

**MAY 4, 2010
TOWN OF DENNIS
ANNUAL TOWN MEETING**

**THE COMMONWEALTH OF MASSACHUSETTS
BARNSTABLE, ss.**

GREETING

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, you are hereby directed to notify and warn the Inhabitants of said Town, qualified to vote in Town affairs, to meet at the Nathaniel H. Wixon School Auditorium, 901 Route 134, South Dennis, in said Town, on **Tuesday, the 4th day of May, 2010, at 7 o'clock in the evening**, then and there to act on the following articles:

DENNIS WARRANT WITH FINANCE COMMITTEE RECOMMENDATIONS

ARTICLE 1

Written Reports

To see if the Town will vote to accept the reports of the Town Officers as presented.

(By the Selectmen)

ARTICLE 2

Oral Reports

To hear and act on any heretofore unpublished committee reports.

(By the Selectmen)

ARTICLE 3

DEP MA CH.91§29

To see if the Town will vote to assume liability in the manner provided by Section 29, Chapter 91 of the Massachusetts General Laws as amended, for all damages that may be incurred by the work to be performed by the Mass. Department of Environmental Management for the improvement, development, maintenance and protection of tidal and non-tidal rivers and streams, harbors, tidewaters, foreshores, and shores along a public beach in accordance with Section 11 of Chapter 91 of the Massachusetts General Laws and authorize the Selectmen to execute and deliver a bond of indemnity therefore to the Commonwealth.

(By the Selectmen)

BOS: 4-0-0

FC: 6-0-0 to recommend the article as printed.

ARTICLE 4

Operating Budget

To see what sums of money the Town will vote to raise and appropriate or transfer from available funds for the operating expenses of the Town for the fiscal year commencing July 1, 2010 and ending June 30, 2011, or take any other action relative thereto:

(By the Selectmen)

BOS: 5-0-0

FC: 7-0-0

Recommend to raise and appropriate \$25,257,043 for the article.

Recommend to transfer \$135,000.00 from Overlay Reserve to Finance Committee Reserve Fund, Line Item #11.

Recommend to transfer \$47,500 from Overlay Reserve to Town Administrator, Capital Outlay, Line Item #8.

Recommend to transfer \$ 20,836.00 from the Cable Special Revenue Fund to Town Administrator Personal Services, Line Item #4.

Recommend to transfer \$ 1,000.00 from the Bass River Receipts Reserved Account to Beach Purchase of Service Line Item #145.

Recommend to transfer \$ 10,478.00 from Cable Special Revenue Fund to Central Purchasing Purchase of Services, Line Item #16.

Recommend to transfer \$121,393.00 from the Cable Special Revenue Fund to Data Processing Personal Services, Line Item #35.

Recommend to transfer \$ 15,000.00 from the Cable Special Revenue Fund to Data Processing Purchase of Services, Line Item #36

Recommend to transfer \$ 800.00 from the Cable Special Revenue Fund to Data Processing Other Charges & Expenditures, Line Item #38

Recommend to transfer \$ 9,239.00 from the Cable Special Revenue Fund to Public Property/Buildings, Personal Services, Line Item #56.

Recommend to transfer \$ 500.00 from the Cable Special Revenue Fund to Property/Liability Insurance, Other Charges – Expenditures, Line Item #61.

Recommend to transfer \$ 12,745.00 from the Cable Special Revenue Fund to Fringe Benefits, Retirement Contribution, Line Item #171.

Recommend to transfer \$ 25,484.00 from the Cable Special Revenue Fund to Fringe Benefits, Group Insurance, Line Item #172.

Recommend to transfer \$ 1,952.00 from the Cable Special Revenue Fund to Fringe Benefits, Medicare Tax, Line Item #173.

Recommend to transfer \$ 1,060.00 from the Cable Special Revenue Fund to Fringe Benefits, Workers Comp., Line Item #169.

Recommend to transfer \$ 1,513.00 from the Cable Special Revenue Fund to Fringe Benefits, Unemployment Insurance, Line Item #170.

Recommend to transfer \$1,075,000.00 from the Ambulance Receipts Reserve for Appropriations Account to Fire Dept. Personal Services, Line Item #68.

Recommend to transfer \$ 45,000.00 from Waterways Maintenance & Improvement Fund to Harbormaster Capital Outlay , Line Item #86.

Recommend to transfer \$ 20,000.00 from Cemetery Lots Sales Account to Dept. of Public Works, Personal Services, Line Item #96.

Recommend to transfer \$ 20,000.00 from Cemetery Perpetual Care Interest Account to Dept. of Public Works, Personal Services, Line Item #96.

Recommend to transfer \$ 535,000.00 from the Community Preservation Act Fund to Retirement of Debt Principal, Line Item #165.

Recommend to transfer \$ 29,070.00 from the Septic Loan Program Account to Retirement of Debt Principal, Line Item #165.

Recommend to transfer \$219,965.00 from the Community Preservation Act Fund to Long Term Debt – Interest, Line Item #166, and any unexpended transfer be returned to the Community Preservation Act Fund.

Recommend to transfer \$15,450 from the Community Preservation Act Fund to Short Term Debt – Interest, Line Item #167, and any unexpended transfer be returned to the Community Preservation Act Fund.

Making a total of \$27,621,028.

And further recommend that said appropriations be allocated in accordance with line item amounts defined under the column, FinCom Recommended FY2011.

ARTICLE 5

D-Y AGREEMENT AMENDMENT

To see if the Town will vote, in accordance with Section 8 of the Agreement between the Town of Dennis and the Town of Yarmouth establishing a regional school district, as amended in September, 2006, to instruct the Dennis-Yarmouth School Committee to draft an amendment to said agreement setting forth the terms by which the Town of Dennis may withdraw the elementary and middle schools from the said school district, and that said amendment be made available for consideration at the upcoming Spring Annual Town Meeting, or take any other action relative thereto.

(By the Selectmen)

BOS: 3-1-0

FC: 4-2-0 to recommend the article as printed.

ARTICLE 6

D-Y Assessment

To see if the Town will vote to approve an annual school budget for the Dennis-Yarmouth Regional School District for the fiscal year beginning July 1, 2010 and to see what sums of money the Town will vote to raise and appropriate or transfer from available funds for the operating expenses of the Dennis-Yarmouth Regional School District for the fiscal year beginning July 1, 2010, or take any other action relative thereto.

(By the Dennis-Yarmouth Reg'l School Committee)

BOS: 4-0-0

FC: 6-0-0 to recommend a total budget of \$49,674,417 and to raise and appropriate \$14,852,483 for the article.

ARTICLE 7

Ezra Baker Roof, Windows & Bldg. Code

To see if the Town will vote to approve the sum of \$2,200,000 indebtedness as authorized by the Regional District School Committee of the Dennis-Yarmouth Regional School District for the purpose of replacing the roof, windows and installing other building code requirements at the Ezra H. Baker School, which amount shall be in addition to the \$200,000 previously authorized under Article 9 of the May 5, 2009 Annual Town Meeting for the design of such project, making the total amount of indebtedness \$2,400,000, and said authorization shall be contingent upon a successful Proposition 2 ½ Debt Exclusion vote relating to the debt for such project, at the May 11, 2010 Annual Town Election, or take any other action relative thereto.

(By the Selectmen)

BOS: 4-0-0

FC: 6-0-0 to recommend the \$2,200,000 indebtedness for the purpose of the article contingent upon approval of a Proposition 2 ½ Debt Exclusion vote at the May 11, 2010 Annual Town Election.

ARTICLE 8

Cape Cod Tech Operating Budget

To see if the Town will vote to approve an annual school budget for the Cape Cod Regional Technical High School for the fiscal year beginning July 1, 2010 and to see what sums of money the Town will vote to raise and appropriate for the operating expenses of the Cape Cod Regional Technical High School system for the fiscal year beginning July 1, 2010.

(By the Cape Cod Reg'l Technical High School)

BOS: 4-0-0

FC: 6-0-0 to recommend a total budget of \$12,463,448 and to raise and appropriate \$1,420,432 for the article.

ARTICLE 9

Elected Officials

To see if the Town will vote to fix the salary and compensation of the following elected officers of the Town for the fiscal year commencing July 1, 2010 and ending June 30, 2011, as provided for in Massachusetts General Laws, Chapter 41, Section 108 and acts and amendment thereof, and raise and appropriate or transfer from available funds a sum of money therefore:

5 Selectmen at \$2,000 each
1 Moderator at \$450
Town Clerk at \$57,200

And that the salaries and compensations be fixed as given in this article and further, that all other elected officers serve without compensation.

(By the Selectmen)

BOS: 5-0-0

FC: 6-0-0 to recommend to raise and appropriate \$67,650 for the article.

ARTICLE 10

Capital Outlay - Large

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to pay for the following capital outlay items, or take any other action relative thereto:

1. <u>Beach</u>		
a. Princess Beach Redesign	\$ 25,000	
b. Beach Parking Lot Paving	100,000	
c. Beach Erosion	<u>15,000</u>	\$ 140,000
2. <u>Building Dept.</u>		
a. Large Scanner/Copier	<u>\$ 18,000</u>	\$ 18,000
3. <u>Fire Dept.</u>		
a. Replace Ambulance 105	\$ 85,482	
b. Electronic Patient Care Reporting	<u>85,000</u>	\$ 170,482
5. <u>Golf</u>		
a. Golf Equipment Leasing Plan A	\$ 63,000	
b. Toro Workman Maintenance Vehicles (2)	<u>38,000</u>	\$ 101,000
6. <u>Harbor</u>		
a. Dredging Plan – Community Wide	\$ 150,000	
b. Bass River Docks Replacement	<u>20,000</u>	\$ 170,000
7. <u>MIS</u>		
a. Document Management Plan	\$ 82,500	
b. Cable Equipment	<u>6,000</u>	\$ 88,500
8. <u>Police Dept.</u>		
a. Ballistic Vests	<u>\$ 22,400</u>	\$ 22,400
9. <u>School</u>		
a. Ezra H. Baker School Clock/Intercom System	<u>\$ 60,000</u>	\$ 60,000
10. <u>Town Administrator</u>		
a. Financial H5R Tyler Document Management	<u>\$ 51,952</u>	\$ 51,952
	GRAND TOTAL	\$ 822,334

(By the Selectmen)

BOS: 5-0-0

FC: 6-0-0 to recommend a transfer of \$349,852 from free cash; transfer \$101,000 from the Golf Capital Improvement Fund; transfer \$115,000 from the Beach

Capital Improvement fund; transfer \$170,482 from the Ambulance Receipts; transfer \$60,000 from Article 13 of the May 5, 2009 Annual Town Meeting; transfer \$20,000 from the Bass River Park Receipts Reserved Account; and transfer \$6,000 from Cable Special Revenue Fund, for a total of \$822,334 for the article.

