

**TOWN OF DENNIS  
SPECIAL TOWN MEETING  
NOVEMBER 13, 2012**

Robert C. Chamberlain, Moderator, called the Special Town Meeting held at the Nathaniel H. Wixon Middle School to order at 7:00 p.m. He declared a quorum present and noted that the Warrant had been posted by George Sawyer, Constable. Tellers were Daniel Chamberlain, Gladys Kearney, Paul McCormick Jr., Joseph Bunce, and Thomas Perriono, Head Teller.

Moderator Chamberlain asked the assembly to kindly rise and salute the flag.

On motion of Finance Committee Chairman James Plath, duly seconded, it was unanimously voted to waive the formal reading of the Warrant.

**ARTICLE 1:** On motion of Board of Selectman Member Wayne Bergeron, duly seconded, it was unanimously voted to indefinitely postpone the article.

To see if the Town will vote to request that the Dennis-Yarmouth Regional School Committee draft an amendment to the Agreement between the Towns of Dennis and Yarmouth Establishing a Regional School District, as amended in September 2006, so as to allow the Town of Dennis to withdraw from said Agreement, notwithstanding any contradictory language in the Agreement, subject to the following terms:

- A. The Town of Dennis and the Town of Yarmouth will be individually responsible for all costs associated with the education of the withdrawn students in elementary and middle school grades;
- B. An amendment will only be effective July 1 following approval by both Town Meetings and any necessary approval of the Commissioner of Education;
- C. Within 45 days after approval of this amendment by the towns and the Commissioner of Education, the towns will hold elections for a school committee in each town to be responsible for the education of all elementary and middle school students in their respective towns;
- D. The Dennis-Yarmouth Regional School Committee shall remain in place and shall be responsible for the education of all students in high school grades;
- E. The Towns of Dennis and Yarmouth shall purchase student transportation jointly with the Dennis-Yarmouth Regional School District and the three entities will share the total cost of regular day transportation based on the number of routes each entity has of the total number of routes, with the understanding that under current DESE regulations, only costs for transportation of students remaining in a regional school will be eligible for MGL c.71 reimbursement;
- F. The Towns of Dennis and Yarmouth shall each be responsible to employ a superintendent and administrative staff and pay associated salaries and expenses as determined by their respective school committee;
- G. Principals, administrators, teachers, paraprofessionals, clerical and other support staff working only in the schools serving elementary and middle school students will become employees of the town in which they will work. The Towns of Dennis and Yarmouth will be responsible for all salaries and benefits of their employees. For the first fiscal year following the adoption of this amendment their terms of employment shall be the same as the terms of employment in their last year working in the Dennis-Yarmouth Regional School District. During the first year following adoption of the amendment the Dennis School Committee and the Yarmouth School Committee will determine, in accordance with applicable law, the terms of employment for successive years;

- H. Current regional functions will be the responsibility of respective towns for their elementary and middle schools. These functions include, but are not limited to: Directors of pupil services, instruction, finance and operations, complex supervisor, maintenance, grounds and custodial employees, food service director and employees, technology director and technicians, crossing guards, budget management, payroll and bill payment, human resource management, and other support services;
- I. Any equipment, books and supplies in the buildings serving elementary and middle school students shall become the property of the respective towns;
- J. As of the effective date of the amendment, the Towns of Dennis and Yarmouth shall be responsible for all choice and charter school costs assessed by the Commonwealth for their resident students in elementary and middle school grades;
- K. In addition to the costs above, the Towns of Dennis and Yarmouth will remain liable for all costs associated with any debt outstanding on the effective date of this amendment. The Town of Dennis will be liable for 34.238% and the town of Yarmouth will be liable for 65.762% of all health insurance expenses, county retirement assessments, and any other costs for employees who retired from the Dennis-Yarmouth Regional School District prior to the date of this amendment;
- L. The Town of Dennis will be liable for 34.238% and the Town of Yarmouth will be liable for 65.762% of the cost of an audit of the District's books for the fiscal year prior to the effective date of this amendment;
- M. Any balance in the fund balance account of the Dennis-Yarmouth Regional School district on the date prior to the effective date of this amendment shall remain on the books of the District and be available to the District to be used according to the current terms of the Region Agreement;

**ARTICLE 2:** On motion of Board of Selectman Chairman Paul McCormick, duly seconded, it was voted 113 yes to 136 no that the sum of \$3,400,000 be appropriated to finance the cost of construction, reconstruction and renovations to the Dennis Town Offices located at 485 Main Street, South Dennis; that to meet this appropriation, the amount of \$500,000 be transferred from free cash and that the treasurer, with the approval of the board of selectmen, is hereby authorized pursuant to general laws chapter 44 and 44b or any other enabling authority to borrow \$2,900,000 for a period not to exceed twenty (20) years, and to issue bonds and notes therefor.

