal without a permit or performing prohibited activities - \$300 per instance
- B. Failure to obtain a permit for activities requiring a permit, or prohibited activities other than removal of a tree - \$300 per instance

#### 127-12. Appeal

Any decision of the Tree Warden under this section may be appealed to the Board of Selectmen. Said appeal must be in writing and must be received by the Board of Selectmen within thirty (30) calendar days of the issuance of the Tree Warden's decision. The Board shall make a final decision on the matter within thirty (30) calendar days from the date of receipt of the appeal request.

#### 127-13. Severability

Should any part or provision of this by-law be determined by a court of law to be invalid, such determination shall not affect the validity of the by-law as a whole nor any part thereof other than the part found invalid. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 23 as printed in the warrant.

**ACTION:** Voted, voice vote carries by the necessary majority.

#### **ARTICLE 24. AMEND ZONING BYLAW SECTION 164-4: DEFINITIONS**

To see if the Town will vote to amend Section 164-4 by adding the following language:

Building Height: The vertical distance from the average undisturbed existing natural grade at the foundation on the street side of the building to the top of the ridge. Except as otherwise provided in Section 164-40-2-B, or Section 164-35.1 D. Non-Commercial Wind Facilities, the only portions of a structure permitted above the ridge line shall be chimneys, air conditioning equipment, skylights, ventilators and antennae and other like features appurtenant to buildings which are usually carried above roofs and are not used for human occupancy and which in no event shall exceed 5 feet above the ridge line. (2/3 Vote Required)

**MOTION:** To accept and adopt Article 24 as printed in the warrant.

#### **PLANNING BOARD REPORT**

A public hearing was held on March 9, 2010. 7 residents were in attendance. A number of helpful comments were received. The board voted unanimously to forward this article to the Town Meeting and recommend its approval.

The proposed zoning amendment is required in order to permit the Zoning Board to issue permits for non-commercial wind facilities that are mounted on buildings.

In 2004, the Town adopted a bylaw to regulate Commercial and Non-commercial Wind Energy Facilities. At the time the bylaw was adopted, there was no thought given to a wind turbine being attached to a building. Such an application recently came before the Zoning Board. We have discovered an inconsistency with the definition of Building Height, which limits building appurtenances to no higher than 5 feet above the ridge line. This limitation would not allow a wind facility to be placed above the ridge line of a house.

What is proposed is to amend the Definition of Building Height by inserting a reference to the wind energy facility section of the bylaw, which would become the controlling regulation with regard to building-mounted facilities.

Currently, the bylaw requires a Special Permit for any wind energy facility in the Town, and that requirement does not change.

Respectfully Submitted,  
John Fallender, Chairman

**ACTION:** Voted, voice vote carries unanimously.

**ARTICLE 25. AMEND ZONING BYLAW SECTION 164-13: SCHEDULE OF USE REGULATIONS**

To see if the Town will vote to amend the Zoning Bylaws, Section 164-13 Schedule of Use Regulations, to delete existing language and insert the following new language.

<b>COMMERCIAL</b>	<b>R</b>	<b>RB</b>	<b>LB</b>	<b>GB</b>	<b>VC<sup>5</sup></b>	<b>I</b>	<b>CD<sup>6</sup></b>	<b>SC</b>	<b>MB</b>
Beauty salon <u>and beauty parlors</u>	O	P <sup>2</sup>	A	P <sup>4</sup>	P <sup>4</sup>	A <sup>2</sup>	O	O	O
Gift Shops, antique shops, <del>beauty parlors</del>	O	P <sup>4,2</sup>	P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	O	O	O	O

Or to take any other action relative thereto. (2/3 Vote Required)

**MOTION:** To accept and adopt Article 25 as printed in the warrant.

**PLANNING BOARD REPORT**

The Planning Board held a public hearing on January 26, 2010. 46 residents were in attendance. No comments were received regarding this article. The Board voted 5-0-0 to forward this article to the Town Meeting and recommend its approval.

Article 25 proposes a minor change to the Schedule of Uses table in the Zoning Bylaw. The use table describes which types of land uses are permitted in which zoning districts. The table has been carried forward with separate listings for “beauty salon” and “beauty parlor”. The Planning Board has determined that there is no real difference between a salon and a parlor, and we therefore propose that both uses be put in a single category called “Beauty Salon and Beauty Parlors”.