ARTICLE 11

Meals Tax Option

To see if the Town will vote to accept G.L. c.64L, §2(a) which authorizes the Town to impose an additional .75% local meals excise upon the sale of restaurant meals originating within the Town by any vendor effective July 1, 2010, or take any other action relative thereto.

(By the Selectmen)

BOS: 4-0-0

FC: 4-2-0 to recommend the article as printed.

ARTICLE 12

Capital Outlay – Meals Tax

To see if the Town will vote to raise and appropriate, transfer from available funds and/or borrow a sum of money to fund the following Capital Outlay Items/Equipment, or take any other action relative thereto.

1. <u>DPW-Highway</u>		
a. Replace 4-Wheel Drive Pickup	45,000	
b. Replace 1989 Roll-off Truck	180,000	
c. New Compactor w/2 40 yd. bins	<u>50,000</u>	\$ 275,000
2. <u>Recreation</u>		
a. Mike Stacey Playground	\$ 48,000	
b. Johnny Kelley – Tot Play Area	<u>52,000</u>	\$ 100,000
	GRAND TOTAL	\$ 375,000

(By the Selectmen)

BOS: Recommendation to be made at Town Meeting.

FC: Recommendation to be made at Town Meeting.

ARTICLE 13

Capital Outlay - Override

To see if the Town will vote to raise and appropriate \$1,400,000 to be used to purchase or fund the following capital outlay equipment or projects for Fiscal Year 2011, provided, however, that the vote taken hereunder shall be expressly contingent upon approval by the voters at the May 11, 2010 Annual Town Election of a Proposition 2 ½ override question in accordance with the provisions of Chapter 59, Section 21C(i ½) of the General Laws, or take any other action relative thereto.

1. <u>Beach Dept.</u>		
a. Replace 1999 Ford Explorer	<u>\$ 19,999</u>	\$ 19,999
2. <u>Building Inspector</u>		
a. Replace 1988 Sport Utility	\$ 19,999	
b. Replace 2003 Crown Vic.	13,895	
c. Replace 2003 Crown Vic.	<u>20,290</u>	\$ 54,184
4. <u>DPW</u>		
a. Replace 1999 Chev. Tahoe	<u>\$ 23,794</u>	\$ 23,794
3. <u>Engineering</u>		
a. Sidewalks Eng/Construction	\$172,000	
b. Drainage Improvements/Maintenance	150,000	
c. Guardrail Replacement	80,000	
d. Secondary Roads	<u>600,000</u>	\$1,002,000
4. <u>Fire Dept.</u>		
a. Replace 1999 Ford Explorer	<u>\$ 25,056</u>	\$ 25,056
5. <u>Harbor</u>		
a. Sesuit Electric	\$ 75,000	
b. Aunt Julia's Eng./Construction	<u>85,000</u>	\$ 160,000
6. <u>Health Dept.</u>		
a. Replace 1998 Sport Utility	<u>\$ 20,790</u>	\$ 20,790
7. <u>Natural Resources</u>		
a. Replace 2002 Ford Explorer	<u>\$ 21,590</u>	\$ 21,590
8. <u>Police</u>		
a. Replace 2003 Crown Vic.	<u>\$ 19,215</u>	\$ 19,215
9. <u>Town Administrator</u>		
a. Replace 2005 Crown Vic.	\$ 19,999	
b. HR Modules	<u>33,373</u>	\$ 53,372

GRAND TOTAL \$1,400,000

(By the Selectmen)

BOS: 5-0-0

FC: 6-0-0 to recommend to raise and appropriate \$1,400,000 for the article contingent upon approval of a Proposition 2 ½ override vote at the May 11, 2010 Town Election.

ARTICLE 14

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to pay for the construction of an extension to the Johnny Kelly Pavilion, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: Recommendation to be made at Town Meeting.

ARTICLE 15

FY2010 Budget Supplements

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to supplement Fiscal Year 2010 Line Item appropriations under Article 4 of the May 5, 2009 Annual Town Meeting, or take any other action relative thereto:

a. Finance Committee, Reserve Fund, Line Item #11	35,500
b. Central Purchasing, Purchase of Services, Line Item #16.	50,000
c. Law Dept., Purchase of Services, Line Item # 33	55,000
d. Fire, Personal Services, Line Item #68	113,000
e. Snow & Ice Removal, Line Item #102	100,000
f. Street Lighting, Purchase of Services, Line Item #103	30,000
g. Veterans Services, Purchase of Services, Line Item #118	30,000
h. Fringe Benefits, Sick Pay Liability, Line Item #168	<u>13,075</u>
Total	\$426,575

(By the Selectmen)

BOS: 5-0-0

FC: 6-0-0 to recommend a transfer of \$363,075 from free cash; transfer \$50,000 from ambulance receipts and transfer \$13,500 from the betterment fund for a total of \$426,575 for the article.

ARTICLE 16

Reduce Tax Rate

To see if the Town will vote to transfer a sum of money from available funds for the purpose of reducing the tax rate for the fiscal year beginning July 1, 2010.

(By the Selectmen)

BOS: 4-0-0

FC: 6-0-0 to recommend a transfer of \$250,000 from free cash.

ARTICLE 17

Cable Receipts Transfer

To see if the Town will vote to transfer a sum of money from Cable Receipts to the Capital Improvement fund, or take any other action relative thereto.

(By the Selectmen)

BOS: 4-0-0

FC: 6-0-0 to recommend a transfer of \$306,396 from Cable Receipts to the Capital Improvement fund.

ARTICLE 18

Prior Year's Unpaid Bills

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to pay for the following prior year's unpaid bills, or take any other action relative thereto:

(By the Selectmen)

BOS: 5-0-0 to place on warrant.

FC: Recommendation to be made at Town Meeting.

ARTICLE 19

West Dennis Graded Schoolhouse Painting

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to pay for exterior painting and associated repairs to the West Dennis Graded Schoolhouse Building, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0 to place on warrant.

FC: Recommendation to be made at Town Meeting.

ARTICLE 20

Golf Revolving Fund – MGL c.44, §53D

To see if the Town will vote to rescind the vote taken under Article 15 of the May 8, 2007 Annual Town Meeting which established a Golf Department Revolving Fund pursuant to MGL Chapter 44, Section, 53D, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: 7-0-0 to recommend the article as printed.

ARTICLE 21

Golf Revolving Fund – MGL c.44, §53E ½

To see if the Town will vote to authorize for Fiscal Year 2011 the establishment of a Golf Department Revolving Fund pursuant to MGL Chapter 44, Section 53E ½, providing for a means by which 25% of Cart Rental Fee received may after receipt, be applied directly without further appropriation to the fund to pay for the rental of golf carts. In addition, revenue from the Golf Course Pro-Shops fees or charges may be applied directly, without further appropriation to support the operations of the Golf Pro-Shops. In addition, revenue from GHIN (Golf Handicap and Information Network) be applied directly, without further appropriation to the fund to pay Massachusetts Golf Association dues for members handicaps, after receipt and authorization by the Golf Director, be applied directly and without further appropriation to support the operations for expenditure by the Golf Director, up to a limit of two hundred seventy-five thousand dollars (\$275,000) during Fiscal Year 2011, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: 7-0-0 to recommend the article as printed.

ARTICLE 22

Golf Capital Improvement Fund By-Law

To see if the Town will vote to adopt the following Golf Course Capital Improvement Fund By-Law, pursuant to Chapter 9 of the Acts of 2007, authorizing the establishment of said fund:

“Golf Course Capital Improvement Fund By-Law

The Board of Selectmen is hereby authorized to increase from \$100.00 to \$162.00 the portion of revenue derived from Golf Resident Membership fees that shall

be deposited into the Golf Course Capital Improvement Fund established pursuant to Chapter 9 of the Acts of 2007”, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: 7-0-0 to recommend the article as printed.

ARTICLE 23

Solar Farm

To see if the Town will vote to authorize the Board of Selectmen to issue a request for proposals for a lease and/or operating agreement, and/or power purchasing agreement on behalf of the Town, with a term of up to twenty (20) years, for the design, construction and operation of a Solar Farm to be located on town-owned property adjacent to the Dennis Transfer Station, provided, however, that the award of a lease or operating agreement shall be subject to the approval of town meeting; and further, to raise and appropriate or transfer from available funds a sum of money to pay for engineering and consulting services and legal fees required to conduct the procurement and to negotiate an agreement with the successful proposer, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0 to place on warrant.

FC: Recommendation to be made at Town Meeting.

ARTICLE 24

Compost Facility

To see if the Town will vote to authorize the Board of Selectmen to issue a request for proposals for a lease and/or operating agreement, on behalf of the Town, with a term of up to twenty (20) years, for the design, construction, and operation of a composting facility to be located on town-owned property at the Dennis Transfer Station, provided, however, that the award of a lease or operating agreement shall be subject to the approval of town meeting; and further, to raise and appropriate or transfer from available funds a sum of money to pay for engineering consulting services and legal fees required to conduct the procurement and to negotiate an agreement with the successful proposer, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0 to place on the warrant.

FC: Recommendation to be made at Town Meeting.

ARTICLE 25

Acceptance of Private Ways

To see if the Town will vote to accept as town ways and the layouts of the roads in South Dennis, as described and identified in the following paragraphs, and further, to authorize the Board of Selectmen to acquire by gift, purchase or take by eminent domain on behalf of the Town, the lands or interest in the lands within the lines of said layouts, including any drainage easements shown on the plans, subject to outstanding easements granted to public utility companies for the installations of electricity, telephone, gas, water or other services, and to raise and appropriate, transfer or borrow from available funds a sum of money to be used for acquisition costs and improvements to said ways, and the owners of said lands benefited by said laying out and improvements shall be assessed their proportionate share of betterments in accordance with the provisions of MGL Chapter 80, and with Chapter 117 of the Acts of 1997 (Town of Dennis Betterment Assessment and Fund Act), or take any other action relative thereto.

a. Uncle Stanley's Way – In the village of South Dennis, running westerly from Dorothy Way to Grace's Way, over the lands of Laurence W. Arinello and others, for a distance of 1,600 feet, more less, as shown on the plan entitled, "Plan of Land, Uncle Stanley's Way, in Dennis, Massachusetts", dated April 8, 2010, as prepared for the Town of Dennis by BSC Group, and on file with the Town Clerk.

b. Hinkley Pond Drive – In the village of South Dennis, running northerly from Old Chatham Road, over the lands of Joseph Apiscopa and others, for a distance of 600 feet, more or less, as shown on the plan entitled "Plan of Land, Old Chatham Road West in Dennis, Massachusetts", dated April 12, 2000, as prepared by BSC Group, Inc., and recorded at the Barnstable County Registry of Deeds on October 3, 2000, Plan Book 559, Page 90, and as shown on plans filed with the Town Clerk.

c. Tuckoosa Road – In the village of South Dennis, running easterly from Old Bass River Road, over the lands of Cynthia D. Pugh and others, for a distance of 1,700 feet, more or less, as shown on the plan entitled "Tucker Estates, Subdivision Plan of Land in South Dennis, Mass.", dated November 23, 1984, as prepared by S.R. Sweetser, and recorded at the Barnstable County Registry of Deeds on November 23, 1984, Plan Book 400, Page 53, and as shown on plans filed with the Town Clerk.