**ARTICLE 3:** On motion of Dennis Historical Commission Chairman Peter Howes, duly seconded, it was unanimously voted pursuant to the Community Preservation Act, G.L. C. 44, to appropriate and transfer \$49,000 from The Community Preservation Historic Preservation Reserves Fund as a grant to the Dennis Historical Society, Inc. pursuant to a grant agreement between the Board of Selectmen and the Dennis Historical Society, Inc. to continue the accessible digital archiving of historical documents and artifacts; and further authorize the Board of Selectmen to enter into a grant agreement with said historical society, upon such terms and conditions as the Board of Selectmen shall deem appropriate, which agreement shall include, but not be limited to, requirements that the historical society make such digitally archived materials available to the general public and, in the event that the historical society decides to terminate the project and/or can no longer host public access to the same, turn such digitalized material over to the town.

**ARTICLE 4:** On motion of Board of Selectman Member Sheryl McMahan, duly seconded, it was unanimously voted pursuant to the Community Preservation Act, G.L. C. 44b, to appropriate and transfer a total of \$300,000, of which \$150,000 will come from the Community Preservation Affordable Housing Reserves Fund and \$150,000 will come from the Community Preservation Undesignated Reserves Fund as a grant to the Dennis Affordable Housing Trust for purposes of funding a three (3) year rental subsidy program for fifteen (15) income eligible families currently Town of Dennis residents, and further, to authorize the Board of Selectmen to enter into a grant

agreement with said affordable housing trust, upon such terms and conditions as the Board of Selectmen shall deem appropriate.

**ARTICLE 5:** On motion of Community Preservation Act Committee Member Frank Dahlstrom, duly seconded, it was voted 186 yes to 5 no to authorize the Board of Selectmen to acquire by eminent domain, with the consent of the owners, or by gift or purchase for conservation, watershed protection and passive recreation purposes pursuant to G.L. C.40, §8c and G.L. C.44b, the property located at 12 and 14 Dotties Path, Dennis, Barnstable County, Massachusetts, containing 11.2 acres of land, more or less, and shown as lots 1 and 2 and Dotties Path, a private way, on a plan of land entitled "Definitive Subdivision Plan of Land in South Dennis, Massachusetts," prepared for Connors/Bell Family Trust recorded at the Barnstable County Registry of Deeds in Plan Book 625 Page 15, said property to be under the care, custody, control and management of the Conservation Commission; and as funding therefor, to appropriate the total sum of \$985,000.00;

To meet this appropriation, transfer \$150,000.00 from the Community Preservation Open Space and Recreation Reserves and \$150,000.00 from the Community Preservation Undesignated Reserves, and authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$685,000.00 under G.L. C.44 and G.L. C.44b or any other enabling authority, and issue bonds and notes therefor; provided, however, that it is anticipated that the Town will receive grants and private donations totaling \$685,000, and that such grants and donations shall be used to reduce the amount to be borrowed hereunder or, if such funds are received after said borrowing, be credited to the Community Preservation Fund; and provided further that no funds appropriated hereunder shall be expended until the Board of Selectmen has determined that the Town has received grants, donations, or gifts, or bona fide commitments totaling \$685,000; and, further,

To authorize the Board of Selectmen and/or the Conservation Commission to file on behalf of the Town any and all applications deemed necessary for grants and or reimbursements from the Commonwealth of Massachusetts under G.L. C.132a §11 (the so-called "Land Grant" program) or any other applications for funds, and to contract for, accept and expend any such grants or gifts; and further to authorize the Board of Selectmen and the Conservation Commission to enter into all agreements and execute any and all instruments as may be necessary or convenient on behalf of the Town to effect said acquisition; and further to authorize the Board of Selectmen, with the approval of the Conservation Commission, to accept a conservation restriction on a portion of said property and/or grant to the Dennis Conservation Trust, Dennis Water District, or other governmental agency or non-profit organization, a perpetual conservation restriction on all or a portion of said property pursuant to the provisions of G. L. C.184, §§ 31 through 33.

