

**TOWN OF SANDWICH
2011 ANNUAL TOWN MEETING
MAY 2, 2011**

The Annual Town Meeting was called to order in the Sandwich High School auditorium by Moderator Jan Levin Teehan at 7:00 P.M. The clerks checked in a total of 451 voters. The total number of eligible voters was 14,922. The invocation was delivered by Reverend John E. McGinn, Rector of St. John's Episcopal Church and Dana Barrette, Chairman of the Board of Selectmen, led the Pledge of Allegiance. The Moderator swore in the following Sandwich residents as tellers: Nancy Comer, Elaine Davis, Regina Peters, Katherine Heras, Carolyn Motta, Mary Fishman, Robert Paul, Alice Paul, Donna Leiss and John Leiss. Rene Douglas served as the timekeeper.

Moderator Teehan asked for a moment of silence for the following Town Employees who have passed since last Town Meeting: Vincent Harrington, James Silva, Ruth Tyback, Dagny Miller, Edmund Serodio.

ARTICLE 1

To see if the Town will vote to hear the reports of all Town Officers and Committees and to act thereon and to hear the report of the Board of Selectmen on the Long Range Plan, or take any action relative thereto.

Dana Barrette, Chair of the Board of Selectmen read the report on the Long Range Plan on behalf of the Board.

MISSION STATEMENT

The government of the Town of Sandwich will provide the public with the highest, most efficient and effective level of service with the resources available in a manner that exemplifies honesty, integrity and a commitment to public service while honoring our rich history, protecting our environment and responsibly planning for our future.

SUMMARY OF LONG RANGE PLAN

The purpose of the Long Range Plan (LRP) is to annually project the future needs of the Town and identify the primary issues and projects on which the Town will focus, and to report this to Town Meeting (Section 4.2.5(i) of Town Charter). The vision that forms the basis for the LRP is articulated in detail in the Local Comprehensive Plan (LCP) approved by Town Meeting in May 2009. The document below is long range in the sense that it takes us further than just one budget cycle. It is meant to define the next few steps of the journey to the vision set forth in the LCP and the other planning documents identified in the Attachments below. Several of the items found in the Action Plan will be voted on at the May 2, 2011 Annual Town Meeting and are addressed in the recommended FY'12 budget.

INTRODUCTION

Guiding principles followed in developing the LRP include:

- Adequate staffing takes precedence over new buildings
- Realistic limitations of a large population & small tax base need to be considered
- Proposition 2.5 funding limitations need to guide wage / compensation packages, to the extent the Town can control them
- Action items over the next 12 months are heavily weighted toward collecting information and plan development
- Funding sources & tax impacts of proposed actions will be identified during the planning phase

ACTION PLAN

(* = proposed action item leader)

1. Improved Delivery of Existing Services

- a. Submit a plan to the Selectmen and School Committee to explore consolidating & unifying financial systems and human resource cost centers – November 2011 – School Business Manager*, Town Accountant*, Town Treasurer, Human Resources Director, Information Technology Director, School Information Technology Staff
 - i. Warrant article to fund any hardware/software – April 2012 – Selectmen

- ii. Consider "Chief Financial Officer" position – Jan 2012 – Selectmen, School Committee
 - b. Implement Pay-As-You-Throw – July 2011 – Director of Public Works*
 - i. Warrant article for transfer station enterprise fund – May 2011 – Selectmen
 - ii. Resolve SEMASS contract issue – 2011 – Director of Public Works
 - c. Submit a plan to the Selectmen to improve delivery of senior services – September 2011 – Council on Aging Director*, Public Health Nurse
 - i. Warrant article to fund initial step(s) – April 2012 – Selectmen
 - d. Review recreational facilities & existing Recreation Field Development Plan with the Selectmen – December 2011 – Recreation Director*
 - i. Issue RFP for additional recreational uses / services at Sandwich Hollows Golf Club (provided special legislation passes) – October 2011 – Selectmen, Town Manager's Office*, Golf Director
 - ii. Warrant article to fund first step(s) of recreation plan – April 2012 – Selectmen
 - e. Appoint charter review committee – July 2011 – Selectmen*
 - f. Streamline volunteer committee system – July 2011 – Selectmen*
 - g. Consider formation of Sandwich Endowment Fund – 2012 – Selectmen, Town Treasurer*
- 2. Capital Asset Management=
 - a. Warrant article to secure State matching MSBA Green Repair Program funds for Forestdale and Oak Ridge Schools – April 2011 – Selectmen, School Department*
 - b. Warrant article for library HVAC capital exclusion – April 2011 – Selectmen, Library*
 - c. Resolve status of current library branch proposal – May 2011 – Town Meeting*
 - d. Move forward on public safety improvement plan
 - i. Submit staffing plan and personnel cost estimate to Selectmen – December 2011 – Town Manager*, Fire Chief, Police Chief
 - ii. Submit construction plan and cost estimate to Selectmen – December 2011 – Town Manager*, Fire Chief, Police Chief, Consultant
 - iii. Warrant article/ballot question to support staffing plan – February 2012 – Selectmen
 - iv. Warrant article/ballot question to support construction – February 2012 – Selectmen
 - e. Evaluate consultant's School District Master Plan – October 2011 – School Committee*
 - i. Recommend action on School District Master Plan – January 2012 – School Committee
 - ii. Warrant article to gauge public acceptance of the School District Master Plan – April 2012 – Selectmen
 - f. Submit a comprehensive capital improvement plan to the Selectmen, School Committee and Finance Committee – 2012 – Town Manager's Office*, Public Facilities Director, Building Inspector, School Business Manager, School Facilities Director, Capital Improvement Planning Committee
 - i. It would be a 10-year plan encompassing all non-public safety physical facilities. It would propose new construction, if needed, to support a school master plan, road bond, consolidated town hall, senior / community center, and library facilities. It would propose necessary maintenance for facilities down in the queue for new construction. It would also show the tax impact of any borrowing needed to finance either construction or repairs – 2012 – Town Manager*, Financial Department Heads
 - ii. Warrant article to adopt the plan – 2012 – Selectmen
 - iii. Warrant article to fund the first step(s) – 2012 – Selectmen
- 3. Economic Development (Tax Base Growth)
 - a. Achieve first series of Comprehensive Wastewater Management Plan milestones – per Wright-Pierce schedule – Health Director*, Water Quality Advisory Committee, Wright-Pierce
 - b. Commence a 10-year tax base expansion plan to Selectmen, Sandwich Economic Initiative Corporation – January 2012 – Director of Planning & Development*, Director of Assessing

- i. Issue South Sandwich Village Center Request for Proposals – August 2011 – Selectmen, Town Manager’s Office*
 - ii. GenOn future & successor to current Tax Valuation Agreement – 2012 – Town Manager, Director of Assessing*
 - c. Town meeting approval of revised zoning bylaw – October 2011 – Selectmen, Director of Planning & Development*, Planning Board
 - d. Continue consideration of the Town's relationship with local non-profit organizations – 2011 – Selectmen, Assessors, Director of Assessing*
- 4. Preserve and Protect Historic Character and Natural Resources
 - a. Warrant articles for CPC recommendations – April 2011 – Selectmen*
 - b. Renewed plan to deal with beach erosion – July 2011 – Town Manager, Natural Resources Director*, Woods Hole Group, Army Corps of Engineers, Department of Environmental Protection
 - i. Renewed action on previously submitted Federal & State funding & permitting efforts – April 2011 – Selectmen, Federal & State Delegation, Army Corps of Engineers, Department of Environmental Protection
 - ii. Warrant article to fund permitting expenses which may entail use of CPA funds – October 2011 – Selectmen
 - iii. Warrant article to fund first improvement step(s) – 2012 – Selectmen
 - c. Progress report or new requests relative to Sandwich Affordable Housing Plan November 2011 – Sandwich Housing Authority*
 - d. Review open space purchase priority list – January 2012 – Selectmen*, Natural Resources Director*, Conservation Commission, Community Preservation Committee

UNANIMOUSLY VOTED: That the Town accept the Report of all Town Officers and Committees as printed in the 2010 Annual Town Reports and hear the report of the Board of Selectmen on the Long Range Plan. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 2

To see if the Town will vote to hear the report of the Finance Committee and to see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$63,674,031.00, or any other amount, to defray Town expenses for the Fiscal Year July 1, 2011 to June 30, 2012 as itemized below in the third column entitled FY'12 Recommendation, or take any action relative thereto.

William Diederling, Chair of the Finance Committee read the report on behalf of the Board.

Finance Committee FY'12 Budget Message:

In accordance with the charter of the Town of Sandwich, the Finance Committee hereby presents this fiscal year 2012 budget message to the members of Town Meeting and to the taxpayers and residents of Sandwich.

We would like to thank the town department heads and staff, as well as School Superintendent Johnson and her staff, for their diligent work in support of this process. We would especially like to thank Town Manager Bud Dunham for his assistance as we worked our way through another difficult budget year. Mr. Dunham brings extraordinary budgeting expertise and valuable guidance to the table week after week and it is much appreciated.

The recommended FY 2012 budget calls for a total expenditure of \$65,903,007. This is an increase of \$534,142 (0.8%) over the FY 2011 budget. An increase of less than 1%, by any measure, is a very lean budget. In the best-case scenario, this could be considered a level-service budget. Certainly there is no expectation that it will result in any increase in service levels.

REVENUE SUMMARY

Calculated into this budget is an increase in the tax levy of \$1,128,749 (2.5%) plus an additional \$500,000 of tax levy attributed to new growth. Our surplus revenue is \$1,367,711 which is an increase of \$390,732 over last year.

Last year we transferred \$1,250,000 from the Stabilization Fund to balance the FY 2011 budget. We are not taking any money from stabilization for the FY 2012 budget. Therefore, when comparing this year to last year it's important to understand that this represents a significant decrease in revenue.

We won't know the exact amount of our Chapter 70 state aid for schools until it is voted by the state legislature. With mixed signals coming from Beacon Hill, and no official guidance given, the decision was made to plug in an assumption of level funding for now. As we have done for the past several years, we will adjust this number at a future town meeting should it either increase or decrease.

We are projecting an 11.5% increase in discretionary state aid, due to an increase in the reimbursement for charter school tuition. Associated with this increase in reimbursement is an even greater increase in charter school assessments.

EXPENSE SUMMARY

The budget calls for a 3% increase to the general government operating budget to cover increases in expenses, most of which are salary increases related to collective bargaining agreements. It is not anticipated that there will be sufficient funds available to increase staffing levels in any general government department.

The general government departments are all running very lean in staffing, and in some cases are clearly understaffed. An increase lower than the proposed 3% would likely result in reductions in staff that would have a serious impact on the current service levels. An increase higher than 3% is not supported by our revenue projections.

The budget calls for a reduction in the local contribution to the school budget of \$557,804 and assumes level funding of Chapter 70 state aid to schools. The result is an overall 1.9% reduction in the school department operating budget.

It is important to note that student enrollment decreased by 147 students this year. In the past five years, enrollment has decreased by 519 students, or 13%. Recent forecasts predict enrollment will continue to decline in the foreseeable future.

The School Department appears to be able to withstand the proposed 1.9% decrease without a major reduction in service levels. Much credit goes to the School Department for implementing various cost saving measures to help make this possible. While some positions may be eliminated due to reorganizing, the budget does not project a significant overall decrease in staffing level, and class sizes are projected to hold steady on average. There are no plans to eliminate programs due to a lack of funding. No new fees are being proposed.

The School Department made the decision to participate in the School Choice program starting in 2010. Since that time, a small but growing number of out-of-district students have chosen to attend school in Sandwich. The school department receives tuition for these students to help cover incremental costs. This tuition money has been put into an account to be used at the discretion of the School Committee. The Superintendent projected that there will be \$160,000 available in the account for use next year should the need arise. This revenue source is not included in the FY 2012 budget projections so it has the effect of partially offsetting the 1.9% decrease.

The reverse of this situation occurs when students leave the Sandwich schools to attend a charter school, or another public school through the School Choice program. The town is assessed money to cover their tuition. We expect a sharp increase in this expense as more students are attending schools elsewhere. The main driving factor behind this is the expansion of the Sturgis Charter School which now has more seats available. To put all this in perspective, in 2006 the actual cost (assessment - reimbursement) of charter school tuition was \$200,000 and in 2012 it will be approximately \$835,000.

The one aspect of the school budget that causes the most concern is related to pending collective bargaining agreements. The most recent collective bargaining agreement with the teachers union (SEA) expired in 2010 and teachers are currently working without a contract while a new agreement is being negotiated. The proposed FY 2012 budget does not include any amount for salary increases beyond step and longevity increases. Depending on the outcome of the negotiations this could present a very serious imbalance.

Other noteworthy changes in expenses include a 5.9% increase in the assessment for the Upper Cape Regional Technical School, a 7.9% increase in the town's share of employee health care costs, and an increase in the annual pension liability of 6.8%. These are significant increases that we've been forced to deal with year after year. Just the increase in health insurance alone is \$650,000 this year.

STRUCTURAL DEFICIT

Every year, as we begin the process of developing the budget for the following year, we are faced with a deficit of somewhere between one to two million dollars. This is the amount of the structural deficit that is built into our budget. Simply put, our annual increase in expenses exceeds our annual increase in revenues. Common sense would dictate that this situation is not sustainable.

Every year we manage to find a way to overcome the deficit and balance the budget. We've accomplished this with a variety of "one-time" solutions, rather than to solve the problem with any kind of sustainable solution. Since 2009, we've taken \$1.5 million dollars out of the Stabilization Fund. We've had some union and non-union employees forgo cost of living increases for two consecutive years in order to preserve jobs. We've reduced our capital budget that we use to maintain our equipment, vehicles and buildings. Not properly maintaining our assets will inevitably cost us more over the long term.

We have also balanced the budget in recent years by underfunding the general government operating budget:

Town Manager Dunham told us in no uncertain terms that the Police, Fire, DPW and many other general government departments are under-resourced. In budget discussions this year, Mr. Dunham issued a stern warning to the Selectmen and the Finance Committee stating that we cannot continue to underfund our most basic requirements. Underfunding our Police and Fire departments jeopardizes public safety as well as the safety of our employees. Underfunding maintenance of our roads will cost us more as they continue to deteriorate.

There is no single solution to the structural deficit problem. On the expense side, much of the annual increases are related to employment costs, specifically, the rate of salary increases and the rising cost of health care and retirement benefits. Strategies can and should be developed to contain these costs. Our annual revenue is, to a great extent, influenced by factors beyond our control. Still, there are a few limited options available to increase revenue and each must be fully investigated.

There will undoubtedly be careful consideration of an override next year but that decision has yet to be made.

CONCLUSION

The Finance Committee, which functions as an independent advisory committee, weighs the input from all interested parties during the budget deliberations and analyzes the impact that the budget will have on the taxpayers, residents and visitors of Sandwich. This year the recession has dictated that we support a very lean budget with practically no increase in total spending over FY 2011.

The impact on property taxes of the proposed FY 2012 budget is estimated to be a \$63 increase for the average single-family home, valued at \$358,200. This estimate does not include the debt exclusion and capital exclusion articles that appear later on the warrant.

After careful review and consideration, the Finance Committee voted unanimously to recommend that Town Meeting accept the budget as presented, and pass Article 2.

FY'12 BUDGET TOTALS

No.	Department	FY'10 Appropriation	FY'11 Appropriation	FY'12 Recommendation
114	Moderator	1	1	1
123	Selectmen/Administrator	382,310	382,385	377,656
	Personnel Expenses	76,799	75,000	158,153
131	Finance Committee	2,200	2,700	2,700
135	Accounting	172,844	176,755	183,362
141	Assessing	338,531	338,359	341,087
145	Treasurer	164,030	168,066	174,755
146	Tax Collector	229,981	235,820	241,224
147	Tax Title	25,000	25,000	25,000
151	Legal	225,000	225,000	225,000
152	Human Resources	143,842	143,842	143,842
161	Town Clerk	153,934	156,050	156,990
162	Elections & Registrations	35,500	56,500	45,000
171	Natural Resources	233,008	233,711	236,898
175	Planning & Development	150,849	149,662	153,133
190	Facilities Management	410,784	449,604	474,604
195	Town Reports	11,000	11,000	11,000
196	Bind Town Records	1,000	1,000	1,000
197	Data Processing	331,156	331,456	331,456
	Total 100s	3,087,769	3,161,911	3282,861
210	Police Department	3,058,024	3,045,197	3,148,270
220	Fire Department	3,631,921	3,657,892	3,790,423
241	Inspections	229,480	230,843	231,306
244	Weights & Measures	1,200	1,200	200
291	Emergency Management	5,250	5,250	5,250
294	Forest Warden	1,500	1,500	1,500
297	Bourne Shellfish	4,000	4,000	4,000
299	Greenhead Fly	1,500	1,500	1,500
	Total 200s	6,932,875	6,947,382	7,182,449
300	School Department	30,413,314	30,176,539	29,225,227
313	UCCRVTs	1,575,093	1,686,655	1,786,439
	Total 300s	31,988,407	31,863,194	31,011,666
410	DPW – Engineering	123,293	123,593	123,593
420	DPW – Highways	1,478,417	1,509,979	1,540,118
421	Snow & Ice	250,008	250,009	250,010
424	Streetlights	30,000	30,000	30,000