Respectfully Submitted,  
John Fallender, Chairman

**ACTION:** Voted, voice vote carries unanimously.

## ARTICLE 26. AMEND ZONING BYLAW SECTION 164-22: MODIFICATIONS

To see if the Town will vote to amend the Zoning Bylaws, Section 164-22.A. (3) to insert the following **new language**:

One (1) single family dwelling may be erected, **enlarged, or maintained** on any lot, regardless of a common ownership with that of adjoining land located in the same residential district, which existed on August 2, 1973 **or which was shown on a preliminary plan prior to that date and which was further shown on a definitive plan which was subsequently filed and approved by the Planning Board,** and contained at least 20,000 sq. ft. and had a minimum frontage of 120 ft. or has 50 ft of arc frontage on a cul-de-sac and is 120 ft. wide at the building line and the **existing structure(s) or the** proposed structure is ~~to be~~ located on such lot so as to conform with the minimum requirements of front, side and rear yard setbacks and to all other requirements for such structures in effect at the time of building. (2/3 Vote Required)

**MOTION:** To accept and adopt Article 26 as printed in the warrant.

### PLANNING BOARD REPORT

The Planning Board held a public hearing on January 26, 2010. 46 residents were in attendance. The Board voted 5-0-0 to forward this article to the Town Meeting and recommend its approval.

Section 164-22 A. (3) of the Zoning Bylaw allows the construction of a dwelling on a lot in a Residential District, which:

- Existed on August 2, 1973
- Contained at least 20,000 s.f.
- Had 120ft. street frontage, or 50 ft. on a cul-de-sac

The application of this section of the bylaw has caused some trouble for property owners.

To understand the issue, some history is in order.

In March 1973, the Town adopted a 40,000 s.f. minimum lot size. After this date, for a smaller lot in Town to be a buildable lot, it must have either 1) met the separate lot "grandfathering" provisions of state law (including the separate ownership), or 2) been authorized as an exempted lot under local zoning (Section 22 A 3).

What the modification section does is it qualifies a lot for construction only if it EXISTED on August 2, 1973. EXISTED means the lot was approved on a plan by the Planning Board and was recorded at the Registry of Deeds. For such lots, the rights to build would be preserved.

Last year, a property owner applied for a building permit in a subdivision of 20,000+ s.f. lots. The Building Commissioner required the applicant to demonstrate that the lot was a buildable lot.

The applicant was unable to show that the lot qualified, and the building permit was not issued.

Although most of the lots in the subdivision already contained homes, once the Building Commissioner became aware of the problem, he could not in good faith issue a permit.

The Planning Board was made aware of the problem and began to research it. It has been discovered that there are four subdivisions in town with undersized lots that for various reasons were recorded after the deadline of August 2, 1973. Therefore, the lots did not EXIST prior to the date. Those subdivisions are:

Briar Springs Hills Subdivision (February 14, 1978)  
Skaket Highlands Subdivision (March 19, 1974)  
Portions of Captain Curtis Way (various dates)  
Shorewood Dr/Hinkle Lane (November 2, 1977)

In the case of each of these subdivisions, a preliminary plan had been filed, followed by a Definitive Plan. Under state law, the approved undersized lots were buildable under a "zoning freeze" for a period of 7 years after the approval date.

Because many homes were built prior to the expiration of the zoning freeze, they were lawfully constructed. They can be added onto or rebuilt if necessary. However, the homes built after that period may not have been properly authorized.

It was once a common practice for developers to "checkerboard" the ownership of their lots so that they were entitled to separate lot protection under MGL 40A, 6. However, a Falmouth legal case indicated that the so-called checkerboarding must take place *before* a change in zoning that would otherwise affect the lots. In the case of the four subdivisions in Orleans, the zoning change had already taken place before the final approval of the lots. In those cases, the lots were entitled to the zoning freeze period of 7 years, but were not protected as separate building lots after that period.

The Planning Board has previously heard from numerous lot owners of both vacant and build upon. After much discussion, it was the unanimous opinion of the Board that those property owners had purchased their lots in good faith. The vast majority of lots have been developed, and there was nothing observed in the subdivisions to indicate that there could be a problem with the buildability of the lots.

The Board was further concerned with the ability of homeowners to make additions to the homes that were built after the zoning freeze period had expired.

Therefore, the Planning Board has proposed a zoning amendment to section 164-22 A. (3) that would provide lot protection to such lots if by the effective date of August 2,

1973, a preliminary plan had been filed, showing the lot, and for which a Definitive Plan was subsequently filed and approved by the Planning Board.

The four subdivisions all had preliminary plans filed before the August 2 date. Therefore, if the amendment is passed by the Town Meeting, all of the affected lots will become buildable, and those lots with existing homes will be treated like any other home in town.

The Planning Board has in the past strongly favored taking steps to limit the growth and development of the Town. That perspective has not changed. In this case, however, we feel that the fair and right thing to do for these subdivisions is to amend the Zoning Bylaw to allow the lots to be buildable lots under zoning. In all, there are 13 vacant lots we have identified that would be qualified under this amendment.

Thank you.