(By the Selectmen)

BOS: 5-0-0

FC: Recommendation to be made at Town Meeting.

ARTICLE 26 Hazelwood Road & Others, Temporary Repairs on Private Ways

To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sum of money to make temporary repairs to the following private roads in South Dennis: Hazelwood Road, White Lane, Donnie Way, Chris Way, Danielle Drive, Captain Jud Road and Matthew Street; said roads are open to and used by the general public within Dennis, pursuant to the provisions of MGL c.80 and the Town of Dennis "Temporary Repairs on Private Ways By-Law" adopted at the May 3, 2005 Annual Town Meeting under Article 31, and in accordance with the vote of the Board of Selectmen on March 2, 2010, declaring that the repairs to said private ways are required because of public necessity and convenience, and the owners of said land benefited by said temporary repairs shall be assessed their proportionate share of betterments, in accordance with Chapter 117 of the Acts of 1997 (Town of Dennis Betterment Assessment and Fund Act), or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: 6-0-0 to recommend borrowing \$150,000 for the article.

ARTICLE 27

Cable Revolving Fund – MGL c.44, §53E ½

To see if the Town will vote to authorize for Fiscal Year 2011 the establishment of a Cable Receipts Revolving Fund pursuant to MGL Chapter 44, Section 53E ½, providing for a means by which monies received from Cable Receipts may, after receipt, be expended, and without further appropriation to fund cable related expenses, by the Board of Selectmen, up to a limit of fifty thousand dollars (\$50,000.00) during Fiscal Year 2011, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: 7-0-0 to recommend the article as printed.

ARTICLE 28

COA Revolving Fund – MGL c.44, §53E ½

To see if the Town will vote to re-authorize for Fiscal Year 2011 the crediting to the Council-On-Aging Revolving Fund, as established by vote of the Dennis Annual Town Meeting on May 2, 1995, Article 42, and pursuant to the MGL Chapter 44, Section 53E ½, providing for a means by which fees or charges received in connection with a Council-On-Aging program or activity, may after receipt, be applied directly and without further appropriation to support that program or activity, for expenditure by the Director

of the Council-On-Aging, up to a limit of fifty thousand dollars (\$50,000.00) during Fiscal Year 2011, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: 7-0-0 to recommend the article as printed.

ARTICLE 29

COA Bus Revolving Fund, c.44, §53E ½

To see if the Town will vote to authorize the establishment of a Council-On-Aging Bus Revolving Fund pursuant to MGL Chapter 44, Section 53E ½, providing for a means by which fees or charges received from the operation of the Council-On-Aging Bus may, after receipt and authorization by the Council-On-Aging Director, be applied directly and without further appropriation to support the operations of said bus, for expenditure by the Council On Aging Director, up to a limit of fifty thousand dollars (\$50,000.00) during Fiscal Year 2011, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: 7-0-0 to recommend the article as printed.

ARTICLE 30

Library Revolving Fund, c.44, §53E ½

To see if the Town will vote to re-authorize for Fiscal Year 2011 the crediting to the Town Library Revolving Fund, as established by vote of the Dennis Annual Town Meeting on May 5, 1998, Article 16, and pursuant to MGL Chapter 44, Section 53E ½, providing for a means by which fees, fines or charges received in connection with a Town Library program or activity may, after receipt, be applied directly and without further appropriation to support that program or activity, for expenditure by the Library Director up to a limit of ten thousand dollars (\$10,000.00) during Fiscal Year 2011, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: 7-0-0 to recommend the article as printed.

ARTICLE 31

Board of Health Revolving Fund, c.44. §53E ½

To see if the Town will vote to re-authorize for Fiscal Year 2011 the establishment of a Board of Health Medicare Reimbursement Revolving Fund, as established by vote of the Dennis Annual Town Meeting on May 3, 2005, Article 18, pursuant to MGL Chapter 44, Section 53E I/2, providing for a means by which reimbursements received from Medicare for flu shots may, after receipt, be applied

directly and without further appropriation to the purchase of additional vaccine or other medical supplies, and costs associated with providing volunteer management and clinical support, by the Health Director up to a limit of twenty thousand dollars (\$20,000) during Fiscal Year 2011, or take any other action relative thereto.

(By the Board of Health)

BOS: 5-0-0

FC: 7-0-0 to recommend the article as printed.

ARTICLE 32

CPC Budget

To see if the Town will vote to approve a Community Preservation Committee Budget for Fiscal Year 2011 as follows: to appropriate or set-aside for future appropriation not less than 10% for the Fiscal Year 2011 Community Preservation Fund estimated annual revenues for each of the following purposes: community housing; open space; and historic preservation; and further, to appropriate sums of money for debt service, and for Community Preservation Committee Expenses; and to reserve for future appropriation from the Fiscal Year 2011 Community Preservation Fund a sum of money to be placed in the FY2011 Undesignated Reserve for general Community Preservation Act purposes, or take any other action relative thereto.

(By the Community Preservation Committee)

BOS: 5-0-0

FC: 6-0-0 to recommend that the following amounts be appropriated from the Community Preservation Fund: 1) 10% Reserved for Community Housing - \$124,807; 2) 10% Reserved for Open Space - \$124,807; 3) 10% Reserved for Historic Preservation - \$124,807; 4) Debt Service - \$754,965; 5) Short-term interest - \$15,450; 6) Community Preservation Committee Expenses - \$15,000; and 7) Reserved for undesignated purposes - \$88,234 for a total of \$1,248,070 for the article.

ARTICLE 33

ZONING BY-LAW AMENDMENT - WIND

To see if the Town will vote to amend Section 2.1 Zoning District Subsection 2.1.1 Establishment by adding "Large Wind Facility Overlay District"; Section 11.6 by adding a reference to Large Wind Facility Overlay District; Section 11.6.3 by adding a reference to "(Medium Wind Facility Overlay District) after "illustrated on Map 11-1" and before "subject to"; Section 2.1.2 to change the date of the Dennis Zoning Map to January 11, 2010; Section 11.3 relative to Wind Energy Facilities categories; Section 11.4.4 relative to permitting standards for Large Scale Wind Facilities; Section 11.6.1.1 by adding R/C, MUM, VCS, WDVC, zoning districts to the areas allowing residential

scale wind facilities; Section 11.6.3.2 by adding a reference to Medium Wind Facility Overlay Districts; Section 11.6.4 by adding a reference to Large Wind Facility Overlay District; Section 11.6.4(b) relative to permitting standards; changing 11.6.4 (c) (ii) by changing “hub-height” to “blade-tip height”; adding a new 11.6.4 (c) (iii) and renumbering the existing (iii) to (iv) relative to the distance a Large Wind Facility must be from the nearest residential structure located outside the Dennis Industrial District; 11.6.4 (c) (iv newly renumbered) by deleting reference to “Medium”; 11.6.4 (d) by changing 215 feet hub height to 275 feet hub height; 11.6.4 (e) by changing 350 feet blade tip height to 400 feet blade tip height; and by amending Map 11-1 to change the Medium Overlay District illustrated northeast of Old Chatham Road and Southeast of Airline Road to a Large Wind Facility Overlay District. Each of the changes are as described below, additions are in ***Bold Italic*** and deletions are in strikethrough.

2.1.1 Establishment

The Town of Dennis is hereby divided into the following zoning districts:

TITLE	SHORT NAME
Rural Residential	R-60
Low Density Residential	R-40
Resort and Residential	RR
Limited Business	LB
Extensive Business	EB
General Commercial I	GC-I
General Commercial II	GC-II
General Commercial III	GC-III
Industrial	I
Quivet Neck/Crowe's Pasture Resource Protection District	QNCP RP
Dennisport Village Center	DPVC
Residential/Commercial	R/C
Mixed Use Marine	MUM
Marine Open Space	MOS
Village Center Support	VCS
West Dennis Village Center	WDVC
Medium Wind Facility Overlay District	MWFOD
<i>Large Wind Facility Overlay District</i>	<i>LWFOD</i>

2.1.2 Zoning Map

The boundaries of the districts are defined and bounded on the map entitled "Town of Dennis Zoning Map", dated ~~December 18, 2008~~ **January 11, 2010** on file with the Town Clerk. That map and all explanatory matter thereon are hereby made a part of this By-law, together with any amendments adopted by vote of the Town Meeting.

Section 11 Wind Energy Facilities

- 11.1 Purpose. The purpose of this section is to encourage the use of wind energies by allowing wind energy technologies to be utilized, while protecting public health and safety and minimizing the impacts of wind facilities on the character of neighborhoods, on property values, on the scenic, historic, and environmental resources of the Town.
- 11.2 Special Permit Granting Authority. The Planning Board shall be the special permit granting authority (SPGA) for wind facilities requiring a Special Permit under this by-law.
- 11.3 Wind Energy Facilities shall be divided into the following ~~four~~ **three** categories for location and permitting requirements.
- 11.3.1 Systems ~~up to less than~~ **up to less than** 10 kW – herein referred to as Residential Scale Wind Facility
- 11.3.2 Systems **greater than 10 kW and** less than 30 kW – herein referred to as Small Scale Wind Facility
- 11.3.3 Systems of between 30kW and less than ~~100~~ **500** kW – herein referred to as Medium Scale Wind Facility
- 11.3.4 Systems **100 kW and larger** ~~500kW and larger~~ – herein referred to as Large Scale Wind Facility
- 11.4 Permit Requirements
- 11.4.1 Residential Scale Wind Facilities shall be allowed subject to the issuance of a Building Permit and the requirements of Section 11.6.3 below.
- 11.4.2 Small Scale Wind Facilities shall require the issuance of a Special Permit subject to the requirements of Section 11.6.2 below.
- 11.4.3 Medium Wind Facilities shall require the issuance of a Special Permit subject to the requirements of Section 11.6.3.2 below.
- 11.4.4 Large Scale Wind Facilities shall
- a) be allowed in the Dennis Industrial Zoning District subject to the issuance of a Building Permit and the requirements of Section 11.6.4 and 11.7 below for Large Scale Wind Facilities up to 100 kW and 120 feet hub height; or**
- b) require the issuance of a Special Permit for all other Large Scale Wind Facilities** subject to the requirements of Section 11.6.4 ~~3~~ below.