435	DPW – Sanitation	765,569	765,569	765,569
	Total 400s	2,647,287	2,679,150	2,709,290
		FY'10	FY'11	FY'12
No.	Department	Appropriation	Appropriation	Recommendation
510	Health Department	166,464	167,464	167,616
522	Nursing Department	126,322	118,665	128,938
541	Council on Aging	145,369	147,520	152,115
543	Veterans Services	37,591	42,000	41,992
	Total 500s	475,746	475,649	490,661
610	Library	866,210	866,210	892,196
630	Recreation Department	70,849	71,149	71,149
650	DPW – Parks	13,850	13,850	13,850
671	Hoxie House / Grist Mill	0	10,000	10,000
693	Memorial Day	1,200	1,200	1,200
694	Historic District	11,500	12,000	12,000
	Total 600s	963,609	974,409	1,000,395
	OPERATING SUBTOTAL:	46,095,693	46,101,695	45,677,322
135	Marina & SHGC Indirect Costs Transfers			30,000
171	Waterways Fund Transfer			17,500
220	Ambulance Fund Transfer			150,000
630	Beach and Recreation Account Transfer (incl. Sandy Neck)			195,240
645	Community Preservation Act Debt			1,282,701
650	Cemetery Trust Fund Transfer			22,000
671	Hoxie House / Grist Mill Income Transfer			33,000
	INTER-FUND TRANSFERS SUBTOTAL:			1,730,441
132	Reserve Fund			400,000
540	Social Services Programs			21,200
710	Short Term Debt			50,000
750	Debt			2,953,256
910	Group Health Insurance			8,900,000
912	Medicare			494,091
940	Property & Liability Insurance			825,000
941	Unemployment Account			50,000
950	Retirement Assessment			2,572,721
	OTHER ACCOUNTS SUBTOTAL:			16,266,268
	FY'12 BUDGET TOTAL:			63,674,031

Unanimously Voted: That the Town hear the report of the Finance Committee and raise and appropriate \$59,675,879; transfer and appropriate \$1,367,711 from Free Cash; transfer and appropriate \$900,000 from the ambulance receipts reserved for appropriation account; transfer and appropriate \$150,000 from overlay surplus; transfer and appropriate \$1,065,110 from the Community Preservation Fund Fiscal Year 2012 estimated annual revenues; transfer and appropriate \$217,591 from the Community Preservation Fund undesignated fund balance; transfer and appropriate \$15,000 from Sandwich Marina funds; transfer and appropriate \$15,000 from the Sandwich Hollow Golf Club enterprise fund; transfer and appropriate \$195,240 from the beach parking receipts reserved for appropriation account; transfer and appropriate \$33,000 from the Hoxie House / Grist Mill receipts reserved for appropriation account; transfer and appropriate \$17,500 from the

Waterways Fund; transfer and appropriate \$22,000 from cemetery trust funds; to defray Town expenses for the Fiscal Year 2012 as itemized in the third column entitled FY'12 Recommendation, as printed in the Warrant under Article 2, and set the compensation of elected officials as follows:

Moderator	1
Chairman Board of Selectmen	2
Selectmen – 4 each	1
Chairman Board of Assessors	2
Assessors – 2 each	1
Town Clerk	65,520

This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 3

To see if the Town will vote to hear the report of the Capital Improvement Planning Committee, and further, to appropriate the sum of \$648,000.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of purchasing and repairing equipment, vehicles, and buildings, and providing related services in accordance with the following list, with any unexpended balance for each item identified below to be placed in the Building Repairs / Capital Purchases account to be expended under the direction of the Board of Selectmen:

Natural Resources – Pick-up Replacement	40,000.00
Natural Resources – Outboard Motor & Steering Replacement	15,000.00
Facilities Department – Town Building Repairs/Improvements	125,000.00
Joint Public Safety Building – Schematic Design & Cost Est.	125,000.00
Police Department – Cell Block Upgrades	26,000.00
Fire Department – Ambulance Replacement	200,000.00
DPW – Truck w/ Plow Replacement	45,000.00
DPW – Sanitation Walls Improvements	40,000.00
School Department – Remove HTW Underground Tank	10,000.00
Police Department – Taser Purchases	9,000.00
Recreation Department – Playground & Skate Park Maintenance	4,000.00
Recreation Department – Portable PA System	1,500.00
School Department – HTW School Zone Signals	7,500.00

And further,

That to meet this appropriation, the sum of \$152,956.70, be transferred from the following unexpended balances:

Ambulance Fund Transfer	75,000.00
County Retirement Assessment	47,172.58
Natural Resources – Murkwood Property	42.53
Natural Resources – Ryder Property	49.73
Natural Resources – Trailer Purchase	666.80
Natural Resources – Conservation Land Improvements	6.24
Facilities Department – Various Building Repairs	723.33
Facilities Department – Buildings Assessment	1,241.80
Facilities Department – Flail Mower Attachment Purchase	609.15
Facilities Department – Mower Purchase	196.78
Facilities Department – ADA Accessibility	1,148.71
Facilities Department – East Sandwich Beach	787.44
Police Department – Encumbrance	1,200.00
Engineering Department – Vehicle Purchase	1,060.00
DPW – Pick-up with Plow Purchase	1,975.23
DPW – Basin Truck Purchase	1,758.50

Library – HVAC Repairs	9,388.55
Health Department – Snake Pond	4,255.00
CCC Traffic Mitigation – Project Balance	3,300.95
Outfall Pipe Legal Fund – Project Balance	2,373.38

And that the sum of \$495,043.30 be raised and appropriated or transferred from available funds for these purposes.

or take any action relative thereto.

Michael Baker read the report of the Capital Improvement Planning Committee.

Carl Johansen of Oxford Road made a motion to amend article 3 by reducing the total by \$28,000 from the following line-items:

Natural Resources – Pick-up Replacement	-\$20,000
Natural Resources – Outboard Motor & Steering Replacement	-\$8,000

Motion was seconded from the floor.

The vote on the motion to amend was a voice vote and declared failed by the Moderator.

Voted: That the Town hear the report of the Capital Improvement Planning Committee and raise and appropriate \$495,043.30, and transfer and appropriate \$75,000 from the ambulance receipts reserved for appropriation account, and transfer and appropriate 77,956.70 from the unexpended balances listed in the Warrant under Article 3, to be expended under the direction of the Board of Selectmen, for the purpose of purchasing and repairing equipment, vehicles, and buildings, and providing related services as listed in Article 3 of the warrant, with any unexpended balance for each item identified below to be placed in the Building Repairs / Capital Purchases account to be expended under the direction of the Board of Selectmen. This was a voice vote and declared carried by the Moderator.

ARTICLE 4

To see if the Town will vote to appropriate, borrow or transfer from available funds, a sum of money to be expended under the direction of the School Building Committee to pay costs of remodeling, reconstructing and making extraordinary repairs to the Oak Ridge School roofs and windows, located at 260 Quaker Meetinghouse Road, Sandwich, Massachusetts and the Forestdale School roofs and windows, located at 151 Route 130, Sandwich, Massachusetts, including the payment of all design and any other costs incidental thereto, for which the Town may be eligible for a school construction grant from the Massachusetts School Building Authority (“MSBA”). The proposed repair projects would materially extend the useful life of the schools and preserve assets that are otherwise capable of supporting the required educational program. The MSBA’s grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town. Any grant that the Town may receive from the MSBA for the project shall not exceed the lesser of (1) forty-four and sixty-nine one hundredths percent (44.69%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA. Provided that said appropriation shall be contingent on a Proposition 2 and ½ debt exclusion referendum in accordance with M.G.L. c. 59, sec. 21C(k); or to take any other action relative thereto.

Unanimously Voted: That the Town of Sandwich appropriates the sum of five million four hundred fifteen thousand seven hundred and eighty dollars (\$5,415,780) to pay costs of remodeling, reconstructing and making extraordinary repairs to the Oak Ridge School roofs and windows, located at 260 Quaker Meetinghouse Road, in Sandwich, Massachusetts and the Forestdale School roofs and windows, located at 151 Route 130 in Sandwich, Massachusetts, including the payment of all design and any other costs incidental thereto, which proposed repair projects would materially extend the useful life

of the schools and preserve assets that are otherwise is capable of supporting the required educational program, said sum to be expended under the direction of the School Building Committee, and to meet this appropriation the Town is authorized to borrow said sum under M.G.L. Chapter 44, or any other enabling authority; that the Town acknowledges that the Massachusetts School Building Authority's ("MSBA") grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any project costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town; provided further that any grant that the Town may receive from the MSBA for the projects shall not exceed the lesser of (1) forty-four and sixty-nine one hundredths percent (44.69%) of eligible, approved project costs, as determined by the MSBA, or (2) the total maximum grant amount determined by the MSBA; provided that any appropriation hereunder shall be subject to and contingent upon an affirmative vote of the Town to exempt the amounts required for the payment of interest and principal on said borrowing from the limitations on taxes imposed by M.G.L. Chapter 59, Section 21C (Proposition 2 ½); and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the Town and the MSBA. This was a voice vote and declared carried by the required two-thirds majority by the Moderator.

ARTICLE 5

To see if the Town will vote to raise and appropriate, or transfer from available funds, a sum of money for the purpose of constructing improvements and remodeling, constructing, reconstructing and making extraordinary repairs to the Sandwich Public Library HVAC system located at 142 Main Street, including design, site improvements, equipment, furnishings and costs incidental thereto, and further to authorize the Board of Selectmen to enter into any and all contracts necessary to carry out such project; provided that said appropriation shall be contingent upon the passage of a so-called proposition two and one-half capital expenditure exclusion referendum in accordance with M.G.L. c.59, §21C(i½), or take any action relative thereto.

Unanimously Voted: That the sum of \$450,000 be raised and appropriated to pay costs of constructing improvements and remodeling, constructing, reconstructing and making extraordinary repairs to the Sandwich Public Library HVAC system located at 142 Main Street, including design, site improvements, equipment, furnishings and costs incidental thereto; and further, that the Board of Selectmen is authorized to enter into any and all contracts necessary to carry out such project; provided, however, that no amounts shall be expended hereunder unless and until the Town shall have approved a so-called proposition two and one-half capital expenditure exclusion referendum in accordance with M.G.L. c.59, §21C(i½). This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 6

To see if the Town will approve the \$2,000,000 borrowing authorized by the vote of the Upper Cape Cod Regional Vocational Technical School District on March 10, 2011, for the purpose of paying costs of replacing windows at the District high school located at 220 Sandwich Road, Bourne, Massachusetts, and for the payment of all costs incidental and related thereto, or to take any other action relative thereto.

Unanimously Voted: That the Town hereby approves the \$2,000,000 borrowing authorized by the vote of the Upper Cape Cod Regional Vocational Technical School District on March 10, 2011, for the purpose of paying costs of replacing windows at the District high school located at 220 Sandwich Road, Bourne, Massachusetts, and for the payment of all costs incidental and related thereto. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 7

To see if the Town will vote to transfer and appropriate the remaining balance, or any other amount, from the Sandwich boardwalk plank sale account to the boardwalk repair and maintenance account, to be expended under the direction of the Board of Selectmen, or take any action relative thereto.

Unanimously Voted: That the Town transfer and appropriate \$26,100.75 from the Sandwich boardwalk plank sale account to the boardwalk repair and maintenance account, to be expended under the direction of the Board of Selectmen. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 8

To see if the Town will vote in accordance with the provisions of M.G.L. c.44, §53F½ to raise and appropriate or transfer from available funds a sum of money, to be expended under the direction of the Board of Selectmen, for the purpose of establishing the FY'12 operating budget for Sandwich Hollows Golf Club, or take any action relative thereto.

Voted: That the Town transfer and appropriate \$1,026,885 from Golf Course Receipts, to be expended under the direction of the Board of Selectmen, for establishing the Fiscal Year 2012 Enterprise Fund operating budget for Sandwich Hollows Golf Club. This was a voice vote and declared carried by the Moderator.

ARTICLE 9

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$13,139.50, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of funding the FY'12 Sandwich Promotions Fund as established under Chapter 227 of the Acts of 1997, or take any action relative thereto.

Unanimously Voted: That the Town transfer and appropriate \$13,139.50 from the Sandwich Promotions Fund, to be expended under the direction of the Board of Selectmen, for funding the Fiscal Year 2012 Sandwich Promotions Fund as established under Chapter 227 of the Acts of 1997. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 10

To see if the Town will vote to appropriate the sum of money, received or to be received, from the Chapter 90 State Aid to Highways Program for highway construction and/or maintenance on any State approved road during FY'12, or take any action relative thereto.

Voted: That the Town appropriate \$794,190 or any other amount received, or to be received, from the Chapter 90 State Aid to Highways Program for highway construction and/or maintenance on any State approved road during Fiscal Year 2012. This was a voice vote and declared carried by the Moderator.

ARTICLE 11

To see if the Town will vote to reduce the rate of interest that accrues on property taxes deferred by eligible seniors under M.G.L. c.59, §5, Clause 41A, the so-called Property Tax Deferral for Seniors program, from 8.0% to 5.0%, with such reduced rate to apply to taxes assessed for any fiscal year beginning on or after July 1, 2011, or take any action relative thereto.

Voted: That the Town vote to reduce the rate of interest that accrues on property taxes deferred by eligible seniors under M.G.L. c.59, §5, Clause 41A, the so-called Property Tax Deferral for Seniors program, from 8.0% to 5.0%, with such reduced rate to apply to taxes assessed for any fiscal year beginning on or after July 1, 2011. This was a voice vote and declared carried by the Moderator.

ARTICLE 12

To see if the Town will vote to accept the provisions of M.G.L. c.59, §5, clause 56, which allows members of the Massachusetts National Guard or military reservists who are on active duty to obtain a reduction of all or part of their real and personal property taxes for any Fiscal Year they are serving in a foreign country, to be effective beginning in Fiscal Year 2012, or take any action relative thereto.

Unanimously Voted: That the Town accept the provisions of M.G.L. c.59, §5, clause 56, which allows the Board of Assessors to reduce all or part of the real and personal property taxes for any fiscal year for any member of the Massachusetts National Guard or military reservists who are on active duty in a foreign country. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 13

To see if the Town will vote to accept the provisions of M.G.L. c.44, §53F½ to establish an enterprise fund for the delivery of solid waste and landfill operations and services effective Fiscal Year 2013, or take any action relative thereto.

Voted: That the Town accept the provisions of M.G.L. c.44, §53F½ to establish an enterprise fund for the delivery of solid waste and landfill operations and services effective Fiscal Year 2013. This was a voice vote and declared carried by the Moderator.

ARTICLE 14

To see if the Town will vote to accept the provisions of M.G.L. c.51, §42C to allow voter education and voluntary registration sessions one day each year between April 1 and May 15 in each public, private, and vocational high school in Sandwich, or take any action relative thereto.

Unanimously Voted: That the Town accept the provisions of M.G.L. c.51, §42C to allow voter education and voluntary registration sessions one day each year between April 1 and May 15 in each public, private, and vocational high school in Sandwich. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 15

To see if the Town will vote to accept the preliminary design for the construction and equipping of a new library to be located in Sandwich off Quaker Meetinghouse Road near the intersection with Cotuit Road, the so-called South Sandwich Village Library Project; and further, to authorize the Library Trustees of the Sandwich Public Library and/or the Board of Selectmen to apply for, accept and expend any state grants that may be available for the design, constructing or equipping of such new library, such funds to be expended under the direction of the Board of Selectmen in accordance with the Town Charter, or to take any other action relative thereto.

(Submitted by Petition)

Jeanie Vander Pyl of State Street and Chair Board of Library Trustees moved that the meeting accept Article 15.

Motion was seconded from the floor.

She read the following report on behalf of the Library Trustees.

On behalf of the Sandwich Library Trustees, I ask you to vote “yes” on Article 15. A YES vote simply means that our grant application will be reviewed and rated by the state. It does NOT approve the expenditure of any Town Funds.

Although the wording of the article states to “apply for, accept and expend” it is only the application process that is currently under consideration. Our application was submitted on Jan. 26 as required to the MA Board of Library Commissions. The grant application requires that the Town pass an article that contains this wording. If we are lucky enough to receive an award in July or sometime in the future, then and only then will the issues of

“accepting and expending” be up for consideration. Any expenditure of funds will have to be approved at a future Town Meeting and also at the Polls.

The State legislature has already approved bonding \$100 million to encourage and assist Towns with library construction projects. Another incentive for Towns to apply is the unprecedented nearly 50% match for reimbursement. These are your tax dollars and can only be used for library buildings. If Sandwich isn't at least considered for a grant, your tax dollars will most certainly pay for another Town's library project . Over 30 Towns have submitted applications and less than half of these will be awarded State Funds. Other worthy projects will be put on a waiting list. In the past, libraries on these lists waited another 4-5 years until additional State funds were secured. Passing Article 15 is also our only chance to get on the waiting list.

Article 15 also states that the Town accepts our preliminary design. Last June, the Trustees went before the Selectmen to secure a parcel of land for a new library, another requirement for our grant application. On June 24, the Selectmen approved designating a 3 acre parcel for a new library in the Golden Triangle. The Trustees immediately went to work along with the Assistant Town Manager to write and publish the RFQs to hire an Owner's Project Manager and Architect as required by the State. The Trustees, Library Director and other Town staff put in hundreds of hours of work to formulate the plans and write the grant application, a 130 page document. The plans were based on our Building Program which was prepared by a consultant with funds approved by the Board of Selectmen in 2006. The Building Program compares our current facility to nationally recognized standards and requires planning for adequate service for the next 20 years. A YES vote on Article 15 ensures that the collaboration and preparation of the past 10 months is at least acknowledged by the Town and considered for funds by the State.

We can't expand our wonderful Main Street library--- it's adjacent to conservation land, and the building was not designed to support a second floor. We know from community surveys done in the last 10 years, that 70 % of responders favored an additional library facility. We also know that 60% of our population now lives in the South and East Sandwich area. Just as the Town built 2 elementary schools closer to these neighborhoods, we feel that a library should be available in this area of Town. Over 3,000 people use the Sandwich Library on a weekly basis. Having a library in the Golden Triangle will also be a golden opportunity to make commercial businesses want to be there. The library is the busiest public building in Sandwich, and new libraries bring in even more users, since they are accessible and can accommodate more services. So our usage will most likely increase, and provide the incentive for people to use the businesses in this complex.

During the last library grant round in 2005, the Trustees sought approval from the Selectmen to apply. We were told that the school debt would be retiring in five years, and that would be a better time to apply. Well here we are. Matching funds at that time were 30%; they are almost 50% now. Beside school construction projects, no other Town buildings qualify for any reimbursement from the State.

Our Main Street Library will be maintained and returned to the level of service for which it was designed. It will again have places to study, comfortable seating and small and large meeting rooms. With more space available, the Archives collection will be able to be properly housed and made more accessible to visitors to our Town.