**ARTICLE 6:** On motion of Board of Selectman Member Sheryl McMahon, duly seconded, it was unanimously voted to amend the Town Code under Chapter 19, Article VII, Affordable Housing Trust Fund By-Law, by deleting the by-law in its entirety, and inserting in its place thereof the new by-law, as follows:

## **DENNIS AFFORDABLE HOUSING TRUST FUND**

### **Section 19-8: Authority; establishment.**

In accordance with the provisions of G.L. c. 44, §55C, as amended, the Town of Dennis hereby establishes a trust to be known as the "Dennis Affordable Housing Trust Fund" (the "Trust").

### **Section 19-9: Purpose.**

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Dennis (the "Town") for the benefit of low and moderate income households. In furtherance of this purpose, the Trustees are hereby authorized, in accordance with the procedures set forth herein, to acquire by gift, purchase or otherwise real estate and personal property, both tangible and intangible, of every sort and description; to use such property, both real and personal, in such manner as the Trustees shall deem most appropriate to carry out such purpose, provided however, that all property held by the Trust and the net earnings thereof shall

be used exclusively for benefit of all the inhabitants of the Town for the preservation and creation in the Town of affordable housing for the purposes for which this Trust was formed, and no part of the activities of the Trust shall consist of propaganda or otherwise an attempt to influence legislation, or participation in or intervention in (including the publication or distributions of statements) any political campaign on behalf of any candidate for public office and no part of the net earnings of this Trust shall inure, or be payable to or for the benefit of any private individual or corporation.

To achieve this purpose the trust shall employ a broad range of housing initiatives, including but not limited to (a) provide rental assistance, (b) purchase real property to be managed by an outside agency for affordable housing, (c) undertake new construction which may include outside not-for-profit agencies, and (d) undertake buy-downs, which may include taking subordinate mortgages on properties that will be deeded in perpetuity as Affordable Housing with note payments based on the family's income levels.

**Section 19-10: Tenure of Trustees.**

There shall be a Board of Trustees (the "Board") consisting of seven Trustees who shall be appointed by the Board of Selectmen. Only persons who are residents and registered voters of the Town shall be eligible to hold the office of Trustee. Trustees shall serve for a term of two years. Any Trustee who ceases to be a resident of the Town shall cease to be a Trustee hereunder and shall promptly provide a written notification of the change in residence to the Board and to the Town Clerk. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by the Board of Selectmen to fill such vacancy provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk. No such appointment shall be required so long as there are at least five Trustees in office. Upon the appointment of any succeeding Trustee and the filing of such appointment the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Any Trustee may be removed by the Board of Selectmen for cause, or no cause. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder.

**Section 19-11: Meetings of the Trust.**

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, G.L. Chapter 39, Sections 23A, 23B and 23C. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

**Section 19-12: Powers of Trustees.**

The Board of Trustees shall have the following powers which shall be carried out in accordance with and in furtherance of the provisions of G.L. Chapter 44, Section 55C:

- (1) To accept and receive property, whether real or personal, by gift, grant, devise, or transfer from any person, firm, corporation or other public or private entity, including without limitation, grants of funds or other property tendered to the Trust in connection with provisions of any zoning by-law or any other by-law or any general law or special act of the Commonwealth or any other source including money from G.L. c. 44B;
- (2) To purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income, subject to the Board of Selectmen's approval of the Trustees' recommendation thereof;
- (3) To sell, lease, exchange, transfer or convey any real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertakings relative to Trust real property as the Trustees deem advisable notwithstanding the length of any such lease or contract, subject to the Board of Selectmen's approval of the Trustees' recommendation thereof;
- (4) To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incidental to any transaction in which

the Board engages for the accomplishment of the purposes of the Trust, subject to the Board of Selectmen's approval of the Trustees' recommendation thereof;