11.5 Definitions:

Blade – Extensions from the hub which are designed to catch the wind and turn the rotor to generate electricity.

Blade-Tip Height - The height as measured from the grade of the land below to the highest extension of the blade.

Cut-out Wind Speed – The high wind speed at which the Facility must shut-down to protect itself from being overpowered, ~~typically 56 mph.~~

Hub – The center of the rotor to which the blades are attached.

Hub Height – The height as measured from the grade of the land below the wind Facility to the center of the rotor or hub.

Nacelle – The frame and housing at the top of the tower. It protects the gear box and generator from weather and helps control the mechanical noise level.

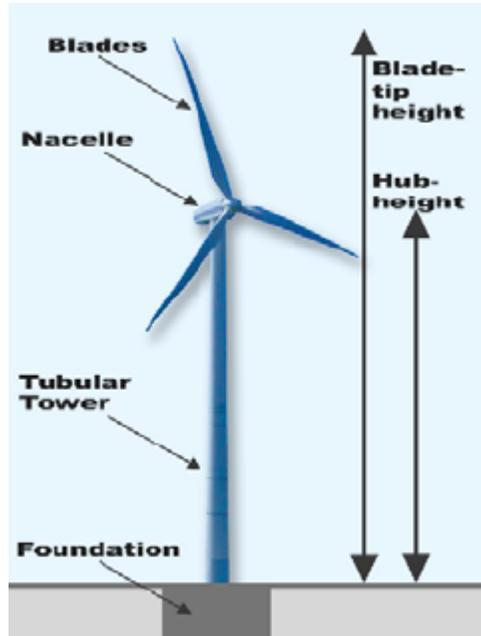
Rotor – A wind Facility's blades and the hub to which they are attached.

Rotor Diameter – The diameter of a wind facilities rotor measured as twice the length of the longest blade plus the hub width (or equal to the diameter of the cylinder).

Wind Facility - All equipment, machinery and structures utilized in connection with wind-generated energy production, generation and sale, including related transmission, distribution, collection, storage or supply systems whether underground, on the surface, or overhead and other equipment or byproducts in connection therewith, including but not limited to, rotor, electrical generator and tower, anemometers (wind measuring equipment), transformers, substation, power lines, control and maintenance facilities, site access and service roads.

Wind Facility, Commercial – A wind facility, which is designed to generally supply less than fifty percent (50%) of its electrical output for use on site.

Wind Facility, Non-Commercial – A wind facility, which is designed to generally supply fifty percent (50%) or more of its electrical output for use on site.



11.6 Wind Energy Facilities Permitting Requirements: The Town of Dennis Zoning Map shall be amended as illustrated in Map 11.1 Wind Facility Overlay District to establish the following overlay districts

Medium Wind Facility Overlay District
Large Wind Facility Overlay District

11.6.1 Residential Scale Wind Facilities

11.6.1.1 Shall be allowed within the R40, R60, RR, LB, EB, **R/C, MUM, VCS, WDVC**, DPVC A and DPVC B Zoning Districts subject to the following:

- (a) Residential Scale Wind Facilities shall be a Non-commercial Wind Facility.
- (b) A Building Permit is granted by the Dennis Building Commissioner.
- (c) Only Rooftop Wind Facilities shall be allowed.
- (d) Rooftop Wind Facilities shall not extend more than ten feet above the ridgeline of the structure to which it is attached.
- (e) No more than one Rooftop Wind Facility shall be constructed on any parcel.

11.6.2 Small Scale Wind Facilities

11.6.2.1 Shall be allowed in the General Commercial I, General Commercial III and Industrial Zoning Districts subject to the following:

- (a) Small Scale Wind Facilities shall be allowed, subject to the following.
- (b) A Special Permit subject to the requirements of Section 11.7 and 11.8 below is granted by the Dennis Planning Board.

- (c) For the purposes of protecting against problems due to noise, collapse of the tower, and ice throw the Small Scale Wind Facilities shall be located::
 - (i) Land Area Requirements:
 - (1) Small Scale Wind Facilities may be located on any parcel subject to the setback considerations of this subsection;
 - (ii) Freestanding Small Scale Wind Facilities shall have at least 2 times its hub-height from its nearest property boundary; and
 - (iii) Freestanding Small Scale Wind Facilities shall have at least 1 times its hub height from any dwelling unit or commercial structure on the site hosting the Wind Facility.
- (d) Freestanding Small Scale Wind Facilities shall have a maximum hub-height of 40-feet.
- (e) Freestanding Small Scale Wind Facilities shall have a maximum blade tip height of 60-feet.
- (g) Only one Freestanding Small Scale Wind Facility may be allowed on any parcel of land.
- (h) Rooftop Wind Facilities shall not extend more than ten feet above the ridgeline of the structure to which it is attached.
- (i) No more than two Rooftop Wind Facilities shall be constructed on any parcel.

11.6.2.2 Shall be allowed in the General Commercial II subject to the following:

- (a) Small Scale Wind Facilities shall be allowed, subject to the following.
- (b) A Special Permit subject to the requirements of Section 11.7 and 11.8 below is granted by the Dennis Planning Board.
- (c) Only Rooftop Wind Facilities shall be allowed
- (h) Rooftop Wind Facilities shall not extend more than ten feet above the ridgeline of the structure to which it is attached.
- (i) No more than two Rooftop Wind Facilities shall be constructed on any parcel.

11.6.3 Medium Scale Wind Facilities

11.6.3.1 ~~2~~ Medium Scale Wind Facilities shall be allowed within the Industrial District and on the sites illustrated on Map 11-1 (**Medium Wind Facility Overlay District**) subject to the following:

- (a) Medium Wind Facilities may be constructed for the purposes of serving the needs of the site upon which the facility is located, or to generate revenue through the sale of electricity, the revenue from which must serve:
 - (i) a public purpose;

- (ii) a commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture land use.
- (b) A Special Permit subject to the requirements of Sections 11.7 and 11.8 below is granted by the Dennis Planning Board.
- (d) Medium Scale Wind Facilities located within the Industrial Zoning District shall meet the standards noted in Section 11.6.4 below unless specifically modified below:
 - (i) Land Area Requirements – See Section 11.6.4;
 - (ii) Freestanding Medium Scale Wind Facilities shall have at least 1 times its hub-height from its nearest property boundary except that the Planning Board may determine that a lesser setback is appropriate if the adjacent land is restricted, municipally owned (i.e. Town of Dennis, Dennis Water District, Dennis Housing Authority or Dennis Yarmouth School District) open space and an agreement has been reached between the applicant and the relevant town entity to ensure the safety of the potential setback area, but must be at least 50 feet from any property boundary; and
 - (iv) Freestanding Medium Scale Wind Facilities shall have at least 1 times its hub height from any dwelling unit or occupied structure on the site hosting the Wind Facilities.
- (e) Medium Scale Wind Facilities located on properties shown on Map 11.1 and located outside the Industrial Zoning District shall meet the standards set forth below:
 - (i) shall be a parcel of land illustrated on Map 11.1;
 - (ii) Freestanding Medium Scale Wind Facilities shall have at least two times its hub-height from its nearest property boundary except that the Planning Board may determine that a lesser setback is appropriate if the adjacent land is restricted, municipally owned (i.e. Town of Dennis, Dennis Water District, Dennis Housing Authority or Dennis Yarmouth School District) open space and an agreement has been reached between the applicant and the relevant town entity to ensure the safety of the potential setback area, but must be at least 50 feet from any property boundary; and
 - (iii) Freestanding Medium Scale Wind Facilities shall have at least 1 times its hub height from any dwelling unit or occupied structure on the site hosting the Wind Facility.
- (f) Freestanding Medium Scale Wind Facilities shall:
 - (i) have a maximum hub height of 80 feet.
 - (ii) have a maximum blade tip height of 120 feet.
- (g) Rooftop Medium Scale Wind Facilities shall not extend more than ten feet above the ridgeline of the structure to which it is attached.

- (h) When more than one Medium Scale Wind Facility is located on a property a minimum spacing equal to two times the widest dimension will be required between wind structures.

11.6.4 Large Scale Wind Facilities

Large Scale Wind Facilities shall be allowed in the Industrial Zoning District **and on the sites illustrated on Map 11-1 (Large Wind Facility Overlay District)** subject to the following restrictions:

- (a) Large Scale Wind Facilities may be permitted as Non-commercial Wind Facilities when serving the needs of single property or may be permitted as Commercial Wind Facilities.
- (b) *(i) Be allowed in the Dennis Industrial Zoning District subject to the issuance of a Building Permit and the requirements of this section and Section 11.7 below for Large Scale Wind Facilities up to 100 kW and 120 feet hub height; or;*
 - (ii) **Require the issuance of a Special Permit for all other Large Scale Wind Facilities** subject to the requirements of Sections 11.7 and 11.8 below is granted by the Dennis Planning Board.
- (c) For the purposes of protecting against problems due to noise, collapse of the tower and ice throw, the Large Scale Wind Facilities shall be located:
 - (i) on a tract of land (a parcel or contiguous parcels under common ownership) that contains a minimum of ten (10) acres;
 - (ii) at least 1 times its **blade-tip** ~~hub~~-height from its nearest property boundary;
 - (iii) at least as 2 times the hub height from the nearest residential structure located outside the Dennis Industrial Zoning District (and not on the same site as the proposed structure);** and
 - ~~(iii) iv~~ **iv** at least 1 times its hub height from any dwelling unit or commercial structure on the site hosting the ~~Medium and~~ Large Scale Wind Facility.
- (d) Freestanding Large Scale Wind Facilities shall have a maximum hub-height of **275** ~~245~~-feet.
- (e) Freestanding Large Scale Wind Facilities shall have a maximum blade tip height of **400** ~~350~~ feet.
- (f) Rooftop Large Scale Wind Facilities shall not extend more than ten feet above the ridgeline of the structure to which it is attached.
- (g) When more than one Large Scale Wind Facility is located on a property a minimum spacing equal to two times the rotor diameter will be required between wind structures.