If we had adequate library facilities it would be amazing to see what could be offered and provided to the community. Having worked with the grant team and seeing the possibilities has made me hopeful that Sandwich could have the facilities for library services it needs and deserves. The library provides services to all ages and all economic levels and is used by residents and visitors alike. The plans for the South Sandwich Village Library speak to the myriad of ways that people use the library and include wonderful spaces for people to use individually and with groups. There will be ample

parking and the building will be accessible to all. The design also incorporates green elements which will enable us to qualify for additional LEEDS reimbursements. This project would be something positive for our Town, something we could all use and enjoy.

A “Yes” vote does not commit the Town to any funding, but opens the door to receiving millions from the State. We have the opportunity for the State to pay half of the cost of a new library building. Either we can take advantage of it or another Town will. Voting “yes” on Article 15 only allows our application to be considered for a grant. It is our only chance to find out what the State thinks of our project. It is also our only opportunity to get on a waiting list for future funds. It doesn’t guarantee a grant, nor does it guarantee that the Town will take the next step to fund our project.

Mr. Bess from the Architectural firm made a presentation.

There was a motion to move the question and it was seconded. This was a voice vote and declared carried the required two-thirds majority by the Moderator.

Voted: That the Town accept the preliminary design for the construction and equipping of a new library to be located in Sandwich off Quaker Meetinghouse Road near the intersection with Cotuit Road, the so-called South Sandwich Village Library Project and authorize the Library Trustees of the Sandwich Public Library and/or the Board of Selectmen to apply for, accept and expend any state grants that may be available for the design, constructing or equipping of such new library, such funds to be expended under the direction of the Board of Selectmen in accordance with the Town Charter. This was a counted vote, 155 yea and 136 nay, and declared carried by the Moderator.

ARTICLE 16

To see if the Town will vote to hear and act on the report of the Community Preservation Committee on the Fiscal Year 2012 Community Preservation budget and to appropriate from the Community Preservation Fund Fiscal Year 2011 estimated annual revenues the sum of \$75,000.00, or any other sum, to meet the administrative expenses and all other necessary and proper expenses of the Community Preservation Committee for Fiscal Year 2012; and further to reserve for future appropriation a sum of money from the Community Preservation Fund estimated annual revenues for open space, historic resources, and community housing purposes, as well as a sum of money to be placed in the 2012 Budgeted Reserve for general Community Preservation Act purposes; and further to appropriate from the Community Preservation Fund a sum or sums of money for Community Preservation projects or purposes as recommended by the Community Preservation Committee; or take any other action in relation thereto.

Unanimously Voted: That the Town hear and act on the report of the Community Preservation Committee on the Fiscal Year 2012 Community Preservation budget and transfer and appropriate \$75,000 from the Community Preservation Fund Fiscal Year 2012 estimated annual revenues, to be expended under the direction of the Board of Selectmen, to meet the administrative expenses and all other necessary and proper expenses of the Community Preservation Committee for Fiscal Year 2012; and further reserve for future appropriation from the Fiscal Year 2012 Community Preservation Fund estimated annual revenues the following sums: \$162,873 for open space purposes; \$162,873 for historic resources purposes; and \$162,873 for community housing purposes. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 17

To see if the Town will vote to transfer and appropriate under the Community Preservation Act historic resources program the sum of \$10,000.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of preserving, restoring, and protecting burial stones in the Town of Sandwich Old Town Cemetery, Grove Street; that to meet this appropriation the Town transfer from the Community Preservation Fund a sum of money for this purpose; or take any other action relative thereto.

Unanimously Voted: That the Town transfer and appropriate \$10,000 from the Community Preservation Fund historic resources reserve for historic resource purposes under the Community Preservation Act, to be expended under the direction of the Board of Selectmen, for the purpose of preserving, restoring, and protecting burial stones in the Town of Sandwich Old Town Cemetery, Grove Street. This was a voice vote and declared carried unanimously by the Moderator.

At 11pm the Moderator asked for a vote to continue the meeting per the Town By-Laws. This was a voice vote and carried by the required two-thirds majority.

ARTICLE 18

To see if the Town will vote to transfer and appropriate under the Community Preservation Act historic resources program the sum of \$16,000.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of preparing and installing signage to appropriately identify National Register Historic Districts in Sandwich; that to meet this appropriation the Town transfer from the Community Preservation Fund a sum of money for this purpose; or take any other action relative thereto.

Unanimously Voted: That the Town transfer and appropriate \$16,000 from the Community Preservation Fund historic resources reserve for historic resource purposes under the Community Preservation Act, to be expended under the direction of the Board of Selectmen, for the purpose of preparing and installing signage to appropriately identify National Register Historic Districts in Sandwich. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 19

To see if the Town will vote to transfer and appropriate under the Community Preservation Act affordable housing program the sum of \$450,000.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of supporting the Forestdale Village affordable housing project owned by Forestdale Village, LLC; that to meet this appropriation the Town transfer from the Community Preservation Fund a sum of money for this purpose; and further, to authorize the Board of Selectmen to enter into a grant agreement with said Forestdale Village, LLC, on such terms and conditions as the Board of Selectmen deems appropriate, setting forth the conditions under which such funds may be expended, and to further authorize the Board of Selectmen to accept an affordable housing restriction pursuant to the grant agreement; or take any other action relative thereto.

Carl Johansen of Oxford Road moved the question.

Motion was seconded from the floor and declared carried by the required two-thirds majority by the Moderator.

Voted: That the Town transfer and appropriate \$450,000 from the Community Preservation Fund community housing reserve for community housing purposes under the Community Preservation Act, to be expended under the direction of the Board of Selectmen, for the purpose of supporting the Forestdale Village affordable housing project owned by Forestdale Village, LLC, and authorize the Board of Selectmen to enter into a grant agreement with said Forestdale Village, LLC, on such terms and conditions as the Board of Selectmen deems appropriate, setting forth the conditions under which such funds may be expended, and to further authorize the Board of Selectmen to accept an affordable housing restriction pursuant to the grant agreement. This was a voice vote and declared carried by the Moderator.

ARTICLE 20

To see if the Town will vote to transfer and appropriate under the Community Preservation Act affordable housing program the sum of \$48,500.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of supporting the Housing Assistance Corporation down payment and closing cost assistance program; that to meet this appropriation the Town transfer from the

Community Preservation Fund a sum of money for this purpose; and further, to authorize the Board of Selectmen to enter into a grant agreement with said Housing Assistance Corporation, on such terms and conditions as the Board of Selectmen deems appropriate, setting forth the conditions under which such funds may be expended, and to further authorize the Board of Selectmen to accept an affordable housing restriction pursuant to the grant agreement; or take any other action relative thereto.

Voted: That the Town transfer and appropriate \$48,500 from the Community Preservation Fund community housing reserve for community housing purposes under the Community Preservation Act, to be expended under the direction of the Board of Selectmen, for the purpose of supporting the Housing Assistance Corporation down payment and closing cost assistance program, and authorize the Board of Selectmen to enter into a grant agreement with said Housing Assistance Corporation, on such terms and conditions as the Board of Selectmen deems appropriate, setting forth the conditions under which such funds may be expended, and to further authorize the Board of Selectmen to accept an affordable housing restriction pursuant to the grant agreement. This was a voice vote and declared carried by the Moderator.

ARTICLE 21

To see if the Town will vote to transfer and appropriate under the Community Preservation Act affordable housing program the sum of \$49,999.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of supporting the actual construction of the Community Green project owned by Housing Assistance Corporation; that to meet this appropriation the Town transfer from the Community Preservation Fund a sum of money for this purpose; and further, to authorize the Board of Selectmen to enter into a grant agreement with said Housing Assistance Corporation, on such terms and conditions as the Board of Selectmen deems appropriate, setting forth the conditions under which such funds may be expended, and to further authorize the Board of Selectmen to accept an affordable housing restriction pursuant to the grant agreement; or take any other action relative thereto.

Voted: That the Town transfer and appropriate \$49,999 from the Community Preservation Fund community housing reserve for community housing purposes under the Community Preservation Act, to be expended under the direction of the Board of Selectmen, for the purpose of supporting the actual construction of the Community Green project owned by Housing Assistance Corporation, and authorize the Board of Selectmen to enter into a grant agreement with said Housing Assistance Corporation, on such terms and conditions as the Board of Selectmen deems appropriate, setting forth the conditions under which such funds may be expended, and to further authorize the Board of Selectmen to accept an affordable housing restriction pursuant to the grant agreement. This was a voice vote and declared carried by the Moderator.

ARTICLE 22

To see if the Town will vote to transfer, from the board or officer currently having custody for the purposes for which now held to the Conservation Commission for conservation purposes and also for the purpose of granting a conservation restriction, Parcels 1, 2 and 3 identified below, and to authorize the Conservation Commission, with the approval of the Board of Selectmen, to convey conservation restrictions on said Parcels 1, 2 and 3 with the objective of satisfying the requirements of the Natural Heritage program in order to permit the Town to proceed with using other parcels of land for wastewater treatment and or discharge purposes, such conservation restrictions to be granted to the Sandwich Conservation Trust or another entity eligible under G.L. c.184, §32 to hold a perpetual conservation restriction, based on such terms and conditions as the Conservation Commission deems to be in the best interests of the Town; and further to authorize the Board of Selectmen to convey a conservation restriction on any other Town parcel or parcels located in the Discovery Hill Conservation Lands – Town Lands Complex area or elsewhere, now held for general municipal purposes, as to which the grant of a conservation restriction may be deemed necessary by the Board of Selectmen for the same objective;

Said parcels defined as:

1. Assessors Map 28, Lot 56, off Service Road, consisting of approximately 12.30 acres; and

2. Assessors Map 33, Lot 48, off Service Road, consisting of approximately 18.73 acres; and
3. Assessors Map 28, Lot 67, off Quaker Meetinghouse Road, consisting of approximately 7.25 acres;

And further,

that such conservation restriction grants may be in consideration of the grant to the Town of the fee simple or lesser interest in the following described parcels of land for wastewater treatment and or discharge purposes, as depicted on a sketch plan of the area of land on file in the Town Clerk's Office entitled "Proposed Habitat Offset for Community Green/Town of Sandwich Wastewater Facilities", dated April 14, 2011, said property located on land owned by the Housing Assistance Corporation off Jan Sebastian Drive and defined as Assessors Map 28, Lots 41 and 42, consisting of approximately 40.20 acres in their entirety;

or take any action relative thereto.

Voted: That the Town transfer, from the board or officer currently having custody for the purposes for which now held to the Conservation Commission for conservation purposes and also for the purpose of granting a conservation restriction, Parcels 1, 2 and 3 identified in the Warrant under Article 22, and authorize the Conservation Commission, with the approval of the Board of Selectmen, to convey conservation restrictions on said Parcels 1, 2 and 3 with the objective of satisfying the requirements of the Natural Heritage program in order to permit the Town to proceed with using other parcels of land for wastewater treatment and or discharge purposes, such conservation restrictions to be granted to the Sandwich Conservation Trust or another entity eligible under G.L. c.184, §32 to hold a perpetual conservation restriction, based on such terms and conditions as the Conservation Commission deems to be in the best interests of the Town; and that such conservation restriction grants may be in consideration of the grant to the Town of the fee simple or lesser interest in the following described parcels of land for wastewater treatment and or discharge purposes, as depicted on a sketch plan of the area of land on file in the Town Clerk's Office entitled "Proposed Habitat Offset for Community Green/Town of Sandwich Wastewater Facilities", dated April 14, 2011, said property located on land owned by the Housing Assistance Corporation off Jan Sebastian Drive and defined as Assessors Map 28, Lots 41 and 42, consisting of approximately 40.20 acres in their entirety. This was a voice vote and declared carried by the required two-thirds majority by the Moderator.

ARTICLE 23

To see if the Town will vote to authorize the Board of Selectmen to convey, all or a portion of the Town property known as the Deacon Eldred House located at 4 Water Street, and shown as Assessor Map 73, Lot 154, consisting of approximately 0.89 acres, on such terms and conditions as the Board of Selectmen deem to be in the best interests of the Town; or take any action relative thereto.

Voted: That the Town authorize the Board of Selectmen to convey, all or a portion of the Town property known as the Deacon Eldred House located at 4 Water Street, and shown as Assessor Map 73, Lot 154, consisting of approximately 0.89 acres, on such terms and conditions as the Board of Selectmen deem to be in the best interests of the Town. This was a voice vote and declared carried by the Moderator.

ARTICLE 24

To see if the Town will vote to authorize the Board of Selectmen to accept a gift of a 50-foot wide drainage easement from Franklin G. Gilfoy on land situated at 99 Route 130 and shown as Assessor Map 11, Lot 74 and which is also shown as Lot B on a plan entitled, "Plan of Land of Charles T. Burke Situated in Forestdale Town of Sandwich Scale 1"=60'" dated Oct. 1926 and recorded with the Barnstable County Registry of Deeds in Plan Book 19, Page 135 located at 99 Route 130, and shown as Assessor Map 11,

Lot 74, a copy of which is on file with the Town Clerk's Office, upon such terms and conditions as the Board of Selectmen deems to be in the best interests of the Town, or take any action relative thereto.

Unanimously Voted: That the Town authorize the Board of Selectmen to accept a gift of a 50-foot wide drainage easement from Franklin G. Gilfoy on land situated at 99 Route 130 and shown as Assessor Map 11, Lot 74 and which is also shown as Lot B on a plan entitled, "Plan of Land of Charles T. Burke Situated in Forestdale Town of Sandwich Scale 1"=60"' dated Oct. 1926 and recorded with the Barnstable County Registry of Deeds in Plan Book 19, Page 135 located at 99 Route 130, and shown as Assessor Map 11, Lot 74, upon such terms and conditions as the Board of Selectmen deems to be in the best interests of the Town, as printed in the Warrant under Article 24. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 25

To see if the Town will vote to accept the layout of Harlow Road as a public way and easements adjacent to Harlow Road as shown on the plans thereof entitled "Massachusetts Department of Transportation Highway Division, Preliminary Right of Way Plans, Cotuit Road, Harlow Road, & South Sandwich Road in the Town of Sandwich, Barnstable County, as altered April 2011, Sheets 1 thru 10" as amended and prepared by Howard/Stein-Hudson Associates, Inc., a copy of which is on file with the Town Clerk's Office; and further to authorize the Board of Selectmen to accept as a gift, purchase or take by eminent domain, permanent and temporary easements or fee in land, for the layout of said way for the Cotuit Road, Harlow Road and South Sandwich Road Project, and to raise and appropriate a sum of \$1.00 for said purposes; or take any action relative thereto.

Voted: That the Town accept the layout of Harlow Road as a public way and easements adjacent to Harlow Road as shown on the plans thereof entitled "Massachusetts Department of Transportation Highway Division, Preliminary Right of Way Plans, Cotuit Road, Harlow Road, & South Sandwich Road in the Town of Sandwich, Barnstable County, as altered April 2011, Sheets 1 thru 10" as amended and prepared by Howard/Stein-Hudson Associates, Inc. and authorize the Board of Selectmen to accept as a gift, purchase or take by eminent domain, permanent and temporary easements or fee in land, for the layout of said way for the Cotuit Road, Harlow Road and South Sandwich Road Project, and to raise and appropriate a sum of \$1.00 for said purposes, as printed in the Warrant under Article 25. This was a voice vote and declared carried by the required two-thirds majority by the Moderator.

ARTICLE 26

To see if the Town will vote to amend the Town Bylaws by deleting the text and title of Section 6.10, Junk Dealer/Collector, and inserting the following, or take any action relative thereto.

Secondhand Dealers and Secondhand Collectors

1. Definitions

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 means the Chief of Police of the Town of Sandwich 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 limited to, any gem valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or other precious or semi-precious 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, wrist watches, or stop watches.
- 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 Section 8(H).

SECONDHAND COLLECTOR shall have the same meaning as the term "junk collector" M.G.L. c.140, §56.

SECONDHAND DEALER shall have the same meaning as the term "junk dealer" and keeper of a shop for the purchase, sale or barter of junk, old metals or second hand articles in M.G.L. c.140, §54.

LICENSING AUTHORITY means the Town of Sandwich Board of Selectmen or its designee.

2. Issuance, Renewal and Revocation of Licenses Required.

A. Secondhand collectors and secondhand dealers must obtain a license to conduct said activities within the Town of Sandwich. The Licensing Authority shall indicate on any such license the term that such license is valid, not to exceed one calendar year. The Licensing Authority may issue a limited license for a period of one or more days and shall state the starting and expiration dates on such license, and any limited license shall be subject to the requirements of this bylaw. The Licensing Authority may establish a fee for any license issued pursuant to this bylaw. Any annual license issued under this section shall expire on December 31.

B. The Licensing Authority of the Town of Sandwich shall, upon receipt of an application for a secondhand collectors or secondhand dealers license, conduct a public hearing as to whether to issue such license. After due notice and a hearing, the Licensing Authority may 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 by a Massachusetts court or the Licensing Authority 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. The license applicant shall consent to the Police Chief or his designee conducting a CORI check as a condition of eligibility for such license.

(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 these regulations, 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 crime under the laws of the Commonwealth of Massachusetts that is inconsistent with 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 check by the Police Chief or his designee.

(7) Such other grounds as the 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 Sandwich.

3. Inspection of Property and Records.

A. Whenever necessary to make an inspection to enforce the provisions of this ordinance, or when the Police Chief or his designee has reasonable grounds to believe that a specific item or 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 are 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 bylaw 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.

4. Record Keeping

A. The Police Chief or his designee shall design a purchase report form and make copies available to all Secondhand Dealer 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 all 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 Section 1(E). The photograph may be stored electronically, but are subject to the same recordkeeping requirements as listed in Section 4A. 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 Section 3.

D. The licensee shall cause to be delivered to the Sandwich Police Department on a weekly basis, a copy of all forms and photographs regarding 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. For any licensed business that intends to conduct business for one week or less, all such documents shall be delivered to the Police Department on or before the last day of conducting business.