- (5) To employ advisors and agents, such as accountants, appraisers and lawyers as the Trustees deem necessary;
- (6) To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trustees deem advisable;
- (7) To apportion receipts and charges between income and principal as the Trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- (8) To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution, to vote any securities or certificates of interest, and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- (9) To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;
- (10) To carry property for accounting purposes other than acquisition date values;
- (11) To borrow money on such terms and conditions and from such sources
  - a. as the Trustees deem advisable, and to mortgage and pledge Trust
  - b. assets as collateral to the extent of the value of the Trust's assets,
  - c. subject to the Board of Selectmen and Finance Committee's approval of
  - d. the Trustees' recommendation thereof; and if the amount to be
  - e. borrowed, mortgaged, pledged is greater than the value of the Trust's
  - f. assets, then it will be subject to a favorable two-thirds (2/3 ) vote of a
  - g. special or annual town meeting; To make distributions or divisions of
  - h. principal in kind;
- (12) To compromise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of G.L. Chapter 44, Section 55C, to continue to hold the same for such period of time as the Board may deem appropriate;
- (13) To construct, manage or improve real property and, to abandon any property which the Trustees determine not to be worth retaining, subject to the Board of Selectmen's approval of the Trustees' recommendation thereof;
- (14) To hold all or part of the Trust property uninvested for such purposes and for such time as the Trustees may deem appropriate;
- (15) To extend the time for payment of any obligation to the Trust;
- (16) To become the lottery and monitoring agent for affordable housing and accept compensation for those services into the Fund; and
- (17) To monitor the expiring use of any affordable housing in the Town.
- (18) To be authorized to review, supplement and assist in the implementation of policies that affect the availability of affordable housing; to institute guidelines and coordinate Town-sponsored affordable housing proposals; to promulgate equal access to housing of a wide range of housing types in the Town of Dennis;
- (19) To encourage and assist the Town toward meeting its 10% goal for affordable housing units as set forth in Chapter 40B of the General Laws; assist in the preparation of housing plans as provided in the Town of Dennis Comprehensive Plan; and to encourage development of affordable housing for low- and moderate-income persons and families using various types of situations and ownership programs, zoning, legislation and rentals;
- (20) To be authorized to review and comment on all affordable housing proposals brought before the Town of Dennis, act on fair housing issues and encourage affordable housing projects relating to existing housing stock; and
- (21) To employ a broad range of housing initiatives, including but not limited to: Rental Assistance Vouchers; Renter's Revolving Loan Program; Mortgage Buy-downs for Affordable Units; Purchase of Affordable Units for Rental to Qualified Individuals; Land Acquisition for Production of both Scattered Site and Multi-Unit Housing with Non-Profit and For-Profit Developers.

- (22) Other such duties and responsibilities as may from time to time be authorized by the legislative body of the Town of Dennis.

Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning by-law, exaction fee, or private contribution shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended. All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the Board within one year of the date they were appropriated into the Trust, remain Trust property.

**Section 19-13: Acts of Trustees.**

A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust property.

**Section 19-14: Liability.**

The Trust is a public employer and the Trustees are public employees for the purposes of G.L. Chapter 258. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of G.L. Chapter 268A. Notwithstanding the foregoing, neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town, except in the manner specifically authorized herein.

**Section 19-15: Taxes.**

The Trust is exempt from G.L. Chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.

**Section 19-16: Accounts.**

The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices for municipalities. Upon receipt of the audit by the Trustees, a copy shall be provided forthwith to the Board of Selectmen.

Rental income that the Trust receives from properties within its portfolio shall be deposited into a separate account (The Account), managed by the Town Treasurer. Trust members shall approve all expenses prior to Treasurer's disbursement of funds for projects already approved by the Board of Selectmen. The Trust shall have unrestricted access to the accounting and financial records for funds dedicated for Trust use.

**Section 19-17: Governmental Body.**

The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of G.L. Chapter 39.

**Section 19-18: Board of the Town.**

The Trust is a board of the Town for purposes of G.L. Chapter 30B and Section 15A of G.L. Chapter 40; but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the Town shall be exempt from said Chapter 30B.

**Section 19-19: Duration of the Trust.**

This Trust shall be of indefinite duration. However, it may be terminated by a majority vote of an annual or special town meeting, in accordance with G.L. c. 4, §4B, provided that an instrument of termination together with a certified copy of the town Meeting vote are recorded with the Barnstable County Registry of Deeds and the Barnstable Registry District of the Land Court. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Board of Selectmen for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Board of Selectmen, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may

distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

**Section 19-20: Amendments.**

This Trust may be amended from time to time except as to those provision specifically required under G.L. c. 44, §55C, by an instrument in writing signed by all of the Trustees and approved at a meeting called for that purpose, provided that in each case, a certificate of amendment has been recorded with said Deeds and said Registry District of the Land Court.

**Section 19-21: Titles.**

The titles to the various Sections herein are for convenience only and are not to be considered part of said Sections nor shall they affect the meaning or the language of any such Section.