11.7 General Requirements for the Installation of any Wind Facility.

- 11.7.1 The safety of the design and construction of any Wind Facility, including towers and associated equipment, shall be certified by the manufacturer or by an Engineer Licensed by the State of Massachusetts.
- 11.7.2 Safety wires shall be installed on the turnbuckles on guy wires of guyed wind facility towers.
- 11.7.3 All wind facilities shall be equipped with manual and automatic cut-out wind speed controls. The rotor and cut-out wind speed control shall be certified by the manufacturer or by an Engineer Licensed by the State of Massachusetts.
- 11.7.4 The compatibility of the tower structure with the rotors and other components of the wind facility shall be certified by the manufacturer or by an Engineer Licensed by the State of Massachusetts.
- 11.7.5 All towers or wind facilities shall either have tower climbing apparatus located not closer than twelve (12) feet to the ground or be un-climbable by design for the first twelve (12) feet.
- 11.7.6 Wind facilities sited on top of, or attached to and extending above the ridge line of, an existing structure shall comply with all applicable provisions of the latest version of the Uniform Building Code. Certification by an Engineer Licensed by the State of Massachusetts shall be required.
- 11.7.7 The owner/applicant of any wind facility shall provide, as part of the submissions for review by the Planning Board for a Special Permit, proof of liability insurance that specifically addresses the installation, use and maintenance of the wind facility.
- 11.7.8 Any equipment associated with the facility, shall be camouflaged or screened. Buildings, shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Trees and vegetation may be existing on the property or installed as part of the proposed facility or a combination of both. The Planning Board shall approve the types of trees and plant materials and depth of the needed buffer based on site conditions. Equipment shelters for wind facilities shall be designed to be consistent with the traditional Cape Cod architecture and the surrounding neighborhood.
- 11.7.9 All utility connections from the wind facility to the existing grid shall be underground.
- 11.7.10 Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind facility.
- 11.7.11 Night lighting shall be prohibited unless required by state or federal law and shall be the minimum necessary. There shall be total cutoff of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.

- 11.7.12 Wind Facilities shall be painted a neutral, non-reflective color designed to blend with the surrounding environment.
- 11.7.13 Removal. The owner, or their successors in interest shall remove any wind facility the use of which has been discontinued for a period of twelve months. All wind facilities and appurtenant structures shall also be removed. If an owner fails to remove a wind facility in accordance with this section of this Bylaw, the town shall have the authority to enter the subject property and physically remove the facility. The Board shall require the applicant to post a bond at the time of construction to cover costs for the removal of the wind facility in the event the Town must remove the facility. The value of the bond shall be based upon the ability to meet all of the requirements noted in this section at prevailing wages. The value of the bond shall be developed based upon the applicant providing the Planning Board with three (3) written bids to meet the requirements of this section. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the town to remove the tower at prevailing wages.
- 11.7.14 Each wind facility shall be operated and maintained in sound working order in conformance with the manufacturer's specifications at all times. This maintenance shall include the physical appearance of the devices so that it does not present an unsightly appearance. A copy of the manufacturer's specifications and use instructions shall be submitted with any application for review by the Building Commissioner file for that application.
- 11.7.15 Minimum Rotor Wind Blade Clearance. The lowest point of the arc created by rotating wind blades on a freestanding wind turbine generator shall be no less than 25 feet above grade.
- 11.8 Criteria for review and approval of a Special Permit for a Wind Energy Facility.
- 11.8.1 A special permit shall be granted under this section if the SPGA finds that each of the design standards set forth above has been met and that the location of the wind facility is suitable and that the size, height and design are the minimum necessary for that purpose
- 11.8.2 The SPGA shall also impose, in addition to any applicable conditions specified in this section, such conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purposes of this section, including, but not limited to: screening, lighting, fences, modification of the exterior appearance of the structures, limitation upon size, method of access or traffic features, parking, removal upon cessation of use or other requirements. Such conditions shall be imposed in writing and the applicant may be required to post bond or other surety for compliance with said conditions in an amount satisfactory to the SPGA.
- 11.8.3 RESERVED

- 11.8.4 The SPGA may require the proponent to provide or pay for professional services for the SPGA to evaluate the proposal to determine the suitability of geographic location, to analyze the loading capacities of the proposed structures, and to review camouflage and screening techniques.
- 11.8.5 Removal. The owner, his successors in interest shall remove any wind facility the use of which has been discontinued. All wind facilities and appurtenant structures shall also be removed. If an owner fails to remove a wind facility in accordance with this section of this Bylaw, the town shall have the authority to enter the subject property and physically remove the facility. The Board shall require the applicant to post a bond at the time of construction to cover costs for the removal of the wind facility in the event the Town must remove the facility. The value of the bond shall be based upon the ability to meet all of the requirements noted in this section at prevailing wages. The value of the bond shall be developed based upon the applicant providing the Planning Board with three (3) written bids to meet the requirements of this section. An incentive factor of 1.5 shall be applied to all bonds to ensure compliance and adequate funds for the town to remove the tower at prevailing wages. Municipally owned wind facilities shall be exempt from the surety requirement.
- 11.8.6 Each wind facility shall be operated and maintained in sound working order in conformance with the manufacturer's specifications at all times. This maintenance shall include the physical appearance of the devices so that it does not present an unsightly appearance. A copy of the manufacturer's specifications and use instructions shall be submitted with any application for review by the Planning Board file for that application.
- 11.8.7 The Planning Board may impose Conditions of Approval that are necessary to address health, safety, community welfare and community aesthetic issues or concerns raised during the Development Permit review.
- 11.8.8 RESERVED
- 11.8.9 There shall be a minimum of one parking space to be used in connection with the maintenance of any Medium, Municipal or Large Scale Wind Facility on the site; however, it shall not to be used for the permanent storage of vehicles.
- 11.8.10 Fencing shall be provided to control access to the site of the wind facility and accessory structures.
- 11.8.11 Signs. There shall be no signs, except no trespassing signs or any signs required to warn of danger. A sign is required that identifies the owner and operator with an emergency telephone number where the owner and operator can be reached on a twenty-four hour basis.
- 11.9 Application for Special Permit. In addition to the requirements of Section 4.1 of the Zoning By-law the following information must be submitted for all Wind Energy Facilities for an application to be considered complete:
- 11.9.1 A locus plan or aerial photograph at a scale of 1" = 200' which shall show all property lines, the exact location of the proposed structure(s), street landscape features, dwellings and other structures within three times the blade-tip height of the proposed wind facility.

11.9.2 A site reference plan at 1"=20 feet which shall show the location of the proposed structures, site facilities, landscaping etc.

11.9.3 A color photograph or rendition of the wind facility. A rendition shall also be prepared illustrating a view of the wind facility from the nearest street(s).

11.9.4 The following information must be prepared and signed by a registered professional engineer qualified in the field of wind power:

- (a) A description of the wind facility and the technical, economic and other reasons for the proposed location, height and design.
- (b) Certification that the wind facility complies with all applicable Federal and State standards.
- (c) If applicable, a written statement that the proposed wind facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA), Massachusetts Aeronautics Commission and the Massachusetts Department of Public Health.

11.10 Nothing in this by-law should be read to regulate the provision of wind facilities for an agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture land use the primary purpose of such wind facility is to meet the needs of said land use on parcels of 5 acres or more as defined in Chapter 40A Section 3.

(By the Alternative Energy Committee)

BOS: 5-0-0

FC: 6-1-0 to recommend the article as printed.

ARTICLE 34

ZONING BY-LAW AMENDMENT – PARKING LOTS

To see if the town of Dennis will amend the Dennis Zoning By-law by amending Section 3.1.6.2 as it relates to Stormwater Management and construction standards for Paved and Non-Paved Parking areas.

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

Paved Parking Standards

Base - Two (2) feet of frost free material. Sub-base - Four inches (4") of gravel as the sub-base plus two inches (2") of processed stone. Pavement - A minimum dept of asphalt composed of one and one-half inch (1½") binder course plus one inch (1") top course after rolling or compacting. For all parking areas of five (5) or more parking spaces drainage systems serving the parking and vehicular access areas shall be designed in accordance with the ***Town of Dennis Stormwater Management By-Law*** ~~with the Rational Method, or equivalent, based on a twenty-five (25) year storm frequency. Calculations shall be made by using topographic maps for the entire drainage area, including those areas outside the site plan area. Copies of all drainage calculations shall be submitted with the Site Plans. Percolation tests shall be required at all proposed drainage locations (leaching areas). Subsurface leaching systems shall be utilized meeting the current Planning Board Subdivision Rules and Regulations standards.~~

Non-Paved Parking Standards

Base - Two (2) feet of frost free material. Sub-base - Four inches (4") of gravel as the sub-base plus two inches (2") of processed stone. Surface - Minimum 3" thickness aggregate material, with 0% fines (no material passing a # 200 seive). All material to be contained with perimeter edging consisting of either asphalt or concrete curbing, treated landscape timbers, or masonry. Maintenance: The property owner is responsible for properly maintaining the non-paved surface. All material must be contained within the parking/driveway area and immediately removed from the sidewalk or public street areas. The surface must be kept free of weeds and other vegetation. The surface grade shall be maintained as installed, ruts and potholes must be repaired immediately. Add material as necessary to maintain grading and drainage. For all parking areas of five (5) or

more parking spaces drainage systems serving the parking and vehicular access areas shall be designed in accordance with the Town of Dennis Stormwater Management By-Law

(By the Zoning By-Law Study Committee and the Planning Board)

BOS: 5-0-0

FC: 7-0-0 to recommend the article as printed.

ARTICLE 35

ZONING BY-LAW AMENDMENT – USE CLASS

To see if the Town will amend the Dennis Zoning By-law by amending, Section 2.2.2 Use Regulation Schedule to Change the regulatory review standards for Community Residential Homes as illustrated, deletions are in double strike-through and additions in ***bold italic***. The changes will treat Community Residential Homes in the same fashion as other single family homes as required under Chapter 40A Section 3.

	R-40 R-60	Quivet Neck/ Crowe's Pasture Resource Protection District	RR	LB	EB	GC-I	GC-II GC-III	I	DPVC Area A	DPVC Area B
3. PUBLIC AND QUASI PUBLIC USES										
h. Community Residential Home	§ Y	N Y	§ Y	§ Y	§ N	S N	§ Y	§ N	Y	Y

(By the Zoning By-Law Study Committee and Planning Board)

BOS: 5-0-0

FC: 7-0-0 to recommend the article as printed.