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 eight and one-half inches by 11 inches with lettering no smaller than one-fourth 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.

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."

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.

6. Purchases by a Secondhand Dealer or Secondhand Collector

A. A Secondhand Dealer or Secondhand Collector shall not make any cash purchase in an amount that exceed \$50.00 (fifty dollars and zero cents.)

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 (eighteen).

7. Unauthorized Sale of Property.

A. No Secondhand Dealer or Secondhand Collector may purchase or sell any property of any type without the consent of the owner.

B. No sale will be made to anyone under the age of 18.

8. Holding Periods.

A. A copy of every purchase report form filled out as required by this ordinance shall be kept on the premises of the Secondhand Dealer or Secondhand Collector business during normal business hours for at least three (3) years from the date of purchase. The report form shall be subject to inspection by the Police Chief or his designee.

B. All regulated property in the categories of precious metals or precious gems, defined in Section 1, purchased by a Secondhand Dealer or Secondhand Collector and required to be recorded on a purchase report form shall be held by said 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 said 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 before the expiration of the applicable holding periods set forth in Sections 8(B) and (C). 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 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 space 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 or bases of the unreasonable hardship or hardships. The authorization shall be effective only upon delivery of the written authorization to the Secondhand Dealer.

H. Secondhand Dealers, retailing or wholesaling used property limited to the following, are exempt from section B above:

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

(2) Used clothing, furniture, costume jewelry, footwear and house ware 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.

9. Testing of weighing and measuring devices.

MI weighing or measuring devices used by a licensee in the conduct of the licensed business shall be tested and sealed by the Town of Sandwich Sealer Weights and Measures Division, or its designee, prior to being placed in service.

10. Violations and Penalties.

A. Violation of any provision of this bylaw may be prosecuted as a criminal matter, as an administrative procedure or by the method provided in §21D of Chapter 40 of the General Laws. Each violation shall be considered separately.

B. Whoever violates the provisions of this bylaw shall be subject to a fine of not more than \$300. As an alternative to criminal prosecution, any violation of this bylaw enforced by the methods provided in §21D of Chapter 40 of the General Laws shall be subject to a fine of \$250.

C. As an alternative to or concurrent with any enforcement pursuant to Section 10(B), the Licensing Authority may, after due notice to the licensee and a hearing, suspend, revoke or modify any license issued by them whenever they have reasonable cause to believe the licensee has violated the terms, conditions or regulations pertaining to such license.

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.

Voted: That the Town amend the Sandwich Town Bylaws by deleting the text and title of Section 6.10, Junk Dealer/Collector, and inserting in its place a new Section 6.10, Secondhand Dealers and Secondhand Collectors, as printed in the Warrant under Article 26, with the following changes:

- 1. In Section 1, Definition of Regulated Property, delete Subsection J in its entirety and replace with the following: Coins and Currency.**
- 2. In Section 1, Definition of Secondhand Collector, delete the definition in its entirety and replace with the following: SECONDHAND DEALER shall have the same meaning as the term “junk collector” in M.G.L. c. 140, sec. 54, but excluding private collectors for non-commercial purposes.**

This was a voice vote and declared carried by the Moderator

ARTICLE 27

To see if the Town will vote to amend Section 2.55 of the Town Bylaws, Legal Advice, by adding the following after the existing paragraph:

The Town may retain legal counsel who may also represent other public entities in matters in which the Town has a direct or substantial interest without violating G.L. c. 268A, Section 17(a) or (c). Such dual or common representation allows the Town to pool resources for a common purpose, develop

mutual interests, and preserve scarce Town funds. Pursuant to this bylaw, the official duties of legal counsel include, but are not limited to, representing the Town and other public entities in: (i) administrative and judicial proceedings in which the Town is also a party; and (ii) other matters in which the Town has a direct or substantial interest, provided that in each instance, such dual or common representation would not cause a violation of rules governing attorney conduct. Legal counsel shall discharge such duties only when requested in writing by the Board of Selectmen. Prior to making such a request, the Board of Selectmen shall determine whether the interests of the Town will be advanced by such dual or common representation and shall evaluate if actual or potential conflicts of interest exist. If any conflicts are identified, they shall be described in the written request. Legal counsel shall then make its own determination whether such dual or common representation would not cause a violation of rules governing attorney conduct.

or take any action relative thereto.

Unanimously Voted: That the Town amend the Sandwich Town Bylaws, Section 2.55, Legal Advice, by inserting the language relating to the retention of legal counsel who may also represent other public entities, as printed in the Warrant under Article 27. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 28

To see if the Town will vote to amend Section 2.03 of the Town Bylaws, Length of Contracts, by deleting the existing sentence and inserting the following to provide the School Committee with the same authority as the Board of Selectmen in determining the length of contracts up to ten years:

The Board of Selectmen and School Committee are hereby authorized to enter into contracts for goods and services for such period of time as the Selectmen and School Committee may determine, which may be longer than three years, but not more than ten years.

or take any action relative thereto.

Voted: That the Town amend the Sandwich Town Bylaws, Section 2.03, Length of Contracts, by deleting the existing sentence and inserting new language relating to the length of goods and services contracts the Board of Selectmen and School Committee can enter into, as printed in the Warrant under Article 28. This was a voice vote and declared carried by the Moderator.

ARTICLE 29

To see if the Town will vote to amend Section 2.97 of the Town Bylaws, Public Records and Open Meetings, by correcting the M.G.L. references and content in Parts 1 and 4 as follows:

In Part 1, Purpose, delete "Chapter 39, Sections 23A and B" and insert "Chapter 30A, Sections 18-25"; and further,

In Part 4(a), Requirements, delete "Chapter 39, Section 23B" and insert "Chapter 30A, Sections 18-25"; and further

In Part 4(b), Requirements, delete "one day" and insert "at least forty-eight hours".

or take any action relative thereto.

Unanimously Voted: That the Town to amend the Sandwich Town Bylaws, Section 2.97, Public Records and Open meetings, by correcting the legal references and content in Parts 1 and 4, as printed in the Warrant under Article 29. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 30

There is no Article 30 due to an administrative error.

ARTICLE 31

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to amend Section 20 of Chapter 70 of the Acts of 2010, "An Act Establishing The Sandwich Economic Initiative Corporation", by deleting Section 20 and inserting the following; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

SECTION 20. The corporation may, upon the affirmative vote of two-thirds of its members, or town meeting may by a two-thirds vote, petition for the corporation's dissolution by order of the supreme judicial court, in the manner provided in section 11A in chapter 180 of the General Laws.

or take any action relative thereto.

Unanimously Voted: That the Town authorize the Board of Selectmen to petition the General Court for special legislation to amend Section 20 of Chapter 70 of the Acts of 2010, "An Act Establishing The Sandwich Economic Initiative Corporation", by deleting Section 20 and inserting the language printed in the Warrant under Article 31, provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 32

To see if the Town will vote to dissolve the Mary I. Freeman Community Nursing Fund, established at the April 8, 1926 Special Town Meeting under Article 5, which bequeathed funds to the Community Nursing Association, which no longer exists; and further, in recognition of the stated wishes of Ms. Freeman, to transfer the balance of said Mary I. Freeman Community Nursing Fund to the Nursing Department Donation Account; or take any action relative thereto.

Joanne O'Keefe made a motion to indefinitely postpone Article 32. This was a voice vote and the motion declared carried by the Moderator.

The Moderator adjourned Town Meeting at 12:20 AM and continued it to Thursday May 5, 2011.

ARTICLE 33

To Elect the following Officers:

- One Assessor for a term of three years;
- One Board of Health member for a term of three years;
- Two Selectmen for a term of three years;
- One Constable for a term of three years;
- One Sandwich Housing Authority member for a term of five years;
- One Sandwich Housing Authority member for an unexpired term of four years;
- One Sandwich Housing Authority member for an unexpired term of one year;
- One Planning Board member for a term of three years;
- Two School Committee members for a term of three years;
- Three Trustees of the Sandwich Public Library for a term of three years;
- One Trustee of the Sandwich Public Library for an unexpired term of one year;
- One Trustee of the Weston Memorial Fund for a term of three years;

and all other candidates that may appear on the official ballot,

And to vote YES or NO on the following questions:

BALLOT QUESTION #1

Shall the Town of Sandwich be allowed to exempt from the provisions of proposition two and-one-half, so called, the amounts required to pay for the bond issued for the purpose of constructing improvements and remodeling, constructing, reconstructing and making extraordinary repairs to the Oak Ridge School and Forestdale School roofs and windows?

YES: _____

NO: _____

BALLOT QUESTION #2

Shall the Town of Sandwich be allowed to assess an additional \$450,000 in real estate and personal property taxes for the purpose of constructing improvements and remodeling, constructing, reconstructing and making extraordinary repairs to the Sandwich Public Library HVAC system for the fiscal year beginning July first, two thousand eleven?

YES: _____

NO: _____

and all other candidates and questions that may appear on the official ballot.

The polls for the election will be open at 7:00 a.m. and close at 8:00 p.m. on said THURSDAY, THE FIFTH DAY OF MAY, 2011.

Voted: To adjourn to the Town Elections on May 5, 2011. This was a voice vote and declared carried by the Moderator.

The meeting was adjourned at 12:25 A.M.

I hereby certify that this is a true record of the Annual Town Meeting held on May 2, 2011.

Taylor D. White
Town Clerk

**TOWN OF SANDWICH
2011 SPECIAL TOWN MEETING
NOVEMBER 7, 2011**

The Special Town Meeting was called to order in the Sandwich High School auditorium by Moderator Jan Levin Teehan at 7:00 P.M. The clerks checked in a total of 305 voters. The total number of eligible voters was 15,130. The invocation was delivered by Chaplain Jennifer Bowden from the United States Coast Guard and Frank Pannorfi, Chairman of the Board of Selectmen, led the Pledge of Allegiance. The Moderator swore in the following Sandwich residents as tellers: Nancy Comer, Rosemary Rhoades, Colleen Hayes, Sue Vibberts, Barbara Shaner, Jeanne Nichols, Neal O'Brien, Rebecca Hewitt, Steve Hewitt, Katherine Heras and Barbara Connolly. Rene Douglas served as the timekeeper.

ARTICLE 1

To see if the Town will vote to increase the amount raised and appropriated under Article 2 of the May 2, 2011 Annual Town Meeting for the FY'12 School Department budget by the sum of \$34,049.00, or any other amount, or take any action relative thereto.

Unanimously Voted: That the Town raise and appropriate \$34,049 to increase the FY'12 School Department budget appropriation as voted at the May 2, 2011 Annual Town Meeting under Article 2. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 2

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$50,000.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of providing funds to the Sandwich Economic Initiative Corporation; and further, to authorize the Board of Selectmen to enter into a grant agreement with said Sandwich Economic Initiative Corporation, on such terms and conditions as the Board of Selectmen deems appropriate, setting forth the conditions under which such funds may be expended, or take any action relative thereto.

Jim Coogan of Main Street made a motion to move the question. The motion was seconded and declared carried by a voice vote by the Moderator.

Voted: That that Town raise and appropriate \$50,000, to be expended under the direction of the Board of Selectmen, for the purpose of providing funds to the Sandwich Economic Initiative Corporation and authorize the Board of Selectmen to enter into a grant agreement with said Sandwich Economic Initiative Corporation, on such terms and conditions as the Board of Selectmen deems appropriate, setting forth the conditions under which such funds may be expended. This was a voice vote and declared carried by the Moderator.

ARTICLE 3

To see if the Town will vote to transfer from the FY'12 Group Health Insurance Account, and appropriate a sum of money, to be expended under the direction of the Board of Selectmen, for the purpose of reducing a projected FY'12 deficit in the Unemployment Account, or take any action relative thereto.

Voted: That the Town transfer \$75,000 from the FY'12 Group Health Insurance Account and appropriate \$75,000 to the FY'12 Unemployment Account, to be expended under the direction of the Board of Selectmen. This was a voice vote and declared carried by the Moderator.

ARTICLE 4

To see if the Town will vote to transfer from the Beach Parking Account, and appropriate a sum of money, to be expended under the direction of the Board of Selectmen, for the purpose of performing construction and drainage improvements to the Oak Crest Cove parking lot, or take any action relative thereto.

Unanimously Voted: That the Town transfer \$8,000 from the Beach Parking Account, to be expended under the direction of the Board of Selectmen, for the purpose of performing construction and drainage improvements to the Oak Crest Cove parking lot. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 5

To see if the Town will vote to transfer and appropriate under the Community Preservation Act historic resources program the sum of \$25,000.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of preserving, restoring, and protecting historic Town of Sandwich records, documents, photographs, and other archival materials; that to meet this appropriation the Town transfer from the Community Preservation Fund a sum of money for this purpose; or take any action relative thereto.

Unanimously Voted: That the Town transfer and appropriate \$25,000 from the Community Preservation Fund Historic Resources Reserve for historic resource purposes under the Community Preservation Act, to be expended under the direction of the Board of Selectmen, for the purpose of preserving, restoring, and protecting historic Town of Sandwich records, documents, photographs, and other archival materials. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 6

To see if the Town will vote to transfer and appropriate under the Community Preservation Act open space and recreation program the sum of \$150,000.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of securing professional services and permitting the Town Neck Beach Management Plan and Old Harbor Inlet Stabilization Project; that to meet this appropriation the Town transfer from the Community Preservation Fund a sum of money for this purpose, or take any action relative thereto.

Voted: That the Town transfer and appropriate \$150,000 from the Community Preservation Fund Open Space Reserve for open space and recreation resource purposes under the Community Preservation Act, to be expended under the direction of the Board of Selectmen, for securing professional services and permitting the Town Neck Beach Management Plan and Old Harbor Inlet Stabilization Project. This was a voice vote and declared carried by the Moderator.

ARTICLE 7

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise, on such terms and conditions as the Board of Selectmen deems appropriate, all or a portion of the land and improvements thereon identified as Assessors Map 25, Lot 25 consisting of 6.53 acres more or less off Chase Road, Assessors Map 25, Lot 28 consisting of 2.97 acres more or less off Chase Road, and Assessors Map 25, Lot 7 consisting of 2.08 acres more or less off Popple Bottom Road, all of said premises believed to be owned by Alvaro G. Tarantino for open space and water protection purposes under the Community Preservation Act; and as funding therefor to transfer and appropriate from the Community Preservation Fund the sum of \$400,000.00, or any other amount; and further, to authorize the Board of Selectmen to grant a conservation restriction meeting the general requirements of M.G.L. c. 184, Section 31, or take any action relative thereto.

Unanimously Voted: That the Town indefinitely postpone Article 7. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 8

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise, on such terms and conditions as the Board of Selectmen deems appropriate, all or a portion of the land and improvements thereon identified as Assessors Map 24, Lot 208-001 consisting of 4.00 acres more or less off Popple Bottom Road, said premises believed to be owned by C. E. Schmonsees Realty Trust for open space and water protection purposes under the Community Preservation Act; and as funding therefor to transfer and appropriate from the Community Preservation Fund the sum of \$200,000.00, or any other amount; and further, to authorize the Board of Selectmen to grant a conservation restriction meeting the general requirements of M.G.L. c. 184, Section 31, or take any action relative thereto.

Voted: That the Town authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise, on such terms and conditions as the Board of Selectmen deems appropriate, all or a portion of the land and improvements thereon identified as Assessors Map 24, Lot 208-001 consisting of 4.00 acres, more or less, off Popple Bottom Road, said premises believed to be owned by C. E. Schmonsees Realty Trust, for open space, recreation, and water protection purposes under the Community Preservation Act; and as funding therefor, to transfer and appropriate \$200,000 from the Community Preservation Fund Open Space Reserve, to be expended under the direction of the Board of Selectmen; and further, authorize the Board of Selectmen to grant a conservation restriction meeting the general requirements of M.G.L. c. 184, Section 31. This was a voice vote and declared carried by the Moderator.

ARTICLE 9

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise, on such terms and conditions as the Board of Selectmen deems appropriate, all or a portion of the land and improvements thereon identified as Assessors Map 25, Lot 5 consisting of 16.51 acres more or less off Popple Bottom Road, said premises believed to be owned by Dennis J. Falcione for open space and water protection purposes under the Community Preservation Act; and as funding therefor to transfer and appropriate from the Community Preservation Fund the sum of \$150,000.00, or any other amount; and further, to authorize the Board of Selectmen to grant a conservation restriction meeting the general requirements of M.G.L. c. 184, Section 31, or take any action relative thereto.

Voted: That the Town authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise, on such terms and conditions as the Board of Selectmen deems appropriate, all or a portion of the land and improvements thereon identified as Assessors Map 25, Lot 5 consisting of 16.51 acres, more or less, off Popple Bottom Road, said premises believed to be owned by Dennis J. Falcione, for open space, recreation, and water protection purposes under the Community Preservation Act; and as funding therefor, to transfer and appropriate \$150,000 from the Community Preservation Fund Open Space Reserve, to be expended under the direction of the Board of Selectmen; and further, authorize the Board of Selectmen to grant a conservation restriction meeting the general requirements of M.G.L. c. 184, Section 31. This was a voice vote and declared carried by the Moderator.

ARTICLE 10

To see if the Town will vote to authorize the Board of Selectmen to grant a non-exclusive perpetual easement over the portion of the property known as Parcel A and Parcel C of the Town of Sandwich South Sandwich Village Center land off Quaker Meetinghouse Road, shown on a plan on file with the Office of the Town Clerk titled "Plan to Accompany R.F.P. Land in Sandwich, Massachusetts, Quaker Meetinghouse Road" dated June 14, 2004 and prepared by David C. Thulin, PE, PLS, for the purpose of providing an internal roadway and associated infrastructure improvements through the South Sandwich Village Center, on such terms and conditions and for such consideration as the Board of Selectmen may determine, and to further authorize the Board of Selectmen to execute any and all instruments and to take such other action necessary to effectuate this vote; or take any action relative thereto.