**ARTICLE 7:** On motion of Board of Selectman Member Sheryl McMahon, duly seconded, it was unanimously voted, to accept the provisions of M.G.L. Chapter 32b, §20, authorizing the establishment of a separate fund to be known as an other Post-Employment Benefits Liability Trust Fund, and a funding schedule for the fund. The schedule and any future updates shall be designed, consistent with standards issued by the governmental accounting board, to reduce the unfunded actuarial liability of health care and other post-employment benefits to zero as an actuarially acceptable period of years and to meet the normal cost of all such future benefits for which the governmental unit is obligated. The schedule and any future updates shall be (1) developed by an actuary retained by the governmental unit and triennially reviewed by the chief executive officer; and (ii) reviewed and approved by the actuary in the Public Employment Retirement Administration Commission.

**ARTICLE 8:** On motion of Finance Committee Chairman James Plath, duly seconded, it was unanimously voted, to reduce the amount of \$3,739,770 voted under Article 4 of the May 8, 2012 Annual Town Meeting, Line Item 63, Fire Personal Services, by \$356,376 so that the new authorization under said Line Item is now \$3,383,394, and thereby reducing the raise and appropriate authorization by \$356,376 so that the total budget figure under said Article 4 will now read \$28,535,410.

**ARTICLE 9:** On motion of Finance Committee Chairman James Plath, duly seconded, it was unanimously voted the fiscal year 2013 budget adjustments under Article 4 of the May 8, 2012 Annual Town Meeting by transferring \$53,876.14 from free cash to Line Item 8a, Reserve Fund, and reducing Line Item #149, Debt-Interest Long Term by \$10,868.06, and thereby reducing the raise and appropriate authorization under said Article 4 by \$10,868.06, so that the total budget figure will now read \$28,578,418.08.

**ARTICLE 10:** On motion of Dennis Historical Commission Member Burton Derick, duly seconded, it was unanimously voted to refer the Demolition By Neglect By-Law back to the committee.

To see if the Town will vote to adopt the following new Demolition By Neglect By-law as follows:

**“Demolition By Neglect By-Law**

**A preservation by-law to protect historically and/or architecturally significant buildings and/or structures**

**Introduction:** This by-law addresses the potential demolition of a Significant Building or Structure caused by lack of maintenance. It can also be referred to as a demolition by neglect by-law. Demolition by lack of maintenance or neglect occurs when a Significant Building and/or Structure, as defined hereunder, when suffers deterioration due to deferred maintenance that results in conditions which are unsafe, unsanitary or cause the building or structure to be open to the environment, unfit for human habitation, or result in a fire hazard causing a detriment to public health, public safety and the public welfare.

## **A. Purpose.**

The purpose of this by-law shall be to work in conjunction with the Town of Dennis' regulatory departments and make use of all existing local ordinances and regulations and Massachusetts General Law to:

- preserve and protect the exterior features of historically and architecturally Significant Buildings and/or Structures within the Town of Dennis from demolition or imminent demolition by inaction, inattention and/or neglect and the interior portions thereof when such interior maintenance is necessary to prevent deterioration and decay of the exterior;
- establish standards of minimum maintenance for such Significant Buildings and/or Structures whether occupied or vacant, and all parts thereof;
- encourage owners of such Significant Buildings and/or Structures to explore and develop alternatives to such deterioration through education and prompt corrections so as to avoid such demolition;
- support our Town and its residents by making Dennis a more appealing, advantageous and enjoyable place to live and work.

## **B. Definitions.**

1. Neglect– when the structural integrity of a building or structure and/or its exterior architectural detail is compromised because routine and/or major maintenance has not been performed.
2. Demolition – any act of moving, pulling down, destroying, removing, dismantling or razing a building, or commencing the work of moving, or of total and/or substantial destruction of twenty five (25) percent or more of the exterior of a building, excluding ordinary maintenance and/or repair.
3. Standards of Minimum Maintenance – the minimum amount of maintenance necessary to prevent structural deterioration of a Significant Building or Structure and its exterior architectural detail. This maintenance shall include components such as, but not limited to the following:
  - Exterior components and appurtenances, for example: roofs, exterior walls & wall coverings, windows, doors, rainwater drainage systems, porches, stairs, bulkheads
  - Interior components that affect exterior deterioration, for example: foundation, vertical and/or horizontal structural supports, chimney & chimney support systems
  - Any exterior feature, such as fences or stone walls, which when deteriorated produces a detrimental effect on the character of a Significant Building and/or Structure.
  - Any fault or defect which renders said Significant Building and/or Structure structurally unsafe, interior or exterior.
  - Failure to adhere to any preservation plan or guideline established by the Commission or regulatory body.
4. Building – any combination of materials having a roof and a permanent foundation forming a shelter for persons, animals or property, including any portion of such structure, other than its interior.
5. Structure – any combination of materials with a fixed location on the ground, including a fence, stone wall, well foundation or other combination of materials that is accessory to and historically or architecturally significant to a Significant Building.
6. Significant Building – any building in the Town of Dennis which meets one or more of the following criteria:
  - a. is listed on, or is within an area listed on, or has been determined to be eligible for listing on the National Register of Historic Places.
  - b. is listed on, or is within an area listed on, or has been determined to be eligible for listing on the State Register of Historic Places.
  - c. has been determined by a majority vote of the Commission to be importantly associated with one or more historic persons or events, or with