ARTICLE 36 ZONING BY-LAW AMENDMENT – AFFORDABLE HOUSING

To see if the Town will vote to Amend Section 4.9 of the Dennis Zoning By-law by making a number of changes, clarifications and additions through-out the by-law Each of the changes are as described below, additions are in ***Bold Italic*** and deletions are in strikethrough

ADDITIONS IN BOLD ITALIC DELETIONS IN BOLD STRIKETHROUGH

4.9 PROVISIONS TO ENCOURAGE THE DEVELOPMENT OF AFFORDABLE HOUSING IN DENNIS

4.9.1. Purpose And Authority.

The purpose of Section 4.9 is to further the goal of encouraging various lot sizes and housing types for persons of various age and income levels in accordance with Massachusetts General Laws, Chapter 40A, Section 9 which allows municipalities to adopt "incentive" ordinances for the creation of affordable year round housing, and for the purpose of:

- a.) helping people who, because of rising land prices, have been unable to obtain suitable housing at an affordable price and,
- b.) maintaining a stable economy by preventing out-migration of residents who provide essential services.

The Planning Board is hereby designated the special permit granting authority for all Affordable Housing Development and Affordable Housing Apartment applications under this by-law, and shall have the power to hear and decide applications for special permits as provided by this section. The Planning Board may adopt regulations for carrying out its duties under this By-law. At least 25% of all housing units created under Section 4.9 shall be restricted as provided for under 4.9.4. At least 25% of the total number of bedrooms within any Affordable Housing Development shall be within said restricted housing units.

4.9.1.1 Project Approval Requirements. The Planning Board shall consider the following factors in determining whether to approve or deny a special permit under this By-law:

- (a) whether the applicant has conformed to the design standards of this By-law and will deliver the needed affordable units;
- (b) whether the proposed development site plan is designed in its site allocation, proportions, orientation, materials, landscaping and other features as to provide a stable and desirable character complementary and integral with the site's natural features; and
- (c) whether the development, density increase or relaxation of zoning standards has a material, detrimental effect on the character of the neighborhood or Town and is consistent with the performance standards of the Dennis Zoning By-law.

4.9.1.2 Definitions

Affordable Housing Development - A tract of land of more than 2 1/2 acres containing units of residential housing, of which at least 25% are encumbered by affordable housing deed restrictions.

Affordable Housing Apartment - A housing unit created under the provisions of Sections 4.9.3, 4.9.4 or 4.9.5, which is subject to an affordable housing restriction pursuant to Section 4.9.4.

Apartment – An apartment is a self-contained housing unit that occupies only part of a building. Apartments may be owner occupied or rented.

Principal Residential Structure - The structure on any given lot in which the primary activity is residential use, which use is the principal use of the lot.

Dwelling Unit - A housing unit that contains kitchen facilities including a stove or oven, refrigerator, and sink, and a bathroom including a bath or shower.

4.9.2 Affordable Housing Developments

4.9.2.1 Density increases shall be allowed **by special permit** for Affordable Housing Developments as governed by Section 4.9.2, and any density increases shall be addressed in compliance with Sections 4.9.2.2.1 - 4.9.2.2.2 of the by-law.

4.9.2.2 Intensity of Use

4.9.2.2.1 The Planning Board shall have discretion to reduce or suspend the minimum ~~area~~ requirements otherwise applicable under Section 2.3-2 , **3.1 and 4.2** for an Affordable Housing Development, **provided that the Planning Board finds that the conditions present on the site are adequate to support the proposed use, protect the surrounding neighborhood, and meet the intended goals of providing affordable housing; and** provided however that there must be: ~~at least 10,000 square feet for each bedroom created in an Affordable Housing Development.~~

4.9.2.2.1.1 at least 10,000 square feet for each bedroom created in an Affordable Housing Development;

4.9.2.2.1.2 a maximum height of 35 feet and ~~or~~ two stories;

4.9.2.2.1.3 a maximum building coverage of 15%;

4.9.2.2.1.4 a maximum total site coverage of 50%; and

4.9.2.2.1.5 a minimum building separation of twenty feet.

- 4.9.2.2.2 The Planning Board shall have the discretion to permit a density of **greater than one bedroom for every less than** 10,000 square feet **based upon the recommendation of the Dennis Board of Health that the waste water system recommended for the site meets all state and local environmental standards for the protection of public health and water quality.** ~~if the applicant can demonstrate to the satisfaction of the Planning Board and the Board of Health that the sewage disposal system servicing the development will result in nitrogen loading of less five (5) parts per million.~~
- 4.9.2.3 Special Permit Requirements:
- 4.9.2.3.1 A minimum tract of two and one-half (2 1/2) acres shall be required, **subject to the provisions of Section 2.3.3.7 regarding minimum upland areas.**
- 4.9.2.3.2 A maximum of sixteen (16) dwelling units shall be allowed in any one building.
- 4.9.2.3.3 The Planning Board shall have the discretion to reduce the off-street parking requirements otherwise applicable under Section 3.1.3.2 where (1) the number of units to be restricted under Section 4.9.4 exceeds 25%, and (2) the applicant demonstrates that the proposed parking is sufficient to address the parking needs of the Affordable Housing Development.
- 4.9.2.3.4 The tract of land to be developed shall provide for front, rear and side **setbacks of 20 feet, which shall constitute** vegetated buffers, **except for where crossed by site driveways of 25 feet ;**
- 4.9.2.3.5 Where an applicant proposed to divide the tract of land that is the locus of a proposed Affordable Housing Development, the minimum lot size shall be ten-thousand (10,000) square feet. The Planning Board may, in its sole discretion, reduce the internal front and rear yard setback requirements of Section 2.3.2, provided however, that said setbacks shall be no less than ten (10) feet. The Affordable Housing Development must still comply with the setback requirements of Section 4.9.2.3.4 as if the tract of land was not subdivided.
- 4.9.2.3.6 The Affordable Housing Development must conform to all other requirements of the Zoning By-law. In the event that a provision of Section 4.9.2 conflicts with another provision of the By-law, the provisions of Section 4.9.2 shall control.
- 4.9.2.3.7 For multi-family buildings a properly screened area must be provided for storage of trash and recyclable materials. Outside storage areas or enclosures shall be kept clean and shall be large enough to accommodate the storage of all garbage and refuse containers. Garbage and refuse containers, dumpsters, and compactor systems shall be stored on or above a smooth surface of nonabsorbent material such as concrete or asphalt.

4.9.2.3.8 The second unit created, and every fourth unit created there-after shall be deed restricted as permanently affordable units, per the applicable standards in Section 4.9.4 below. In no case shall less than twenty-five percent of the units be affordable. All units created shall be for year-round housing.

4.9.2.4 MUNICIPALLY SPONSORED HOUSING PROJECTS

4.9.2.4.1 GENERAL OBJECTIVES

This section is intended to allow the Dennis Board of Selectmen to act as a sponsor for public or public/private joint venture affordable housing projects which:

- a. encourages practical residential development in the reuse of existing structures;
- b. promotes in-fill (development of vacant lots in an otherwise built-up area) residential development opportunities;
- c. is compatible with the adjacent neighborhood;
- d. encourages development of economically priced housing and a variety of types of housing; and
- e. fosters flexibility and creativity in the creation of affordable housing.

Based upon these provisions, a project for Special Permit submittal to the Dennis Planning Board may be made upon a positive vote of the Dennis Board of Selectmen.

4.9.2.4.2 MODIFIED PROCEDURES

A municipally sponsored housing project may be allowed upon issuance of a special permit ~~and may be afforded the following exceptions~~ ***provided that the Planning Board finds that the conditions present on the site are adequate to support the proposed use, protect the surrounding neighborhood, and meet the intended goals of providing affordable housing, and further meets the following requirements :***

- a. the minimum ~~requirements of area per unit in Sections Table 2.3.2 Intensity of Use 3.1 and 4.2~~ shall not apply ***provided however that there must be:***
 - i. ***a maximum height of 35 feet and two stories;***
 - ii. ***a maximum building coverage of 15%;***
 - iii. ***a maximum total site coverage of 50%;***
 - iv. ***a minimum building separation of twenty feet; and***
 - v. ***a determination that the parking will be adequate in number and size to serve the proposed use of the site.***
- b. Minimum Area of the Tract to be Developed under Section 4.9.2.3.1 may be less than 2 ½ acres;
- c. the maximum density of the Tract to be Developed may be greater than one bedroom per 10,000 sf of land area ***based upon a recommendation of the Dennis Board of Health that the waste water system recommended for the***

site meets all state and local environmental standards for the protection of public health and water quality;

- d. ~~the front, rear and side vegetated buffers may be less than 25 feet~~ **The tract of land to be developed shall provide for front, rear and side setbacks of 20 feet, which shall constitute vegetated buffers, except for where crossed by site driveways;** and
- e. the minimum parking requirement may be less than 2 parking spaces per residential unit. **The Planning Board shall have the discretion to reduce all other off-street parking requirements as otherwise applicable under Section 3.1 based upon a finding that the parking is sufficient to meet the needs of the proposed use of the property.**

4.9.2.4.3 SPGA

The Planning Board shall be the Special Permit Granting Authority.

4.9.2.4.4 All units created shall be deed restricted as permanently affordable units per the applicable standards in Section 4.9.4 of this by-law **unless otherwise noted in conformity with the following requirements.** In no case shall less than fifty percent of the units be affordable to households earning **less than** ~~between 65% and 80%~~ of the median income. ~~and the remainder~~ **Twenty-five percent** of the units shall be affordable for people earning no more than 120% of the area's median income. All units created shall be for year-round housing.