Unanimously Voted: That the Town authorize the Board of Selectmen to grant a non-exclusive perpetual easement over the portion of the property known as Parcel A and Parcel C of the Town of Sandwich South Sandwich Village Center land off Quaker Meetinghouse Road, shown on a plan on file with the Office of the Town Clerk titled "Plan to Accompany R.F.P. Land in Sandwich, Massachusetts, Quaker Meetinghouse Road" dated June 14, 2004 and prepared by David C. Thulin, PE, PLS, for the purpose of providing an internal roadway and associated infrastructure improvements through the South Sandwich Village Center, on such terms and conditions and for such consideration as the Board of Selectmen may determine; and further, authorize the Board of Selectmen to execute any and all instruments and to take such other action necessary to effectuate this vote. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 11

To see if the Town will vote to authorize the Board of Selectmen to accept a drainage easement from Judith G. Lanigan consisting of 18,989 square feet more or less on land situated at 33 Tarragon Drive and shown as Assessor Map 30, Lot 69, and which is also shown as Potential Drainage Easement on a plan entitled, "Town of Sandwich Potential Drainage Easement at 33 Tarragon Drive" dated September 14, 2011, a copy of which is on file with the Town Clerk's Office, upon such terms and conditions as the Board of Selectmen deems to be in the best interests of the Town, or take any action relative thereto.

Unanimously Voted: That the Town authorize the Board of Selectmen to accept a drainage easement from Judith G. Lanigan consisting of 18,989 square feet, more or less, on land situated at 33 Tarragon Drive and shown as Assessor Map 30, Lot 69, and which is also shown as Potential Drainage Easement on a plan entitled, "Town of Sandwich Potential Drainage Easement at 33 Tarragon Drive" dated September 14, 2011, a copy of which is on file with the Town Clerk's Office, upon such terms and conditions as the Board of Selectmen deems to be in the best interests of the Town. This was a voice vote and declared carried unanimously by the Moderator.

ARTICLE 12

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws and the Zoning Map dated October 2009 by changing all references for BL-1 and BL-2 to B1 and B2, respectively, or take any action relative thereto.

Jonathan Shaw of Main Street made a motion to amend Article 12 by deleting references to BL-1 and B1 and only changing references to BL-2 and B2.

Voted: That the Town amend the Sandwich Protective Zoning By-laws and the Zoning Map dated October 2009 by changing all references for BL-2 to B2. This was a voice vote and declared carried by the required two-thirds majority by the Moderator.

ARTICLE 13

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by replacing Section 2600, Intensity of Use Schedule, note b, "Hotels, motels, motor courts, lodging houses and cottage colonies must meet this requirement and must provide not less than 12,000 square feet per dwelling or guest unit" and substitute a new note b to read:

For hotels or motels, must meet this requirement and lot area must be increased by 3,000 square feet per guest unit for each guest unit after the first.

or take any action relative thereto.

William Burbank of Beachway Road made a motion to indefinitely postpone Article 13. The motion was seconded and declared not carried by a voice vote by the Moderator.

Voted: That the Town amend the Sandwich Protective Zoning By-laws by replacing Section 2600, Intensity of Use Schedule, note “b”, related to hotels and motels, to read as printed in the Warrant under Article 13. This was a voice vote and declared carried by the required two-thirds majority by the Moderator.

ARTICLE 14

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by deleting the text of Section 3510 (a) in its entirety, which presently reads: “Not more than sixty percent of lot area shall be covered by structures, paving, driveways, walkways and parking areas”, and revising subsection (b) by adding the text in bold in place of that shown with strikeout, so as to read:

Not less than 30 percent of lot area shall be retained ~~in its natural state with no more than minor removal of existing trees and ground vegetation~~ **in a vegetated condition unless by special permit.**

and by re-lettering the remaining two subsections accordingly, so that Section 3150 reads in its entirety as follows:

- (a) Not less than 30 percent of lot area shall be retained in a vegetated condition unless by special permit.
- (b) Vegetation Restoration (etc.)

or take any action relative thereto.

Voted: That the Town amend the Sandwich Protective Zoning By-laws by deleting the text of Section 3510 (a) in its entirety and revising Section 3510 to read as printed in the Warrant under Article 14. This was a voice vote and declared carried by the required two-thirds majority by the Moderator.

ARTICLE 15

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by adding the following text as new Sections 4500-4505, Mixed Use Cluster Development Regulations, thereby adding a new use by special permit in the B2 zoning district:

4500 Mixed Use Cluster Development Regulations

4501 Objective

Create vibrant mixed use developments and housing, including workforce housing, by allowing residential use to be incorporated into second and third floors of certain new or existing commercial structures in accordance with the provisions of this Section.

4502 Applicability

The Zoning Board of Appeals may grant a special permit for the construction and occupancy of a Mixed Use Cluster Development subject to Sections 1330-1342 and the additional following regulations and conditions.

4503 Mixed Use Cluster Provisions

A Mixed Use Cluster special permit may be issued to authorize construction of a mixed use structure of at least two stories, or to convert or expand a Major Commercial Complex structure by adding a second or third story.

4504 Residential Restrictions

- 1. The floor area of residential use shall be limited to the second or third story;
- 2. Individual residential units shall contain a minimum of 800 square feet of floor area; and

3. The average number of bedrooms for the entirety of any proposed Mixed Use Cluster Development shall not exceed 1.5. For the purposes of determining compliance with this standard, any proposed studio units shall be considered one-bedroom units.

4505 Affordability Restrictions/Regulatory Agreement

A minimum of 15 percent of all proposed units shall be restricted to families earning low to moderate income as defined by the Massachusetts Department of Housing and Community Development. Fractions of a unit shall be rounded to the nearer whole number. Any special permit granted pursuant to this section shall require that these units be sold and maintained in accordance with the following provisions:

Any special permit granted hereunder shall contain a condition that a permanent deed restriction shall be recorded against the property to require permanent affordability of all the affordable units prior to or simultaneously with the recording of the special permit, which shall require that no occupancy of any unit in the project shall occur unless and until the affordable units have been determined as eligible for inclusion upon occupancy of the unit on the Town's Subsidized Housing Inventory as maintained by the Department of Housing and Community Development or any successor agency and as provided for under the applicable state regulations for inclusion upon completion of construction and occupancy.

The permanent restriction shall be released in the event that, either the special permit is not exercised by completing the construction and uses allowed thereunder before it expires or the permanent restriction is released by majority vote of the Board of Selectmen.

Regulatory Agreement

The resale of affordable units created under this section shall be governed by the regulatory agreement executed as a condition of any special permit granted. Eligible purchasers are given the opportunity to purchase the Affordable Units at a reduced price of the Affordable Unit's appraised fair market value if the purchaser agrees to convey the Affordable Unit on resale:

1. To an eligible purchaser located by the Town of Sandwich or the Monitoring Agent or the property owner or;
2. To the Town of Sandwich, for an amount equal to the Maximum Resale Price, which is determined by multiplying the most recent published area median income as determined by the United States Department of Housing and Urban Development ("HUD") (the "Base Income Number") by the Maximum Resale Price Multiplier. Maximum Resale Price Multiplier is calculated at the initial sale by dividing the Initial Sales Price by the Base Income Number.

And further,

Amend Section 2600, Intensity of Use Schedule, by adding ad note "q" the following: "May be increased up to 40 feet by Mixed Use Cluster Development Special Permit."

And further,

Amend Section 2540, by adding a new subsection "d. Mixed Use Cluster Developments", to read as follows:

d. In the B2 district, multiple mixed market rate and affordable owner occupied or rental dwelling units may be located on an individual lot within a Mixed Use Cluster Development by special permit from the ZBA pursuant to Section 4500. In the case of affordable units, the provisions of Section 4130 shall not apply; however, the Zoning Board of Appeals shall condition any special permit allowing for Mixed Use Cluster affordable housing according to the affordability requirements in Section 4505, subsection b, 1 and 2, and the special permit criteria of Section 1342.

or take any action relative thereto.

Voted: that the Town amend the Sandwich Protective Zoning By-laws by adding new Sections 4500-4505, Mixed Use Cluster Development Regulations, thereby adding a new use by special permit in the B2 zoning district; by adding a new note “q” to Section 2600, Intensity of Use Schedule; and by adding a new note subsection “d. Mixed Use Cluster Developments” to Section 2540; all as printed in the Warrant under Article 15, except that the amendments to Section 2600 Intensity of Use Schedule, by the addition of Note q. shall read; “By Mixed Use Cluster Development Special Permit may be increased by up to 5 additional feet of non-habitable, ornamental, space, for a total height not to exceed 40 feet. This was a voice vote and declared carried by the required two-thirds majority by the Moderator.

ARTICLE 16

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by amending Section 3100, Parking Requirements, by inserting the text shown below in bold type, so that it reads as follows:

Section 3110. Adequate off-street parking shall be provided on all-weather surfaces within a reasonable distance to service all parking demands created by new construction, whether through new structures or additions to old ones, or by change of use of existing structures. Such parking shall be either on the same premises as the activity it services, or within three hundred feet (300') on a separate parcel, which may be jointly used with other premises for this purpose. The following minimums must be met unless, after application and hearing, the Board of Appeals grants a special permit upon a showing and determination that the construction of fewer spaces will adequately serve anticipated parking needs. **Analyses used to demonstrate that a reduction of spaces is acceptable may include, but shall not be limited to, a peak demand analysis consistent with the Institute of Traffic Engineers (ITE) guidance and the use of on-street parking where allowed.** For uses allowed on special permit under Section 2300, the Board of Appeals may require that these minimums be exceeded to meet anticipated demand.

And further,

Amend Section 3130 by inserting the text shown in bold below, so that it reads as follows:

No off-street parking shall be maintained closer to the street line than twenty feet (20') **unless approved as part of a Mixed Use Cluster Development special permit.** In the B-2 and Industrial District, no off-street parking shall be located between the principal building and the street line of an arterial street unless completely screened from view from the arterial street by vegetation and topography. Off-street parking servicing a use not allowed in an R-1 or R-2 District shall not be maintained within thirty feet (30') of said district bounds.

And further,

Amend Section 3100, Parking Requirements, at Section 3120, Table of Requirements, by adding the following introductory language prior to the listing of parking requirements for the various types of uses currently listed:

The following Table of Requirements shall be used to determine the required number of spaces for individual uses. Where more than one primary use is located on a site, the sum of the required spaces for each individual use shall apply.

or take any action relative thereto.

Unanimously Voted: That the Town amend the Sandwich Protective Zoning By-laws by inserting a new sentence in Section 3100, Parking Requirements; by inserting the phrase “unless approved as part of a special permit” at the end of the first sentence in Section 3130; and by inserting introductory language prior to the listing of parking requirements for the various types of uses current listed in Section 3120, Table of Requirements; all as

printed in the Warrant under Article 16. This was a voice vote and declared carried unanimously by the required two-thirds majority by the Moderator.

ARTICLE 17

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by inserting a new Article VI-A, Sections 6000 through 6104, Sandwich Development Agreement to read as follows:

ARTICLE VI-A

6000 SANDWICH DEVELOPMENT AGREEMENT

6001 Purpose

WHEREAS: The Town of Sandwich 2009 Local Comprehensive Plan has been certified by the Cape Cod Commission as consistent with the Regional Policy Plan; this by-law is adopted pursuant to the authority of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended, and Chapter D, Development Agreement Regulations, Code of Cape Cod Commission Regulations of General Application, for the purpose of authorizing the Town to enter into a Development Agreement with an owner of land for the mutual benefit of the parties consistent with the purposes of said Act and Regulations.

6002 Authority

Notwithstanding provisions of G. L. c. 40A or other law to the contrary, the Town, acting through the Board of Selectmen may enter into a Development Agreement with an owner of land within the Town as provided herein and consistent with the certified local comprehensive plan for the Town.

6010 DEFINITIONS

ACT- The Cape Cod Commission Act, Chapter 716 of the Acts of 1989, including, where appropriate, regulations adopted by the Cape Cod Commission for the purpose of implementing Development Agreements and other actions authorized by the Act.

APPLICANT- As used in this section, a person or persons with 100 percent ownership and control of the land within a proposed Development Site, as well as meeting the requirements for Qualified Applicant status within the meaning of the Act and Regulations adopted thereunder.

APPLICATION- The form generated by the Town for initiation of the development agreement negotiation and legislation process and the process by which an Applicant initiates consideration of a proposed Development Agreement.

CAPITAL FACILITY- Any constructed element or service necessary or appropriate to support a Development, including but not limited to roads, water, sewers, waste treatment or disposal, affordable housing, schools, police and fire protection facilities.

CAPITAL FACILITIES, PUBLIC- Those Capital Facilities which are open or available to the general public.

CAPITAL FACILITIES, PRIVATE- Those Capital Facilities which are not open to the general public and are open or available only to the Applicant and successors in interest.

CHIEF REGULATORY OFFICER- The official appointed by the Barnstable County Commissioners, upon the recommendation of the Commission, as provided in Section 8(h) of the Act, who is responsible for supervising the development of the regional impact review process and for review of proposed Development Agreements as provided in §8.2 of the Cape Cod Commission's Model Development Agreement By-law.

CONSULTANT FEE- Such fees as may be required from an Applicant by the Town for peer or technical review in the course of the negotiation and review of a proposed Development Agreement as authorized in the manner provided by G. L. c. 44, §53G.

COUNTY- The County of Barnstable, Massachusetts.

DEVELOPMENT- Any of the following activities undertaken by any person: any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any activity which alters a shore, beach, seacoast, river, stream, lake, pond, canal, marsh, dune area, woodland, wetland, endangered species habitat, aquifer, or other resource area, including coastal construction or other activity in Barnstable County within the jurisdictional limits of Barnstable County; demolition of a structure; the clearing of land as an adjunct of construction; or the deposit of refuse, solid or liquid waste or fill on a parcel of land or in any water area.

DEVELOPMENT AGREEMENT- A contract among and between an Applicant and the Town and, at the election of the Applicant, with the Cape Cod Commission, the principal purpose and effect of which is to establish the Development Rights that will apply to the Site of the Development Agreement during the term of said Agreement and to establish the conditions to which the Development will be subject.

Pursuant to a Development Agreement, an Applicant may agree to contribute one or more of the following: Public and/or Private Capital Facilities to serve the proposed Development, the Town and/or Region; Affordable Housing either on- or off-site; reservation of land for open space, community facilities, historic or natural preservation or recreational use and/or the contribution of impact fees or other funds to create or support any of such purposes and facilities. The Development Agreement shall establish the permitted uses, densities, scale of buildings, site design and traffic within or external to the Development Site, the duration of the Agreement, impact fees and any other terms or conditions mutually agreed upon between the Applicant, the Town and/or the Cape Cod Commission, and shall have the effect of Vesting the Development Rights relative to the Site for the duration of the Agreement, as further defined in this by-law and the Agreement.

DEVELOPMENT OF REGIONAL IMPACT (DRI)- As defined in the Act, a Development which, because of its magnitude or the magnitude of its impact on the natural or built environment, is likely to present regulatory or other development issues significant to or affecting more than one municipality, and which conforms to the applicable criteria set out in Section 12 of the Act.

DEVELOPMENT PERMIT- Any permit, license, authority, order, approval, certificate, endorsement, or permission required from the Town prior to the commencement or completion of any Development, but not including any household solid waste permit.

DEVELOPMENT RIGHTS- The restrictions and other conditions on the nature or number of residential or other units of development which are in effect at the time of submission of a completed Application as established by the Town's land use laws and regulations or, where applicable, by the Act and Regulations thereunder.

FEES- The Board of Selectmen may adopt regulations setting the fee for application for and modification of a development agreement and may establish a consultant fee procedure consistent with the provisions of G. L. c. 44, §53G.

HOUSING, AFFORDABLE- Any residential housing unit which meets affordability standards promulgated by the Executive Office of Communities and Development of the Commonwealth of Massachusetts and which prohibits discrimination because of the race, color, religious creed, national origin, sex, ancestry, sexual orientation or handicap of any person.

IMPACT FEE- Payment(s) to the Town designed to offset in whole or in part the effects upon the Town or Region of a proposed Development, which may include, but not be limited to payments for creation or enhancement of Public Capital Facilities, such as streets, sewers and sewer treatment facilities, water supply and distribution facilities, parks, improvements to natural resource areas, whether public or

privately owned, schools, police and fire protection facilities, affordable housing and other Capital Facilities of or within the Town; such payments to be held and administered in the manner provided in §15 (b) and (c) of the Act.

INFRASTRUCTURE- Services and physical facilities accessory to or otherwise associated with development of a site, including but not limited to roads, water supply, sewers and electrical or other utilities.

LOCAL COMPREHENSIVE PLAN- The Sandwich LCP, as certified by the Cape Cod Commission as of the effective date of this by-law and as may be amended as of the date of submission to the Town of an Application for a Development Agreement.

MAIL- Unless otherwise indicated, certified mail, return receipt requested.

MODIFICATION, MAJOR- An amendment to an executed Development Agreement that alters or varies the use, intensity or mitigation stipulations of an executed Development Agreement.

MODIFICATION, MINOR- An amendment to an executed Development Agreement that is limited to a technical correction or does not alter or vary the use, intensity or mitigation stipulations of an executed Development Agreement, as determined by both the Commission and the Town.

NOTICE- Unless otherwise provided, written notice sent by certified mail to the Parties or other required entities.

PARTIES, PARTICIPATING- Following execution and delivery of a Development Agreement, the Town and Applicant, and, where applicable, the Cape Cod Commission.

PROFFER- An offer contained in an Application or made by the Applicant or another Party in the course of negotiation to commit to provide certain benefits to one or more of the Parties or to residents of the Town or Region, and which are intended to become a term or condition of the approved Development Agreement.

REGULATIONS- The Town, acting through the Planning Board as specified herein shall adopt, and may from time to time amend, regulations establishing procedures in furtherance of the objectives of this by-law.

REGION- That area, including but not limited to land within the County, which is either likely to be benefited or otherwise affected by a Development, either during its construction stage or post-construction.

SITE- The locus subject to a Development Agreement, whether consisting of a single parcel of land or multiple parcels.