John Fallender, Chairman

**MOTION:** (By Walter Bennett) To give William Overton, a non-resident taxpayer, the power of speech.

**ACTION:** Voted, voice vote carries unanimously to grant Mr. Overton the power of speech.

**MOTION:** (By Carl Freeman) To move the question.

**ACTION:** Voted, voice vote carries by the necessary 4/5 majority.

**ACTION:** (On the main motion), voted, voice vote carries by the necessary 2/3 majority.

## **ARTICLE 27. ACQUIRE CONSERVATION AND WATERSHED PRESERVATION RESTRICTION ON BREWSTER LAND**

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 open space, watershed protection, conservation and passive recreation purposes, a Conservation and Watershed Preservation Restriction (the "Restriction") pursuant to the provisions of G.L.c. 184, §§31-33, on two adjoining parcels of land in Brewster, MA within the Zone II zone of contribution to the Orleans public water supply, said parcels designated on the Brewster Assessors' Map 45 as Parcels 41 and 58-1, located off Route 39, consisting of 22.57 acres, more or less, and more particularly described in Certificate of Title No. 156342 and shown on Land Court Plan 40582A and described in deed Book 12786 Page 342, and shown as Lot 1 on a plan recorded in Barnstable Plan Book 398 Page 30, a copy of which is on file with the Orleans Town Clerk; and to raise and appropriate or transfer from available funds, or transfer from Community Preservation Act funds, or borrow a sum of money for such acquisition, provided, however, that no

funds, shall be borrowed hereunder unless the Town shall have voted at an election to exempt the amounts required to pay for the bond from the limitations of Proposition 2 ½ so-called, if required; and, provided that the Restriction shall be under the control and management of the Conservation Commission and/or the Water Department; and, further, to authorize the Board of Selectmen and/or the Conservation Commission and/or the Water Department 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 Restriction and to make the decision to enter into any agreement to purchase the Restriction and to execute any and all instruments as may be necessary on behalf of the Town, or to take any other action relative thereto. (2/3 Vote Required)

**MOTION:** To accept and adopt Article 27 and that the sum of Three Hundred Seventy-Five Thousand and 00/100 Dollars (\$375,000.00) be appropriated for the purpose of purchasing and/or taking by eminent domain for open space, watershed protection, conservation and passive recreation purposes, a Conservation and Watershed Preservation Restriction (the “Restriction”) pursuant to the provisions of G.L. c. 184, §§31-33, on two adjoining parcels of land in Brewster, MA within the Zone II zone of contribution to the Orleans public water supply, said parcels designated on the Brewster Assessors’ Map 45 as Parcels 41 and 58-1, located off Route 39, consisting of 22.57 acres, more or less, and more particularly described in Certificate of Title No. 156342 and shown on Land Court Plan 40582A and described in deed Book 12786 Page 342, and shown as Lot 1 on a plan recorded in Barnstable Plan Book 398 Page 30, a copy of which is on file with the Orleans Town Clerk;

and to raise such appropriation the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow the sum of Three Hundred Seventy-Five Thousand and 00/100 Dollars (\$375,000.00), pursuant to Massachusetts General Laws Chapter 44, Section 7, Clause (3), or any other enabling authority, and to issue bonds or notes of the Town therefor, provided however that this vote shall not take effect until the Town votes to exempt from the limitations on total taxes imposed by the Massachusetts General Laws Chapter 59, Section 21C (Proposition 2 ½ so called) the amounts required to pay the principal and interest on the borrowing approved by this vote;

and, provided that the Restriction shall be under the control and management of the Conservation Commission under the provisions of G.L. C.40, §8C;

and, further, that the Board of Selectmen and/or the Conservation Commission and/or the Water Department are authorized 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 (now, so-called LAND grants), and/or the Federal Land & Water Conservation Fund, P.L. 88-568, 78 Stat 897, and/or any others in any way connected with the scope of the article;

and, further, that the Board of Selectmen is authorized to negotiate the purchase of the Restriction and to make the decision to enter into any agreement to purchase the Restriction and that the Board of Selectmen and/or the Conservation Commission and/or the Water Department are authorized to enter into any agreements and execute any and all instruments as may be necessary on behalf of the Town;

and, further, that the Board of Selectmen is authorized to take all actions necessary to carry out the acquisition of the Restriction in accordance with the provisions of the article and this vote, including; without limitation, the filing of special legislation to the extent necessary, authorizing the town to acquire the property interests described in the Article within the Town of Brewster.

**ACTION:** Voted, voice vote carries by the necessary 2/3 majority.

#### **ARTICLE 29. FREE CASH**

To see if the Town will vote to transfer from Free Cash in the Town's Treasury a sum of money to be used for the reduction of taxes, or to take any other action relative thereto. (Simple Majority Vote Required)

**MOTION:** To accept and adopt Article 29 and that the sum of Four Hundred Thirty-two Thousand and 00/100 Dollars (\$432,000.00) be transferred from available funds for this purpose for FY11.

**ACTION:** Voted, voice vote carries unanimously.

**ARTICLE 30. CLOSING ARTICLE**

And to act on any other business that may legally come before the meeting.  
(Simple Majority Vote Required)

**MOTION:** To adjourn this meeting.

**ACTION:** Voted, voice vote carries unanimously.

Annual Town Meeting was adjourned at 11:43 p.m.

A TRUE RECORD, ATTEST:

Cynthia S. May, Town Clerk