4.9.3 Affordable Housing Apartment

4.9.3.1 ~~For the purpose of promoting the development of affordable rental housing in Dennis, The Planning Board may by special permit allow the creation of Affordable Housing Apartments in residential and commercial zoning districts. Affordable Housing Apartments created under this bylaw shall be accessory to either an existing residential use or an existing commercial use. Affordable Housing Apartments shall be considered an "accessory use" to the principal use on the lot and shall be restricted so that Affordable Housing Apartments are never divided from the principal structure. Any lot containing an Affordable Housing Apartment shall be subject to a recorded restriction that shall restrict the lot owner's ability to convey interest in the Affordable Housing Apartment except leasehold estates for the term of the restriction.~~

4.9.3.2 An Affordable Housing Apartment must have the following minimum areas:

studio	250 square feet
one bedroom units	700 square feet
two bedroom units	900 square feet
three bedroom units	1,200 square feet
four bedroom units	1,400 square feet

4.9.3.3 Special Permit Requirements

- 4.9.3.3.1 The Planning Board shall have the discretion to reduce the off-street parking requirements otherwise applicable under Section 3.1-3-2 where (1) the number of units to be restricted under Section 4.9.4 exceeds 25%, and (2) the applicant demonstrates that the proposed parking is sufficient to address the parking needs of the **proposed uses on the site** Affordable Housing Development.
- 4.9.3.3.2 A properly screened area must be provided for storage of trash and recyclable materials. Outside storage areas or enclosures shall be kept clean and shall be large enough to accommodate the storage of all garbage and refuse containers. Garbage and refuse containers, dumpsters, and compactor systems shall be stored on or above a smooth surface of nonabsorbent material such as concrete or asphalt.
- 4.9.3.3.3 Only those basements with **at-grade** walk-out capabilities may be converted into living space and garage parking stalls may be converted into living space only if the applicant can demonstrate an efficient and cost effective method for providing heat and other utilities to the unit to be created.
- 4.9.3.3.4 The second unit created, and every fourth unit created there-after shall be deeded restricted as permanently affordable units per the applicable standards in Section 4.9.4 below. In no case shall less than twenty-five percent of the units be affordable. All units created shall be for year-round housing.
- ~~4.9.3.3.5 The second unit created, and every fourth unit created there-after shall be deeded restricted as permanently affordable units, per the applicable standards in Section 4.9.4 below. In no case shall less than twenty five percent of the units be affordable. All units created shall be for year-round housing.~~
- 4.9.3.4 Affordable Housing Apartment Accessory to Residential Use
- 4.9.3.4.1 An Affordable Housing Apartment may be created by converting an existing accessory structure, or space within a Principal Residential Structure, to a dwelling unit. The following additional standards and conditions shall govern special permits issued under this subsection:
- 4.9.3.4.2 An Affordable Housing Apartment accessory to an existing residential use may only be created on lots on which there already exists a Principal Residential Structure, and may only be created within such Principal Residential Structure, or within an existing accessory structure, as that term is defined under Section 5 of the Zoning By-law. The **accessory** structure in which an Affordable Housing Apartment is proposed must have been in existence, ~~whether by permit or in fact,~~ for at least five years prior to the filing of the special permit application.
- 4.9.3.4.3 An Affordable Housing Apartment accessory to a residential use shall not be allowed on lots of less than 20,000 sf.

~~4.9.3.4.4 The footprint of a Principal Residential Structure may not be expanded in order to accommodate an Affordable Housing Apartment.~~ **Affordable Housing Apartments accessory to residential uses shall be considered an “accessory use” to the principal use on the lot and shall be restricted so that Affordable Housing Apartments are never divided by ownership from the principal structure. A structure proposed to include an Affordable Housing Apartment may be expanded by the granting of a Special Permit which is based upon a finding by the Planning Board that the conditions present on the site are adequate to support the proposed use, protect the surrounding neighborhood and meet the intended goals of providing affordable housing.**

4.9.3.4.5 Any lot containing an Affordable Housing Apartment shall be subject to a recorded restriction that shall restrict the lot owner’s ability to convey interest in the Affordable Housing Apartment except leasehold estates for the term of the restrictions.

~~4.9.3.4.6 4.9.3.4.5~~ For the purposes of 4.9.3.4, one unit shall be owner occupied on a year-round basis, except for bona fide temporary absences during which the unit is not rented.

4.9.3.5 Affordable Housing Apartments Accessory to Commercial Uses
An Affordable Housing Apartment may be created by converting an existing accessory structure, or space within an existing a Principal Commercial Structure, to a dwelling unit. The following additional standards and conditions shall govern special permits issued under this sub-section:

4.9.3.5.1 No accessory residential uses shall be allowed within the Industrial District.

4.9.3.5.2 Commercial structures may be expanded by increasing the footprint or the addition of a second story, where none exists, for the purposes of creating affordable housing apartments. A structure proposed to include an affordable housing apartment may be expanded by the granting of a Special Permit which is based upon a finding by the Planning Board that the conditions present on the site are adequate to support the proposed use, protect the surrounding neighborhood and meet the intended goals of providing affordable housing.

4.9.3.6 Conversion of Hotels and Motels to Affordable Housing Apartments

4.9.3.6.1 Affordable Housing Apartments may be created by converting an existing accessory structure, or space within an existing a hotel or motel, into dwelling units. The following additional standards and conditions shall govern special permits issued under this section:

4.9.3.6.1.1 Units created through conversions shall not be less than 250 square feet not including areas not intended for human habitation such as areas of the basement, attic or garage. In order to promote the mixture of housing units, the following standards shall apply:

* No less than 25% of the units created must meet the requirement found in

Section 4.9.3.2 for a one bedroom unit with a minimum floor area of 700 sf.
* No more than 25% of the units created may have a minimum floor area of less than 400 sf.

Planning Board may require up to 10% of the units in a Hotel/Motel conversion be two-bedroom units, i.e. units with a minimum floor area of 900 sf.

4.9.3.6.2 ***Hotel or motel structures may be expanded by increasing the footprint or the addition of a second story, where none exists, for the purposes of creating affordable housing apartments. A hotel or motel structure proposed to include an Affordable Housing Apartment may be expanded by the granting of a Special Permit which is based upon a finding by the Planning Board that the conditions present on the site are adequate to support the proposed use, protect the surrounding neighborhood and meet the intended goals of providing affordable housing. ~~No existing building shall be expanded in order to accommodate Affordable Housing Apartments.~~***

4.9.4 Affordable Housing Restrictions

4.9.4.1 As a condition to any special permit issued under Section 4.9, the applicant shall be required to execute an affordable housing restriction ("Restriction") in a form acceptable to the Planning Board. The special permit shall not be exercised until the ***applicant*** ~~Planning Board~~ records the Restriction in the Registry of Deeds ***and an attested copy of the recording is delivered to the Planning Board.***

4.9.4.2 At least 25% of the housing units created under Section 4.9.2, Affordable Housing Development, shall be subject to a Restriction and a Regulatory Agreement between the developer and the Town. The Restriction shall provide that units made available for ownership shall be made available at a cost including mortgage interest, principal, taxes, insurance and common charges not exceeding 30% of annual income for a household at or below 80% of Barnstable County median income, and shall be sold to households earning at or below 80% of the Barnstable County median income. The Restriction shall limit the re-sale price of any ownership units, and shall bind all subsequent purchasers in perpetuity, consistent with Massachusetts Department of Housing and Community Development's ("DHCD") regulations and guidelines under Chapter 40B of the Massachusetts General Laws. For qualification of housing units towards a Town's subsidized housing inventory. The restriction shall provide that units made available for rental shall be rented at a cost (including heat, but not other utilities) not to exceed 30% of the annual income of a household earning 80% of the Barnstable County median income, and shall be rented to households earning at or below 80% of the Barnstable County median income.

4.9.4.3 An Affordable Housing Apartment created under subsection 4.9.3 shall be subject to a Restriction, which shall provide that units made available for rental shall be rented at a cost (including heat, but not other utilities) not to exceed 30% of the annual income of a household earning 80% of the Barnstable County median income, and shall

be rented to households earning at or below 80% of the Barnstable County median income.

4.9.4.4 Notwithstanding subsection 4.9.4.2 and 4.9.4.3, maximum rents and sale price shall be governed by DHCD's regulations under Chapter 40B of the Massachusetts General Laws, and shall be set at levels that will enable the Town to qualify the housing units created under this By-law towards the Town's subsidized housing inventory.

4.9.4.5 In addition to requirements of Section 4.9.4, it shall be a condition upon every special permit issued under this By-law that the applicant shall comply with any Massachusetts Department of Housing and Community Development ("DHCD") regulations and guidelines for qualification of the housing units created under this By-law towards the Town's subsidized housing inventory, including but not limited to the form of the affordable housing restriction and regulations concerning tenant selection and marketing, unit design standards, and income eligibility standards. The Restriction shall further provide that the applicant shall cooperate with the Town in good faith to qualify any restricted housing unit towards the Town's subsidized housing inventory.

In the event that a housing unit subject to a restriction created under this By-law becomes vacant, the owner shall give written notice to the Dennis Housing Authority.

4.9.4.7 Current employees of the town of Dennis and residents of the town of Dennis shall have preference over non-residents in the selection of tenants and buyers of housing units subject to a restriction to the extent permitted by DHCD regulations and state or federal laws.

4.9.5 "AFFORDABLE" LOTS"

4.9.5.1 Lots of record as of the June 17, 2003 which do not satisfy minimum lot size requirements and which are not protected as nonconforming lots by law because they are in common ownership with adjoining lots may nevertheless be built upon by Special Permit from the Planning Board under the following conditions:

4.9.5.1.1 Each lot contains at least 10,000 square feet of land area and satisfies other applicable Board of Health requirements. Except that no lot located within a Zone II Water Recharge Area shall be built upon.

4.9.5.1.2 Each lot has safe and adequate access to a public or private way.

~~4.9.5.1.3 Each lot is similar in nature, i.e. size and shape to the lots immediately adjacent to and across the street from the lot to be separated.~~

4.9.5.1.4 Each lot may not be used for a structure larger than three bedrooms, and there must be a minimum of 5,000 square feet of land area for each bedroom.

4.9.5.1.5 The applicable front, side and rear setbacks shall be determined by establishing an average setback based upon the principal structures on the lots immediately adjacent to and across the street from the lot to be built upon as a separate lot.

4.9.5.1.6 Where two lots are held in common ownership, one of the two lots shall be deed restricted as permanently affordable, per the applicable standards in

Section 4.9.4 of the Dennis Zoning Bylaw.

4.9.5.1.7 Where more than two lots are held in common ownership, the second, third and fifty percent of the remaining lots to be built upon under the special permit shall be deed restricted as permanently affordable (i.e. the fourth lot may be market rate, fifth shall be affordable, sixth market rate etc), per the applicable standards in Section 4.9.4 of the Dennis Zoning By-Law.

4.9.5.1.8 This section shall not prevent a lot owner from building a house on such lot and from transferring the lot to an income eligible immediate family member (sibling, parent or child) by gift or inheritance, provided that the restriction required by this subsection is properly recorded prior to issuance of a building permit provided that the lot owner (or immediate family member) owned the lot as of October 18, 2005.