TOWN- The Town of Sandwich, acting through its Board of Selectmen, which term shall include the designee of the Board of Selectmen.

TOWN MEETING- The legislative body of the Town.

TRANSFER OF DEVELOPMENT RIGHTS (TDR)- As authorized by an approved Development Agreement, the severance, or limitation, of the potential development rights of parcel, known as the "sending parcel," and the corresponding increase in Development Rights for another parcel, known as the "receiving parcel," as provided for in Regulations adopted by the Planning Board.

VESTING OF DEVELOPMENT RIGHTS- The "freezing" of applicable zoning or other local laws or regulations, and/or in the case of a Development Agreement to which the Cape Cod Commission is a party, Development Rights pursuant to §14(a) of the Act and §3 of Cape Cod Commission Regulations

Chapter D "Development Agreement Regulations," with the effect that, notwithstanding any other law to the contrary, amendments to Town By-laws and regulations or, in the case of any Development Agreement to which the Cape Cod Commission is a party, to provisions of the Act and its Regulations otherwise applicable to the development of land, shall not apply to the Development Site during the term of the Development Agreement; subject to a requirement in the Development Agreement that the application and/or development authorized by a Development Agreement proceed reasonably and continuously.

6020 PARTICIPATING PARTIES

A Development Agreement may be executed by and between applicant and one or more of the following, parties:

1. The Town of Sandwich; or
2. The Cape Cod Commission and the Town of Sandwich

6030 ELEMENTS OF DEVELOPMENT AGREEMENT

6031 Proffer(s) by Applicant

A Development Agreement may include, but is not limited to, commitments by the applicant to actions that contribute to one or more of the following interests, as they may be identified in the Application and further refined or modified in the course of negotiation of the Development Agreement, which, as identified in the Application may include, but not be limited to contributions for or improvements to:

1. The infrastructure of the Town and/or region;
2. Public or Private Capital Facilities;
3. Land dedication and/ or open space, historical or other preservation;
4. Affordable housing, either on- or off-site;
5. Employment opportunities;
6. Community facilities;
7. Recreational facilities, active or passive in nature;
8. Alternative or mass transportation facilities or contributions; and
9. Any other benefit intended to serve the proposed Development, Town, and/or Region, including without limitation site design standards for preservation or enhancement of aesthetic, natural, historic, cultural or other resources

6032 Proffer(s) by Town

A Development Agreement may include commitments by the Town to provide specific protection(s) from future changes in applicable local by-laws and/or regulations and assistance in streamlining the local Development approval process. Streamlining may include, where not in conflict with existing local, state or federal law, holding joint board and permit hearings, coordination of permit applications and, where possible, accelerated review of permit approvals. The Parties may agree in writing to extensions of time within which development approvals under local laws may be acted upon, which, in the case of any Development Agreement to which the Cape Cod Commission is a party, may include deadlines for action on applicable state or regional laws and regulations.

6040 APPLICATION PROCEDURE

6041 Applicant Qualification

Application for approval of a Development Agreement may be made by a person having full ownership and control of the real property which is the subject of the Development Agreement, including the duly authorized agent.

6042 Application

Applicant shall complete a Development Agreement Application Form provided by the Town, which form shall require submission of the following information:

1. A certified list of abutters;
2. A legal description and survey plan of the Site, including names of all legal and equitable owners;
3. The proposed duration of the Development Agreement;

4. The uses currently permitted on the land by applicable zoning and other local controls, and all uses and structures proposed on the land, including, building densities, height, and any significant natural features;
5. A description of Public Capital Facilities that will service the Development, including sources of payment for such facilities, the date of construction of all new facilities, and a schedule to assure that public facilities adequate to serve the Development are available concurrent with the impacts of the Development;
6. A description of any reservation or dedication of land for public purposes, including public recreation, conservation, agricultural or historic purposes;
7. A description of all Town, State and regional permits and licenses approved or required to be approved for the development of the site;
8. A statement acknowledging that any omission or failure to address a particular permit, condition, term, or restriction in a Development Agreement as may issue for the proposed project shall not relieve applicant of the obligation to comply with the law governing said permitting requirements, conditions, terms or restrictions;
9. A Final Environmental Impact Report, bearing the certification of the Secretary of Environmental Affairs, if required under G. L. c. 30, §§61 through 62h;
10. Additional data and analysis necessary to assess the impact of the proposed Development;
11. Evidence of ownership and assents of all parties with legal or equitable interests in the site; and
12. A description of any zoning relief required pursuant to §7.703 Limitations.

6043 Cape Cod Commission a Party

An applicant shall complete a Development Agreement application form and comply with the specific application requirements set forth in Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised. The procedural requirements established in Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised, shall be followed, and no Development Agreement shall be valid unless and until the requirements of said Section 5 of Chapter D have been complied with in full.

6044 Cape Cod Commission Not a Party

6044.1 Local DRI Determination

An applicant seeking to enter into a Development Agreement without the Cape Cod Commission as a party shall submit an Application containing a detailed description of the proposed Development to the Building Inspector for review and jurisdictional determination as to whether the proposed Development qualifies as a DRI.

1. If the Building Commissioner determines that the proposed Development is not a DRI, then the Building Commissioner shall within five business days forward said determination, together with reasons therefore and a copy of the Development Agreement application form, to the Clerk of the Cape Cod Commission, in which case the applicant may pursue a Development Agreement without the Cape Cod Commission as a party.
2. If the proposed Development is determined to be a DRI, then the Cape Cod Commission must be a party to the Development Agreement, in which case, the provisions of Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised, shall apply, which require, among other things, that the applicant shall file with the Cape Cod Commission a Notice of Intent to file a Development Agreement for a determination by the Cape Cod Commission Regulatory Committee as to whether the proposed development is suitable and qualifies for the Development Agreement Process

6050 STANDARD OF REVIEW

The Planning Board shall review a proposed Development Agreement for consistency with the Cape Cod Commission Act, the Town's zoning and the Local Comprehensive Plan. A Development Agreement proposal that is inconsistent with the by-law shall require either a zoning amendment or shall be subject to obtaining the required zoning relief, by special permit or otherwise, as may be available under then current zoning as necessary to eliminate the conflict or inconsistency with zoning, unless, however, the

Development Agreement containing such inconsistencies is approved by two-thirds vote of Town Meeting.

6060 NEGOTIATION

Negotiation of the terms of a Development Agreement shall commence with the filing of an Application with the Planning Board. The Planning Board may designate such other boards, departments or officers to participate in review of the Application as it shall deem necessary or appropriate in consideration of the nature of the proposed Development, the characteristics of the Site and any other relevant considerations. All negotiations shall take place in open meetings or public hearings that comply with the applicable Town or statutory requirements for the notice and conduct of meetings with or hearings by Town boards.

6070 HEARING

The Planning Board shall hold a public hearing after receipt of a fully completed Application. There shall be a minimum of two public hearing sessions for the purpose of reviewing the Development Agreement application, which hearing shall close within 90 days, unless extended by mutual agreement of the parties. Failure to close the public hearings within 90 days shall not result in a constructive grant of the proposed development.

6071 Notice

The Town shall provide at the expense of applicant notice of the public hearing to consider a Development Agreement by publication in a newspaper of general circulation once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing, and by mailing notice not less than 14 days before to:

1. The Board of Selectmen, Town Manager, Town Clerk, Building Inspector, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Old King's Highway Historic District Committee, Historic District Commission, Housing Authority, Sandwich Economic Initiative Corporation and any other Town agency, officer or individual that makes a written request for such notice;
2. The applicant;
3. Each abutter to the Site, based on a list of abutters provided by the applicant and certified by the Sandwich Tax Assessor, including owners of land directly opposite the Site on any public or private street or way and owners of land located within 300 feet of any boundary of the proposed Development; and
4. The Cape Cod Commission.

6080 DECISION: ISSUANCE; FILING; RECORDING AND SUMMARY

6081 Issuance

A Development Agreement shall be issued in a form suitable for recording in the Barnstable County Registry of Deeds.

6082 Filing and Recording

The Town shall file an executed Development Agreement with the Clerk of the Cape Cod Commission and with the Town Clerk, and shall, at the expense of the applicant, record the executed Development Agreement in the Barnstable County Registry of Deeds and publish notice of issuance of a Development Agreement in a newspaper of general circulation in the Town, which notice shall contain a brief summary of the contents of the Development Agreement and a statement that copies of the Development Agreement are available for public inspection at the office of the Town Clerk during normal business hours.

6083 Summary

In addition, the Town shall provide the Cape Cod Commission with a summary of the Development Agreement which the Cape Cod Commission shall publish in its official publication pursuant to Section 5(i) of the Cape Cod Commission Act.

6090 MODIFICATION AND RESCISSION OF DEVELOPMENT AGREEMENT

A Development Agreement may be amended or rescinded as provided below, subject to the same procedural requirements as required for application pursuant to §5 of the Development Agreement Regulations applicable where the Cape Cod Commission is a party, other than submission of a Notice of Intent pursuant to §5(a) of said Regulations and §6, applicable where the Cape Cod Commission is not a party, including requirements applicable to negotiation, hearing and approval of a Development Agreement as applicable to the original application.

6091 Procedure

At any time following execution and delivery of an approved Development Agreement, any Party to the Development Agreement, including the Town on its own initiative, acting through the Board of Selectmen, may petition for amendment or rescission of the Development Agreement. If not a Party, the Cape Cod Commission may petition to rescind the Development Agreement only in the event of failure of consideration.

Modification or rescission of an executed Development Agreement must be ratified by all parties to the original Development Agreement. Any Development Agreement may contain provisions further regulating the amendment and/or rescission of a Development Agreement.

1. A petition for modification or rescission shall be made in writing and shall state, in specific detail the Petitioner's reasons for amendment or rescission, and, except in the case of a Minor Modification, a Party applying for modification or rescission of shall provide notice of said application, in writing and at its own expense, to every Party, and to the Cape Cod Commission if not a Party, including a copy of the application for modification or rescission..
 - a. Minor Modification- Amendments to an approved and executed Development Agreement that consist only of de minimis substantive changes or technical or typographical changes may be made by the Planning Board at an open meeting without the need for the full application, notice and hearing required for the original application, provided that any such Minor Modification is authorized by the Regulatory Committee of the Cape Cod Commission and by majority vote of the Board of Selectmen; otherwise, the procedure for Major Modification shall apply.
 - b. Major Modification or Rescission -
 - i. When the Commission is a party to the Development Agreement, any Party to a Development Agreement, any Participating Party, including the Commission, may petition to amend the Development Agreement, subject to the application, notice and hearing requirements for the original application; however, the Commission may petition for rescission only in the event of failure of consideration.
 - ii. When the Commission is not a party, the Town or any other Party to the Development Agreement may petition to amend or rescind the Development Agreement, subject to the application, notice and hearing requirements for the original application; provided that said petitioner shall provide notice in writing to the Commission and all Parties of its intent to seek amendment or rescission

6100 DECISION

6101 Term

1. A Development Agreement shall commence and terminate as provided in said Agreement. Where the Cape Cod Commission is not a party, a Development Agreement shall not exceed 10 years;
2. Where the Cape Cod Commission is a Party, a Development Agreement may extend for such period of time as it may provide, as set forth in Section 7 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised; and
3. Notwithstanding the foregoing, conditions or other provisions of the Development Agreement pertaining to the preservation of open space and park areas, and agreement to pay for maintenance of utilities and other infrastructure may exceed such ten-year limitation.

6102 Interpretation

1. A Development Agreement may not be interpreted or applied to prevent the Town or other governmental subdivision or agency from requiring applicant to comply with the laws, rules and regulations and policies enacted after the date of the Development Agreement, if the Town or governmental agency determines that the imposition of and compliance with the newly effective laws and regulations are essential to ensure the public health, safety or welfare of the residents of all or part of the jurisdiction; and
2. In any case of conflict between the provisions of this by-law and other by-laws or regulations of the Town, the more restrictive provisions shall apply.

6103 Limitations

1. Nothing in this Article shall be construed to permit the Town to require an applicant to enter into a Development Agreement; and
2. Any provision within a Development Agreement that is inconsistent with the zoning bylaw shall require either a zoning amendment or shall be subject to the grant of such zoning relief as may be needed for compliance with the zoning bylaw.

6104 Enforcement

A Development Agreement is a binding contract which is enforceable in law or equity by a Massachusetts court of competent jurisdiction.

or take any action relative thereto.

Unanimously Voted: That the Town amend the Sandwich Protective Zoning By-laws by inserting a new Article VI–A, Sections 6000 through 6104, Sandwich Development Agreement, as printed in the Warrant under Article 17. This was a voice vote and declared carried unanimously by the required two-thirds majority by the Moderator.

ARTICLE 18

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by deleting the current Definitions section in its entirety and inserting a new Definitions section in order to eliminate duplication, make editorial changes, and add new definitions, to read as follows:

DEFINITIONS

In this by-law the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings. Words used in the present tense include the future, and plural includes the singular; the word "lot" includes the word "plot"; the word "structure" includes the word "building." The word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied." The word "person" includes a corporation as well as an individual.

ABANDONMENT- A non-conforming use of a building or land, which has been abandoned for a period of two (2) years, shall not thereafter be returned to such non-conforming use. A non-conforming use shall be considered abandoned when the premises has been vacant for two years, or when the characteristic equipment and/or furnishings of the non-conforming use have been removed from the premises and have not been replaced by similar equipment, whichever shall occur first.

ACCESSORY APARTMENT- A secondary dwelling unit (not to exceed 750 square feet) on a property which is located within or attached to a single-family dwelling unit.

ACCESSORY BUILDING OR USE- A building or use customarily incidental to and located on the same lot with the principal building or use, except that if more than thirty percent of the lot area or building is devoted to a principal use or is occupied by such use, it shall no longer be considered accessory.

ACCESSORY DWELLING UNIT- A small, self-contained residential unit not to exceed 1,000 square feet (or 30 percent of the gross floor area of the principal dwelling unit) built on the same lot as an existing single-family home that is within or attached to a principle dwelling unit or garage.

ADDITION- New construction in which a substantial part of a wall of the original structure is attached to the principal building.

ADULT USE- The following uses are included within this term, all as defined in G. L. c. 40A, §9A: Adult Bookstore; Adult Motion Picture Theater; Adult Paraphernalia Store; Adult Video Store; Establishment which displays live nudity for its patrons.

ALTERATION- Any construction, reconstruction or other action resulting in a change in the structural parts or height, number of stories or exits, size, use or location of a building or other structure.

ANIMAL KENNEL- Premises for the harboring and/or care of more than three dogs or other domestic animals. Four or more animals shall require a special permit in any district.

ANTENNA- A device for transmitting and receiving electromagnetic waves.

ANTENNA, AMATEUR RADIO- An antenna structure operated by a federally licensed amateur radio operator, as provided in G. L. c. 40A, §3.

APARTMENT, ACCESSORY- A secondary dwelling unit on a property, which is in addition to, and secondary to, another primary residential or commercial building.

APPLICANT- Individuals, partnerships, corporations, trusts and other legal entities in which the applicant of record holds a legal or beneficial ownership of greater than one percent.

ARTERIAL STREET- Any state numbered highway, plus the following named streets: Beale Avenue, Chase Road, Farmersville Road, Great Hill Road, Mid-Cape Service Road, Newtown Road, Race Lane, Quaker Meetinghouse Road, Sandwich-Cotuit Road, Snake Pond Road.

ASSISTED LIVING FACILITY- per G. L. c. 19D, §18(d), a facility so defined in G. L. c. 19D, §1 and licensed pursuant to G. L. c. 19D, §4 for provision to three or more adult residents with activities of daily living.

AUDITORIUM- A large open or enclosed building used to accommodate an audience for public meetings or gatherings.

BASE FLOOD- The flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT- The portion of a building which is partly below and partly above grade, and having at least one-half its height above grade.

BED AND BREAKFAST- A dwelling which includes the renting of rooms at a daily rate wherein the rental rate includes a breakfast meal in the daily rate, and wherein the owner or operator maintains a place of principal residence. Hotels, motels, and inns are not classified as bed and breakfast establishments.

BEDROOM- Any habitable room in a dwelling, if such room exceeds sixty square feet, other than a living room, dining room, kitchen, utility room, or bathroom. Any dwelling unit in which no such room exists shall be construed to contain one bedroom.

BOAT AND WATERCRAFT STORAGE BUILDING- A building used for the indoor storage of boats and watercraft.

BOAT HOUSE- A structure used for the storage of recreational vessels and associated equipment and which is located within one hundred feet of mean high water (MHW) or the natural high water mark.

BUILDING- An enclosed structure, whether principal or accessory.

BUILDING HEIGHT- The vertical distance from the natural grade at the front line of the building to the highest point of the roof for flat or shed roofs, to the deck line for mansard roofs and to the ridge for gable, hip and gambrel roofs. Not included are spires, cupolas, TV antennae and other parts of structures, which do not enclose potentially habitable floor space.

BULK STORAGE- Exposed outside storage of sand, lumber, coal, or raw materials, or the storage of liquids or gases in tanks (except underground) as an accessory use.

CAMPER- A portable dwelling, eligible to be registered and insured for highway use, designated to be used for travel, recreational and vacation uses, but not suitable for permanent residence. Includes equipment commonly called travel trailers, pick-up coaches, or campers, motorized campers, and tent trailers.

CAMPGROUND- Premises used for travel trailers, campers, tenting or for temporary overnight facilities of any kind where a fee is charged.

CAMPING SUPERVISED- Facilities operated on a seasonal basis for continuing supervised recreational, health, educational, religious, and/or athletic programs, with persons enrolled for periods of not less than one week, and with group dining if overnight accommodations are included.

CELLAR- A portion of a building, partly or entirely below grade which has half or more than one-half or its height, measured from finished floor to finished ceiling, below the average finished grade of the ground adjoining the building. A cellar is not deemed a story.

CERTIFICATE OF USE AND OCCUPANCY- A statement signed by the Building Inspector setting forth either that a building or structure complies with zoning and the building code or that a building, structure or parcel of land may lawfully be employed for specified uses.