**(By the Zoning By-Law Study Committee and
the Planning Board)**

BOS: 5-0-0

FC: 7-0-0 to recommend the article as printed.

ARTICLE 37

SECONDHAND DEALERS BY-LAW

To see if the Town will vote to amend the Town Code by adding to it the following new Secondhand Dealers By-law:

“HISTORY: Proposed to the Dennis Board of Selectmen. The by-law is proposed to be identified as Section 121. GENERAL REFERENCES Non criminal disposition –Town Code Section 121”; Article 1 Section 1; MGL Ch. 140 Sections 40 to 49 and 70 to 85.

121-1. 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 Dennis 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 semiprecious gems or stones, whether as a separate item or in combination with other items or as a piece of jewelry;
- c. Watches and jewelry containing precious metals or precious gems, including but not limited to, rings, necklaces, pendants, earrings, brooches, chains, pocket watches, 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, computers, or computer equipment or recordings in any form;
- f. Any power tools or equipment, musical instruments or sporting equipment;
- g. Automobiles, boats, planes, motorcycles in whole or taken in parts, or any other type machinery;
- h. Collectibles; including objects of art, coins, currency and antique objects.

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 G.L c. 140 § 54." Items taken for consignment sales are not included under this definition.

121-2 Issuance, Renewal and Revocation of Licenses Required.

- A. Secondhand dealers must obtain a license to conduct said activities.
- B. The Licensing Authority of the Town of Dennis may, after notice and a public hearing, deny an original or renewal application for a Secondhand Dealer 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 business, has owned or operated a Secondhand Dealer 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 License revoked for a reason that would be grounds for a denial or revocation pursuant to this chapter; or

(b) The Secondhand Dealer 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 business, has been convicted of a felony or any crime involving a false statement within 15 years prior to the application date.

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

(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 Dennis.

121-3 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 more likely than not that a specific item of regulated property held by a Secondhand Dealer is associated with criminal conduct, the Police Chief or his designee may enter the premises of the Secondhand Dealer 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 premises under this regulation is in addition to and not in limitation of the authority the town or the Police Chief or any police officer would otherwise have to enter the business premises.

C. Once allowed to enter the premises of the Secondhand Dealer, 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 regulation.

121-4 Record Keeping.

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

B. Whenever a Secondhand Dealer purchases regulated property for business purposes, the Secondhand Dealers shall obtain acceptable identification from the seller along with the seller's current residence address. The Secondhand Dealer 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(s) may be stored electronically, but are subject to the same record keeping requirements as listed in section 4-A. Copies of the photographs will be made available to the Chief of Police in a timely manner, and are subject to the same rights of inspection as listed in section 8.

D. The licensee shall cause to be delivered to the Dennis Police Department on a weekly basis, a copy of all transactions recorded in the ledger on the form provided. If, during the preceding week such Secondhand Dealer has taken no articles in, he/she shall make out and deliver to the Police Department a report documenting the activity.

121-5 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. If a significant number of the patrons of the regular second-hand dealer use a language other than English as a primary language, the notice shall be worded in both English and the primary language or languages of the patrons

NOTICE:

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

121-6 Purchases by a Secondhand Dealer.

A. A secondhand dealer shall not make any cash purchase in an amount that exceeds \$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 may not purchase any item from any person under the age of 18 (eighteen).

121-7 Unauthorized Sale of Property.

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

121-8 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 business during normal business hours for at least three (3) year 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 Sec 2 A-D, purchased by a Secondhand Dealer and required to be recorded on a purchase report form shall be held by said Secondhand Dealer for at least 21 days from the date of purchase.

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

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

E. The Police Chief or his designee may give written notice to a Secondhand Dealer 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 holding the regulated property shall then continue to hold the property specified in the notice in the same manner and place as required under subsection (B) of this section until released by the Police Chief.

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

G. A Secondhand Dealer 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 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 second-hand dealer.

H. The following items are exempted from the waiting period listed in 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.

121-9 Testing of Weighing and Measuring Devices.

All weighing or measuring devices used by a licensee in the conduct of the licensed business shall be tested and sealed by an official governmental Weights and Measures Division prior to being placed into service.

121-10 Violations and Penalties.

A. Violation of any provision of this chapter may be prosecuted, as a criminal matter, as the subject of an administrative hearing of the Licensing Authority, or under noncriminal disposition pursuant to §21D of Chapter 40 of the General Laws. Each violation shall be considered separately.

B. Whoever violates the provisions of this chapter shall be fined not more than \$300. The Licensing Board may 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. Any violation of this chapter enforced by the methods provided in §21D of Chapter 40 of the General Laws shall be subject to a fine of \$250.

121-11 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.”

or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: 6-0-1 to recommend the article as printed.

ARTICLE 38

WATER QUALITY TESTING

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to pay for water quality testing throughout the Town, or take any other action relative thereto.

(Water Quality Study Committee)

BOS: 5-0-0

FC: 6-0-0 to recommend a transfer of \$20,000 from free cash.

ARTICLE 39

Beach Rinse Towers

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to purchase and install two cold water rinse towers, one to be located at West Dennis Beach and the other at Mayflower Beach, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: 5-2-0 to recommend a transfer of \$6,500 from the Beach Capital Improvement Fund.

ARTICLE 40

Beach Fees

To see if the Town will vote, in accordance with the Selectmen’s Fee Limitation By-Law, to amend the following Beach Permit fees:

- a. Weekly Beach Parking Fee - increase from \$ 60.00 to \$75.00
- b. Seasonal Beach Parking Fee - increase from \$135.00 to \$150.00

and further, that said fee may be amended from time to time by the Board of Selectmen, in accordance with the by-law, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: 7-0-0 to recommend the article as printed.

ARTICLE 41

Harbor Fees

To see if the Town will vote, in accordance with the Selectmen’s Fee Limitation By-Law, to establish and amend the following Waterways Fees:

- a. 10A Float Mooring Fee (new) \$300.00
- b. Crew Member Parking Fee (new) \$ 30.00
- c. Rack Storage Fee - increase from \$2.00 to \$ 4.00

and further, that said fees may be amended from time to time by the Board of Selectmen in accordance with said by-law, or take any other action relative thereto.

(By the Selectmen)

BOS: 4-0-0

FC: 6-0-0 to recommend the article as printed.

ARTICLE 42

Barrier Beach Protection/Stabilization Fund

To see if the Town will vote to authorize the Board of Selectmen to seek special legislation authorizing the establishment of a Barrier Beach Protection/Stabilization Fund. There shall be deposited into the fund, without further appropriation, twenty (20%) percent of the fees collected from the sale of ORV permits. The appropriations from the fund shall be made by the Town of Dennis only for Barrier Beach protection, law enforcement and restoration; or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: 7-0-0 to recommend the article as printed.

ARTICLE 43

Architectural, Engr. and OPM Services

To see if the Town will vote to raise and appropriate or transfer a sum of money to pay for architectural, engineering and owner program manager services associated with the renovations of the old police station building and the Town Offices Building, or take any other action relative thereto.

(By the Selectmen)

BOS: 5-0-0

FC: 6-0-0 to recommend a transfer of \$13,592.15 from Article 5 of the December 20, 2007 Special Town Meeting and a transfer of \$306,407.85 from the Capital Improvement Fund, for a total of \$320,000 for the article.

ARTICLE 44

Mass Water Pollution Trust Septic Loan Program

To see if the Town will vote to transfer a sum of money from the Septic Loan Betterment Account to pay the remaining balance of the Massachusetts Water Pollution Trust Septic Loan Program pursuant to MGL c.29C, §9, and further, vote to rescind a portion of the original borrowing authorization as voted under Article 23 of the October 26, 1999 Special Town Meeting, or take any other action relative thereto.

(By the Selectmen)

BOS: 4-0-0

FC: 6-0-0 recommend to transfer \$129,948 from the Septic Loan Betterment Account to pay the remaining balance of the Massachusetts Water Pollution Trust Septic Loan Program and rescind the original borrowing authorization in that amount as stated in the article.

And to meet at several precincts in said Town at the following places:

- Precinct 1, Dennis, Carleton Hall, 1006 Old Bass River Road
 - Precinct 2, East Dennis, Dennis Senior Center, 1045 Route 134
 - Precinct 3, Dennis Port, Dennis Public Library, 5 Hall Street
 - Precinct 4, West Dennis, 1867 West Dennis Graded School House, 67 School Street
 - Precinct 5, South Dennis, Dennis Police Station, 90 Bob Crowell Road
- In said Dennis on Tuesday, the eleventh day of May 2010, at 7:00 a.m. then and there to vote for election of the following officers:

Two Selectmen for three years; one Town Moderator for three years; one Dennis-Yarmouth Regional School Committee Member for three years; one Old King's Highway Regional Historic District Committee Member for four years; one Dennis Housing Authority Commissioner for five years; one Dennis Housing Authority Commissioner for one year; three Constables for three years., and one Water District Commissioner for three years.

And to vote upon the following questions which appear on the official ballot:

QUESTION 1

Shall the Town of Dennis be allowed to assess an additional \$1,400,000 in real estate and personal property taxes for the purpose of funding capital outlay expenditures for the Fiscal Year beginning July first, two thousand ten?

YES

NO

QUESTION 2

Shall the Town of Dennis be allowed to exempt from the provisions of proposition two and one-half, so called, the amounts required to pay for the Town's allocable portion of the bond issued by the Dennis-Yarmouth Regional School District in order to pay for the replacement of the roof, windows and for installing other building code requirements at the Ezra H. Baker School?

YES

NO

And you are directed to serve this **WARRANT**, by posting up attested copies thereof at EACH OF THE POST OFFICES in said TOWN OF DENNIS, seven (7) days, at least before the time of holding said meeting.

HEREOF FAIL NOT, and make a due return of this **WARRANT**, with your doings thereof, to the TOWN CLERK, at the time and place of the meeting as aforesaid.

Given unto our hands this day of April, in the year of our Lord Two Thousand Ten.

Paul R. McCormick, Chairman

Sheryl A. McMahon, Vice Chairman

Heidi S. Schadt

Wayne A. Bergeron

Alan M. Tuttle

A True Copy, Attest
Theresa T. Bunce, Town Clerk

BARNSTABLE, ss.

PURSUANT TO THE WITHIN WARRANT, I have notified and warned the Inhabitants of the Town of Dennis by posting up attested copies of the same at EACH OF THE POST OFFICES, SEVEN (7) days before the date of the meeting, as within directs.

Constable of Dennis

Date