CHANGE OF USE- Any use that substantially differs in quality and effect on its neighborhood from the previous use of a building or land. If a particular land use is undefined by this by-law, the most similar use listed in the Standard Industrial Classification (SIC) Manual shall be used. A change of ownership shall not be considered a change of use.

CHANNEL- The segment of the radiation spectrum from an antenna that carries one signal. An antenna may radiate on many channels simultaneously.

CHILD CARE FACILITY- A day care center or school age child care program, as those terms are defined in G. L. c. 1A, §15d and G. L. c. 40A, §3.

CINEMA- a movie theater containing several auditoriums within the same building.

CLUB- An organization catering exclusively to members and their guests, or premises and buildings for recreational, social and/or fraternal purposes, which are not conducted primarily for gain, providing there are no vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club. There shall be no sleeping accommodations provided for members or their guests.

CLUSTER DEVELOPMENT- Residential development granted by special permit, on parcels of land of five or more acres, that would qualify for development as a conventional subdivision of land in full compliance with dimensional zoning controls, alternatively designed to maximize open space with the same or fewer number of lots within the parcel, by reduction of lot dimensions and building setback and clustering or consolidation of remaining land as open land to provide superior protection of the parcel's natural features and aesthetic characteristics in comparison to a conventional residential design.

COMMERCIAL MARINE EQUIPMENT STORAGE- Storage of a boat, boat trailer and/or equipment relating to a commercial marine business.

COMMON DRIVEWAY- By special permit, an alternative means of physical access to two or three lots which have legal access and frontage of the length and type required for individual lots. A common driveway so permitted is not a street and does not provide lot frontage.

CONTINUING CARE RETIREMENT COMMUNITY- A facility or group of facilities which offers several levels of assistance, including independent living, assisted living, congregate care, and/or skilled nursing care.

CONTRACTOR'S YARD- An enclosed lot with or without structures used by an individual building contractor or subcontractor for storage of equipment, supplies, and sub-assemblies, or parking of wheeled equipment.

CONVENIENCE STORE, RETAIL- Retail store greater than 5,000 gross square feet yet not to exceed 9,999 square feet. Retail convenience store may operate a pharmacy within the premises.

CONVENIENCE STORE, SMALL RETAIL- Retail store less than 5,000 square feet gross floor area that sells a variety of basic items and packaged foods. Small retail convenience stores shall not operate pharmacies within the premises.

COTTAGE COLONY- Two or more detached seasonal dwellings located on the same lot and under single ownership, each designed for independent family living and including cooking facilities.

CULTIVATED LAWN- A vegetated cover of sod-forming grass species, which is maintained by being fertilized, irrigated, and mowed.

DAY CARE CENTER- See G. L. c. 40A, §3 "Child Care Facility" defined as "day care of school age child care as those terms are defined in" G. L. c.28A, §9.

DEVELOPMENT- Any constructed change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISCHARGE, WASTEWATER EFFLUENT- A discharge into the ground of treated wastewater from a permitted wastewater treatment facility.

DISPOSAL AND RECYCLING FACILITIES- Structures not to exceed 9,000 square feet where non-hazardous wastes, scrap articles or materials are safely stored, sorted and packed for sale or re-use.

DISTRICT OF CRITICAL PLANNING CONCERN (DCPC)- a geographic area of Cape Cod identified by the Cape Cod Commission as requiring special protection and designated by the Assembly of Delegates in accordance with the criteria, procedures and requirements set for in Sections 10 and 11 of the Commission Act.

DRIVE-UP/DRIVE THROUGH- A principal or accessory use relating to or conducting exchanges with clients who drive-up to a window and remain in their automobiles.

DWELLING- A building or part of a building used exclusively as the living quarters for one or more households.

DWELLING, SINGLE-FAMILY- One dwelling unit on a single lot irrespective of structure type, ownership or tenure.

DWELLING, TWO-FAMILY- Two dwelling units on a single lot irrespective of structure type, ownership or tenure.

DWELLING, MULTI-FAMILY- Three or more dwelling units on a single lot irrespective of structure type, ownership or tenure.

DWELLING UNIT- Living quarters for a single household and not more than two boarders or lodgers, with cooking, living, sanitary, and sleeping facilities, independent of any other unit.

ELEVATION- Height relative to mean sea level.

ELEVATION, PRINCIPAL FLOOR – the first floor of a structure or building at grade.

EMF- Electromagnetic frequency radiation.

EXTERIOR DISPLAY- Any advertising done outdoors that publicizes a business's products and services. Types of exterior display include billboards, bus benches, interiors and exteriors of buses, taxis and business vehicles, and signage posted on the exterior of a building.

FACILITY SITE- Location of proposed telecommunication tower or turbine and all associated equipment (including but not limited to electrical transformers for utility interconnections, equipment shelters, storage facilities, transformers and substations) required to ensure long-term, safe and proper operations.

FALL ZONE- A circle with its center at the base of the wireless telecommunication or wind energy facility and its radius equal to the facility's height.

FAMILY DAY CARE- As defined in G. L. c. 40A, §3

FARM- Premises, including necessary structures and equipment which are used for gain in the raising of agricultural products, or livestock, except horses (see Stables).

FARM STAND- As defined in G. L. c. 40A, §3.

FAST FOOD, TAKE OUT- Establishments designed for the selling or intended selling of food to be taken and eaten off the premises.

FCC- The Federal Communications Commission of the United States of America.

FCC 96-326- A report and order that sets national standards for emissions of radio frequency emissions from FCC regulated transmitters.

FLOOR AREA- The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including the area of basements not more than fifty percent below grade, roofed porches and roofed terraces, excluding areas with less than six feet floor to ceiling height. All dimensions shall be measured between exterior faces of walls.

FLOOD PLAIN- A low plain adjacent to a river that is formed chiefly of river sediment and is subject to flooding.

FLOOD ZONE A- Areas with a 1 percent annual chance of flooding and a 26 percent chance of flooding over the life of a 30-year mortgage. Because detailed analyses are not performed for such areas, no depths or base flood elevations are shown within these zones.

FLOOD ZONE AE- The base floodplain where base flood elevations are provided. AE Zones are now used on new format Flood Insurance Rate Maps instead of A1-A30 Zones.

FLOOD ZONE AO- River or stream flood hazard areas and areas with a 1 percent or greater chance of

shallow flooding each year, usually in the form of sheet flow, with an average depth ranging from 1 to 3 feet. These areas have a 26 percent chance of flooding over the life of a 30-year mortgage. Average flood depths derived from detailed analyses are shown within these zones.

FLOOD ZONE V- Coastal areas with a 1 percent or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26 percent chance of flooding over the life of a 30-year mortgage. No base flood elevations are shown within these zones.

FLOOD ZONE VE- Coastal areas with a 1 percent or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26 percent chance of flooding over the life of a 30-year mortgage. Base flood elevations derived from detailed analyses are shown at selected intervals within these zones.

FOOTPRINT- The area within the perimeter of a building measured at the foundation. It shall include all roofed porches and or other roofed areas, bulkhead and cantilevered portions on any level of the building. Not included in the footprint are open, uncovered patios, decks, unroofed stoops, window wells for emergency egress from below-grade bedrooms, stairs and roof projections (cornices, eaves, gutters, outside chimneys, steps, bay windows and terraces).

FORMULA BUSINESS ESTABLISHMENT- A business which does or is required by contractual or other arrangement or as a franchise to maintain two (2) or more of the following items: standardized (formula) array of services and/or merchandise including menu, trademark, logo, service mark, symbol, décor, architecture, façade, layout, uniforms, color scheme, and which are utilized by ten (10) or more other businesses worldwide regardless of ownership or location.

FRONTAGE- That portion of a lot which is bounded by the street line or way, the sidelines and the minimum building setback line. The frontage must be suitable for development of an access route or driveway to the building site.

GAME ROOM- A commercial facility exclusively for playing of billiards, pool, darts and/or table games, but not including video games or pinball machines.

GARAGE, RESIDENTIAL- A structure which is accessory to a residential building and which is used for the parking and storage of vehicles or other chattel owned by the residents thereof, which is not a separate commercial enterprise available to the general public and is not to be utilized for commercial repair, commercial storage, or the rental of more than two stalls.

GARAGE/PARKING LOT, COMMERCIAL- A structure or designated area used for the parking and storage of vehicles which is operated as a business and open to the public for a fee.

GARAGE, REPAIR- A building designed and used commercially for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work.

GASOLINE STATION- Any area of land, including structures thereon, that is used or designated to be used for the retail sale of gasoline or oil or other fuel for the propulsion of motor vehicles, and which may include facilities for cleaning or servicing such motor vehicles, but not including painting or body repairs.

GOLF COURSE, STANDARD OR PAR 3 - Course, including customary accessory buildings, where tee-to-hole distance averages not less than eighty yards.

GROUNDWATER- Water beneath the earth's surface, often between saturated soils and rock, that supplies wells and springs.

GROSS FLOOR AREA, NON-RESIDENTIAL- The sum of the areas for each story or level exclusive of basements, elevator shafts, stairwells, and floor space used for mechanical equipment as measured from the outer face of exterior walls.

GROSS FLOOR AREA, RESIDENTIAL- The sum of the areas for each story or level of a dwelling unit exclusive of areas not designed for human occupancy including, but not limited to basements, stairwells, bathrooms, attics, wall partitions and attached accessory buildings.

GUEST HOUSE- An accessory residential structure for occasional occupancy by non-paying guests, having not less than 400 square feet of gross floor area.

GUEST UNIT- Room or suite of rooms suitable for separate rental or occupancy in a hotel, motel, or similar establishment. Any room or suite of rooms containing a stove plus either or both a refrigerator and a kitchen sink shall be considered a dwelling unit.

HABITABLE SPACE- Space in a structure for living, sleeping, eating or cooking. Bathrooms, closets, halls, storage areas and utility spaces are not considered habitable space.

HAZARDOUS MATERIALS- Any product or waste or combination of substances which, because of quantity, concentration, or physical or chemical, or infectious, or radioactive characteristics may reasonably pose, in the determination of the enforcing authority, a substantial present or potential hazard to human health, safety or welfare, or the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed; any substance which may create a special hazard in the event of spill, leak, fire, or exposure; and all substances deemed to be hazardous waste as defined in G. L. c. 21C §2, the hazardous waste regulations promulgated by the DEP at 310C CMR 30.010 in amounts in excess of that normally used in household maintenance, the Resource Conservation and Recovery Act (RCRA), 42 USC 6901 et seq., or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601 et seq., as these may be amended, or other materials which are listed as toxic, hazardous or a priority pollutant by the United States Environmental Protection Agency.

HAZARDOUS MATERIALS, HOUSEHOLD QUANTITIES- Any waste material defined by the Massachusetts Hazardous Waste Regulations, 310 CMR 30.00. Household quantities may consist of any of the following:

- 275 gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator; or
- 25 gallons (or the dry weight equivalent) or less of other hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator; or
- a quantity of hazardous waste at the Very Small Quantity Generator level as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR 30.535.

HAZARDOUS WASTE FACILITY- As defined in G. L. c. 21D, §5. A site or works for the storage, treatment, dewatering, refining, incinerating, reclamation, stabilization, solidification, disposal or other processes where hazardous wastes can be stored, treated or disposed of; however, not including a municipal or industrial waste water treatment facility if permitted under G. L. c. 21, §43.

HEALTH CLUB- A facility with exercise equipment offering aerobic-related activities and is open to both those with memberships as well as the general public.

HEIGHT- The vertical distance from the average finished grade of the adjacent ground to the top of the structure of the highest roof beams of a flat roof, the deck of a mansard roof, or the mean level of the highest gable or slope of a hip roof. When applied to a Wind Energy Facility, the height of a Wind Energy Facility measured from natural grade of the facility's foundation to the tip of the rotor blade at its highest point, or blade-tip height.

HELIPORT- An area, either at ground level or elevated on a structure, licensed or approved for the loading and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment.

HOME OCCUPATION - The use of a room or rooms in a dwelling or building accessory thereto as an office, studio, or workroom for a home occupation by a person resident on the premises provided that:

1. Such use is clearly incidental and secondary to the use of the premises as a dwelling;
2. Not more than one person other than residents of the premises regularly provided paid services in connection with such use;
3. No commodity or service is sold or provided to another person who is on the premises;
4. The public is not invited onto the premises in the usual course of business;
5. No offensive noise, traffic, vibration, smoke, dust, odor, heat, or glare is produced as a result of the home occupation;
6. There is no exterior display or exterior sign except as permitted under the Sign Code;
7. There is no exterior storage of materials or equipment (including the exterior parking of more than one commercial vehicle), and no other exterior indication of such use or variation from the residential character of the premises;
8. All parking for such home occupation, other than for residents of the premises, shall be provided off the street. Adequate off-street parking shall be provided in accordance with the provisions of the by-laws; and
9. Such use has been approved in writing by the Building Inspector.

HOME RULE AMENDMENT - Article II of the Articles of Amendment to the Constitution of the Commonwealth, as amended, which is codified in the General Laws of the Commonwealth as G. L. c. 43B, which empowers a municipality by local legislation to exercise any power or function which the General Court has power to confer upon it, so long as such local law does not conflict with the Constitution of the Commonwealth or certain statutes enacted by the General Court which deny such local power in matters where state-wide uniformity has been deemed to be necessary.

HOSPICE CARE- Palliative and supportive care and other services for terminally ill patients with a limited life-expectancy and their families. Services shall include, but not be limited to, physician's services, nursing care provided by or under the supervision of a registered nurse, social services, volunteer services and counseling services.

HOSPITAL- Institutions providing acute twenty-four hour inpatient services which include, but are not limited to, the treatment of emergencies, intensive and patient care units for adults and children, and major clinical and diagnostic health care services.

HOSPITAL, REHABILITATION - A hospital licensed pursuant to G. L. c. 111, which provides Hospital-level in-patient rehabilitation services, together with general and specialty out-patient rehabilitation services including but not limited to: aquatic therapy, cardiac rehabilitation, occupational therapy, physical therapy, speech and language pathology, women's rehabilitative services, wellness, holistic medicine, sports medicine, wound treatment, pain therapy, adult daycare, research and development related to rehabilitation, geriatric and elder care and day time veterinary rehabilitative services.

HOSPITAL-RELATED SERVICES- Hospital or healthcare-related commercial services, such as laboratories, pharmacies, laundries, and medical equipment rentals, which are operated by and on the principal premises of a hospital or health care facility. A hospital licensed pursuant to G. L. c. 111, which provides hospital-level in-patient rehabilitation services, together with general and specialty out-patient rehabilitation services including but not limited to: aquatic therapy, cardiac rehabilitation, occupational therapy, physical therapy, speech and language pathology, women's rehabilitative services, wellness, holistic medicine, sports medicine-adaptive sports, wound treatment, pain therapy, adult daycare, research and development related to rehabilitation, geriatric and elder care and day time veterinary rehabilitative services.

HOSPITAL, VETERINARY- A building providing for the diagnosis and treatment of ailments of animals other than human, including facilities for overnight care.

HOTEL- A building or group of buildings, whether detached or connected, each containing three or more rooming units each with its own sanitary facilities, as well as providing meals and other guest services (including such accessory uses as function rooms, health club, restaurants, swimming pools, and/or tennis courts).

IMPERVIOUS SURFACE- A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes surfaces such as compacted sand and gravel, or clay, as well as most conventionally surfaced streets, roofs, roadways, sidewalks, parking lots, and other similar structures.

JUNKYARD- A lot, land or structure, or part thereof, used primarily for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.

LANDSCAPE MAINTENANCE AGREEMENT- contract between SPGA and applicant for the long-term care and health of plantings for a project subject to SPR approval or issuance of a special permit.

LANDSCAPED OPEN SPACE- Space not covered by any structure and not used for golf drives, parking, utilities, or storage; such spaces include landscaped areas and outdoor recreational facilities, including those on balconies and roofs over structures, if so developed. Area shall be measured horizontally and not include any land with slope over twenty percent, or any land under water other than swimming pool.

LOAM- Fertile, friable, natural topsoil of the locality, without admixture of subsoil, refuse or other foreign material, and as further defined by the Barnstable County Extension Service.

LOT- An area of land in single ownership with definite boundaries, established by a recorded plan or deed, including a lot created by combining several previously recorded lots, and used or available for use as the site of one or more buildings or for any other purpose.

LOT AREA- The horizontal area of a lot exclusive of any area in a street or recorded way open to public use. At least eighty percent of the lot area required for zoning compliance shall be contiguous land other than that under any water body, or wetland as defined in G. L. c. 131, §40 of the Sandwich Wetland By-law.

LOT, CORNER- A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or extended lot lines in case of a curved street being not more than 135°.

LOT COVERAGE- Percentage of lot area that is covered by structures, paving, driveways, walkways and parking area.

LOT FRONTAGE- That portion of a lot fronting upon and having access to a street, measured continuously along the street sideline between side lot lines. For lots on the outside of a curve whose radius is 120 feet or less, the lot frontage may be reduced at the street line to sixty percent of the required lot frontage, provided that the full required frontage can be met at the front building line. No lot width shall measure less than sixty percent of the required lot frontage between side lot lines within a distance of one hundred feet from the street sideline.

LOT SHAPE- No lot shall be created so as to be so irregularly shaped or extended that the square of the lot perimeter exceeds thirty times the gross lot area for any lot in excess of 80,000 square feet, or twenty-two times the gross lot area for any other lot. A lot may exceed the shape factor of 22 or 30 only if the portion intended for building is designated on the plan and said portion is connected to the frontage and meets the shape and zoning requirements of the area in which it is located.

MAINTENANCE PLAN- Shall include, but not be limited to, the structural integrity of the a wireless telecommunications facility and accessory structures, painting, site access maintained in a manner acceptable to the Fire Chief, and inspections in accordance with the manufacturer's guidelines.

MAJOR COMMERCIAL COMPLEX- Building or series of buildings in excess of 10,000 square feet GFA located on one or more lots for retail sales and service.

MAJOR INDUSTRIAL COMPLEX- Building or series of buildings in excess of 10,000 square feet GFA located on one or more lots for industrial use.

MANUFACTURING, LIGHT- processing, assembly, or packaging of previously prepared or refined materials, 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, Including without limitation the following:

1. Manufacture of small machinery;
2. Fabrication of metal, paper or wood products;
3. Boat building or repair;
4. Food and associated industries such as: wholesale bakeries, bottling of food and beverages, and food processing;
5. Warehousing or storage of goods and products such as building materials, farm supplies and the like, which may be sold from the premises to the general public. The bulk storage of nuclear or radioactive products, toxic waste chemicals is specifically excluded from the intent of the above; and
6. Scientific or research laboratories devoted to research, design and/or experimentation and processing and fabrication incidental thereto.

MARINA- a boat basin with facilities for small boats, docks, moorings and supplies.

MARINE MEDICAL and REHABILITATION FACILITY- A facility that rescues, rehabilitates and releases all varieties of marine species and serves as an educational resource for studies in oceanic health, marine care and medicine.

MEASURED WATER'S EDGE- The waters of any other fresh ponds and lakes shall be determined by the contour of the highest observed elevation, established by measuring the existing elevation and adjusting that elevation by using the methods specified in the *U.S.G.S. Water Resources Investigations 83-4112* with subsequent amendments, if any, as if the waters of the pond or lake were the groundwater.

MEDICAL OFFICES- offices and clinics for medical or other health services for the examination and treatment of persons as outpatients only, including laboratories that are part of such offices and clinics.

MOBILE HOME- A movable or portable dwelling suitable for permanent residence built on a chassis, designed for connection to utilities when in use, and designed without necessity of a permanent foundation for year-round living.

MOBILE HOME PARK- Premises which have been planned and improved for the placement of mobile homes for year-round occupancy.

MONITORING PROTOCOL- The testing protocol, such as the Cobbs Protocol, or a protocol substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, Reports 86 and 119, that is to be used to monitor emissions from existing and new personal wireless service facilities. Other testing protocols may be required as the technology changes.

MOTEL- Building or a group of buildings, whether detached or connected, each containing three or more rooming units. Rooming units may include such accessory uses as swimming pools and tennis courts shall be no less than 225 square feet in size and no more than 480 square feet in size, and no building

shall be fewer than **20 feet** from any other buildings. The rooming units shall be used, or designed to be used, as individual sleeping and dwelling units by transient travelers, tourists or vacationers. Each integral sleeping unit shall have its own attached sanitary facilities. A motel may include accessory uses such as a restaurant and other facilities commonly associated with the operation of a motel

MULTI-FAMILY HOUSING- Includes duplexes, 3 to 4 unit structures and apartment-type structures with 5 or more units.

MUNICIPAL USE- activity on land owned or controlled by the Town or any of its subsidiary or partner agencies, including (but not limited to) the Town, Sandwich Housing Authority or Sandwich Public Schools.

MUSEUM- Premises for the procurement, care and display of inanimate objects of lasting interest and value.

NONCONFORMING LOT, USE OR STRUCTURE- A lot, use or structure, or any part thereof, which does not conform to the use or dimensional regulations for the zoning district in which it exists.

NONCONFORMING USE OR STRUCTURE, EXTENSION- Any one of the following: greater coverage of land area with structures or paving or other non-vegetative uses associated with or accessory to the use or structure; including without limitation, any increase in parking or storage or display of vehicles or goods; any increase in the volume of a structure by means of an addition, or enlargement; or the placement of accessory structures or accessory uses such as storage sheds, gas pumps, outdoor displays and other similar structures or uses.

NONCONFORMING USE OR STRUCTURE, PRE-EXISTING- A nonconforming use or structure which either preceded the first zoning in the Town of Sandwich May 9, 1960 or which complied with applicable use and dimensional regulations in effect on the date the use was commenced or the structure was constructed and which is situated exclusively within the limits of ownership.

NURSING/CONVALESCENT/REHABILITATION FACILITY- Any institution, however named, whether conducted for charity or profit, which is advertised, announced or maintained for the express or implied purpose of caring for four or more persons admitted thereto for the purpose of nursing or convalescent care.

OFFICE, PROFESSIONAL- The office or place of business where professional services are offered and do not involve the sale of goods, or the keeping of a stock in trade. Professional offices include but are not limited to doctors, dentists, attorneys, architects, engineers, land surveyors, planners, landscape architects, accountants, real estate brokers, insurance brokers, builders, psychologists and chiropractors.

OFFICE, TEMPORARY CONSTRUCTION- An accessory building temporarily used only during the construction period for new or rehabilitated structures.

OPEN LAND- As used in Section 7 and required as a condition of a Cluster Development special permit, land and water or a combination of both which is dedicated in one or a combination of the methods required in Section 7 to achieve the purposes of Section 7.

OVERLAY DISTRICT- A zoning district which overlies other zoning districts. The provisions and restrictions of an overlay district take precedence over those of the underlying zoning district(s).

PARKING SPACE- Designated space adequate to park an automobile. Each space shall be not less than nine feet wide and eighteen feet in length and if unmarked shall consist of at least 350 square feet per vehicle.

PHILANTHROPIC INSTITUTION- An endowed or charitably supported, nonprofit religious or non-sectarian activity maintained for public or semi-public use.

PLOT PLAN- A diagram, not necessarily to scale, showing a parcel and the proposed or existing use of a specific parcel of land and approximate dimensions of existing and proposed structures.

POWER GENERATION, ELECTRICAL- A facility that generates and distributes electrical energy from oil, coal, gas for sale.

PRINCIPAL USE- A primary purpose for which land or a building is arranged, designed, intended or used.

PROCESSED WASTES- Pollutant or combination of pollutants designated as toxic, present in wastewater or inherent to a manufacturing or production process and discharged into the environment.

PROCESSING- Continuous production of large amounts of bulk product (paint, chemicals, etc).

PRODUCT INVENTORY AND MANIFEST SYSTEM- A form prepared by all generators who transport, or offer to transport, hazardous waste for off-site treatment, recycling, storage or disposal (see EPA Form OMB NO. 2050-0039).

RECHARGE AREA- The area encompassing land and water surface through which precipitation enters the groundwater, and from which groundwater flows naturally or is drawn by pumping into a water well.

RECREATIONAL FACILITY, INDOOR- Any establishment whose main purpose is to provide recreational activities conducted entirely within a building, including arcade, athletic and health clubs, auditorium, bowling alley, club or lounge, community center, conference center, gymnasium, athletic center, pool, tennis court, skating rink or billiard hall.

RECREATION FACILITY, OUTDOOR- A recreational land use conducted outside of a building characterized by potentially substantial impacts on traffic, the natural environment, and the surrounding neighborhood; such uses include but not limited to: athletic fields, miniature golf, skateboard parks, swimming, bathing, wading, tennis, handball, and basketball courts, as well as batting cages and trampoline facilities.

REGIONAL SERVICE- Retail, professional and/or business service activities serving the resident population of the Town and the Upper Cape Region (Sandwich/Mashpee/Falmouth/Bourne).

RESEARCH LABORATORY- Industrial or commercial experimentation, design, and production of prototypes excluding volume, continuous production or retail sales.

RESIDENTIAL USE- Occupation of a single or two-family structure.

RESTAURANT- A business establishment designed for the preparation and serving of food and beverage primarily on the premises, including seating accommodation for all patrons to be served at any one time.

RETAIL SALES/SERVICE, MAJOR- An establishment 2,500 square feet to 9,999 square feet selling or renting goods or services to the general public for personal and household consumption, including but not limited to a barber or beauty shop, business or trade school, clothing rental establishment, coin operated or other self-service dry cleaning establishment, collection station for laundry or dry cleaning, dancing or music school, dressmaking or millinery shop, frozen food storage locker, hand or self service laundry, household appliance sales or repair shop, interior decorating studio, meeting hall for hire, photographic studio, shoe or hat repair shop, electronics sales or repair shop. A convenience store that sells gasoline and auto supplies but does not repair, service, or store vehicles shall be considered a retail business.

RETAIL SALES/SERVICE, MINOR- An establishment less than 2,500 square feet... (see definition above).

RETAIL SALES/SERVICE, REGIONAL- An establishment 10,000 square feet or greater... (see above definition).

RETAINING WALL- a wall designed to resist the lateral displacement of soil or other material. Retaining walls whose exposed faces are oriented toward abutting properties (facing outward) and are greater than seven feet in total height as measured from the bottom of the footing to the highest point of the wall or which have an exposed face exceeding three vertical feet at any point, must meet the setback requirements of Section 2600.

RIDING SCHOOL- A riding academy or riding center used as a school for instruction in equestrianism, or for hiring of horses for pleasure riding.

ROOMING UNIT- A room or suite of rooms in a motel suitable for separate rental.

SEASONAL DWELLING UNIT- summer homes, resort cottages, or other part-time homes that could serve as a residential use occupied for no more than the period April 15st through October 31st.

SEPTAGE- The liquid, solid and semi-solid material that results from wastewater pre-treatment in a septic tank.

SETBACK- The minimum distance that a building or structure and any accessory building(s) shall be separated from the front, rear and/or side lot lines of a Lot.

SHADOW/FLICKER- Caused by sunlight passing through the swept area of the wind turbines blades.

SITE- The parcel of land on which a use or structure is located.

SITE CONTROL- The legal authority to prevent the use or construction of any structure for human habitation within a wireless telecommunication facility's setback areas.

SITE PLAN- A detailed drawing to scale prepared by a Massachusetts registered architect, landscape architect, civil engineer or surveyor showing building footprint, travelways, parking, drainage facilities, sanitary sewer lines, water lines, trails, lighting, landscaping and garden elements.

SPECIAL FLOOD HAZARD AREA- The land within a flood plain subject to a one- percent or greater chance of flooding in any given year. The area may be designated on the FIRM as Zone A, AO, AI-30, AE, A99, AH, V, V1-30, and VE.

SPECIAL PERMIT- A discretionary authorization by a special permit granting authority to conduct a particular use as set forth in this by-law, subject to the provisions of Section 1 and the Use Regulation Schedule, where applicable.

SPECIAL PERMIT GRANTING AUTHORITY- That body empowered to grant special permits. As specified by the section providing for the granting of the special permit, that body may be the Zoning Board of Appeals or the Planning Board.

SPILL CONTAINMENT- Engineered containment vessel (impermeable wall or pneumatic bladder) designed to contain spills of chemicals, oils, sewage, etc.

STABLES- Premises used for the shelter and feeding of horses.

STORAGE- The use of a room, building or structure for the containment of goods whether liquid or solid.

STORY- That portion of a building that includes the space between the surface of any floor and the surface of the next floor above it, or, if no floor exists above it, the space between such floor and the

ceiling next above it. Any portion of a story exceeding fourteen feet in height shall be considered as an additional story for each fourteen feet or fraction thereof. One-half story means any story or space situated wholly or partly in the roof, so designed, arranged, or built to be used for storage or habitation.

STREET- An accepted Town way, or way established by or maintained under County, State or Federal authority; or

- A way established by a subdivision plan approved in accordance with the Subdivision Control Law; or

- A way certified by the Planning Board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land and the buildings erected or to be erected thereon.

STREET ELEVATION- Measured at the edge of pavement directly in front of the center of the building.

STRUCTURE- Anything constructed or erected, the use of which requires fixed location on the ground, or attachment to something on the ground, including all buildings, mobile homes, billboards, towers, swimming pools or tanks that have a capacity of 4,000 gallons or more, or the like, or part thereof; but not including paving, usual lawn accessories, fences or retaining walls six feet in height or less.

SUBDIVISION CONTROL LAW- G. L. c. 41 §81K-81 GG

SUPERMARKET- A large, self-service retail store 10,000 square feet or larger that sells a variety of foods and household goods. A pharmacy may be operated within the premises.

SWIMMING POOL- A pool designed and built for swimming purposes as an accessory use to a principal permitted use, for use primarily by the occupants or tenants of said property. The term includes any permanent in or above-ground pool and any portable pool more than two feet in height or depth and fifteen feet in length or diameter. Pools having a depth of two feet or more and having a capacity of 4,000 gallons or more in volume shall be considered structures.

TATTOO ESTABLISHMENT/ BODY ART ESTABLISHMENT- A location, place, or business where the practices of body art are performed either for profit or not for profit and as further defined by the Sandwich Board of Health Regulations.

TECHNOLOGY BUSINESS OR SERVICE- Such businesses or services, including communications, data warehousing of any media, sales, service, data collection, research, development, assembly and manufacture of communication products, information service products and other electronic technology-based business or service.

TELECOMMUNICATION FACILITY, WIRELESS- Any structure including all buildings and appurtenances solely intended to house and/or support equipment (equipment shelter), used for transmission and/or reception of electromagnetic radiation, including towers, monopoles, antennas, wiring or other devices attached thereto, including guy wires.

TELECOMMUNICATION PLOTS, RADIAL- As applied to antennae, the result of drawing equally spaced lines (radials) from the point of the antenna, calculating the expected signal and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial; a threshold plot uses a mark to indicate whether that point is strong enough to provide adequate coverage. Radial plots concentrate plot points close to the antenna while plot points diverge near the ends of the radials at the outer edge of coverage.

TELECOMMUNICATION PLOTS, TILED COVERAGE PLOTS- Tiled plots calculate the signal at uniformly spaced locations on a rectangular grid, or tile, of the proposed coverage area. Relative signal strength may be indicated by varying the size or color at each point being studied. Tiled plots provide a uniform distribution of points over the coverage area. Tiled coverage plots incorporate more topographic data than radial plots and are the preferred form for coverage mapping.

TELECOMMUNICATION REPEATER- A small receiver/relay transmitter of not more than 20 watts output designed to provide telecommunications service to areas which are not able to receive adequate coverage directly from an existing wireless telecommunication facility.

TELECOMMUNICATION TOWERS- Any guyed, monopole, or self-supported tower, constructed as a free-standing structure proposed to mount one or more antennas intended for transmitting and receiving television, AM/FM radio, digital, microwave, cellular, telephone or similar forms of electromagnetic radiation.

TEMPORARY CONSTRUCTION OFFICE- Mobile home, utility trailer or similar vehicle located on a building site. Such temporary offices shall not be located within view of a public way.

THEATRE, PLAYHOUSE- A large room or hall, usually with a raised platform and tiered seating for an audience, used for lectures and film shows.

TOP OF FOUNDATION- The physical location of the highest point of the foundation above mean sea level (NGVD). The top of foundation is not the location from which building height is to be measured.

TRACT- A defined contiguous area of land comprised of one or more parcels or lots.

TRAILER- A vehicle or object on wheels which has no motive power of its own, but which is drawn by or used in connection with a motor vehicle.

TRAILER, STORAGE- A trailer not on wheels that is designed, constructed and utilized for the principal purpose of storing goods or material and is generally located in a stationary position.

TRAILER, UTILITY- A wheeled trailer which is designed, constructed and utilized for the principal purpose of transporting equipment, goods or material from one location to another.

UNDERSTORY PLANTINGS- Those plantings that form an underlying layer of vegetation.

UPLAND AREA- That area exclusive of wetlands as defined in the Wetland Protection By-laws as defined in Section 7 of the Town of Sandwich By-law and land within the Floodplain Overlay District as defined in the zoning by-law.

WASTEWATER TREATMENT FACILITY- size, treatment level and cannot discharge in the Water Resource Protection Overlay District.

WAY, QUALIFIED- A vehicular or pedestrian thoroughfare, which is either:

1. A public way laid out by a governmental entity or public authority pursuant to Mass General Laws;
2. A way that has been accepted as a public way pursuant to Mass General Laws;
3. A way that is shown on a plan approved and endorsed by the Planning board, and constructed in accordance with the Subdivision Rules & Regulations of the Town; or
4. A way, in existence when the Subdivision Control Law became effective in the Town, that is certified by the Planning Board as having sufficient width, suitable grades, sufficient drainage, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and to provide for the installation and maintenance of municipal services to serve such land.

WAREHOUSE SALES, WHOLESALE OR RETAIL- one building on one lot occupied by one business for the sole purpose of selling goods or merchandise to both retail and wholesale customers not to exceed 30,000 square feet of floor area.

WIND ENERGY FACILITY- All of the equipment, machinery and structures together utilized to convert wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

WIND ENERGY FACILITY, SMALL-SCALE- A single device that converts wind to electricity or other forms of energy, typically consisting of a rotor and blade assembly, electrical generator, and tower, or appropriate mounting device, and associated control or conversion electronics which has a rated capacity of not more than 10 kW, located on a single lot, intended as an accessory use in areas zoned to allow residential use in an area zoned residential.

WIND MONITORING OR METEOROLOGICAL TOWER- A temporary tower equipped with devices to measure wind speed and direction, to determine how much electricity a wind energy facility can be expected to generate.

WIND TURBINE- A device that converts kinetic wind energy into rotational energy to drive an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor to extract wind energy.

YARD- A required open space, unobstructed with structures more than thirty inches high, other than fences or other customary yard accessories.

YARD, FRONT- A yard extending between lot sidelines across the front of a lot adjacent to each street it adjoins.

YARD, SIDE- A yard extending from the rear line of the required front yard to the rear lot line adjacent to the lot sideline.

YARD, REAR- A yard extending across the rear of the lot between the inner side yard lines.

YIELD PLAN- For cluster development, a plan that demonstrates the maximum number of units that could be constructed utilizing a conventional grid subdivision design that complies with both the zoning requirements of the district and the Planning Board regulations.

or take any action relative thereto.

Voted: That the Town indefinitely postpone Article 18. This was a voice vote and declared carried by the Moderator.

Moderator Teehan made an announcement that Sandwich High School students John Cannavo and Sam Sholi from the organization, Students and Military, will be placing flags at the new Gerald F. DeConto track on Friday, November 11, 2011 to honor the service men and women who have died from across Massachusetts in Iraq and Afghanistan.

The meeting was adjourned at 8:55 PM.

I hereby certify that this is a true record of the Special Town Meeting held on November 7, 2011.

Taylor D. White
Town Clerk