the broad architectural, cultural, political, economic or social history of the Town of Dennis or the Commonwealth of Massachusetts.

- d. has been determined by a majority vote of the Commission to be historically and/or architecturally important in terms of period, style, method of building construction or association with a recognized architect or builder.

7. Commission – the Dennis Historical Commission.
8. Appropriate Town Departments – those departments of the Town of Dennis that have regulatory authority, associated with public health and/or public safety.
9. Property Record – the departmental file of an Appropriate Town Department.

### **C. Procedure.**

1. The Commission shall by petition or by a majority vote by a quorum of the Commission, based upon the Commissioner's observations, review a Significant Building and/or Structure to determine whether it is so deteriorated from Neglect that its preservation is in danger of Demolition and as necessary, refer such building or structure to the Appropriate Town Department(s) for review and action.
2. The Commission shall notify the Property Owner and copy the Appropriate Town Department(s) that remedial action should commence within forty five (45) days of the initial notification or such other time frame that is deemed reasonable by the Commission so that such building and/or structure shall be preserved and protected in accordance with the purposes of this by-law.
3. The Appropriate Town Department(s) shall cause an inspection of the property to be made within seven (7) days of the notice by the Commission or as soon as practicable.
4. The Appropriate Town Department(s) shall within fourteen (14) days of notice by the Commission, report to the Commission in writing of their findings, of the statutory/regulatory requirements as outlined in their area of authority, and what action if any has been taken.
5. If an Appropriate Town Department reports in writing to the Commission that a demolition by neglect violation has been abated through an enforcement order under a regulation other than this by-law; then no further action and/or hearing is required. If a hearing has been scheduled the Commission shall cancel the hearing in writing to the property owner and the Appropriate Town Department.
6. The Commission shall schedule a public hearing on the Significant Building and/or Structure within forty-five (45) days of said initial notification to allow the Property Owner to respond to the referral, enforcement activities and/or to develop a remedial plan.
  - a. Public Notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in the Town Office and published in a local newspaper not less than ten (10) business days prior to the date of said hearing. Said notice shall identify the street address of the subject Significant Building or Structure. A copy of the notice shall be mailed to the Property Owner and all Appropriate Town Departments.
  - b. At the public hearing the Commission shall take testimony and other evidence regarding the condition of the Significant Building or Structure. The Commission shall make a determination on the structural status of said Significant Building or Structure within seven (7) business days of the public hearing unless both the Commission and the Property Owner mutually agree, in writing, that the time to make the determination may be extended.
  - c. The Commission shall notify the Property Owner and all Appropriate Town Departments in writing that a determination has been made within five (5) business days of the determination.

d. The Appropriate Town Department(s) shall record the determination on the Town's Property Record and a fineable offense will begin as of the date of determination or in accordance with the regulatory authority of the Town Department(s), whichever is sooner.

7. In cases where no regulatory or statutory mechanism is otherwise available to address the potential demolition or demolition by neglect, then this by-law may be enforced by the Commission and its duly authorized agent, who shall be the appropriate Town Department, under M.G.L. 21D non-criminal disposition procedure in accordance with the following ticketing or citation schedule:

First offense: written warning

Second offense: \$50.00 fine

Third offense: \$100.00 fine

Each subsequent offense: \$300 fine

Each day that a violation exists shall constitute a separate offense for which a separate ticket or citation may issue, with tickets or citations to be issued by a duly authorized agent.

8. A duly authorized agent may seek enforcement of this by-law as provided for by law, either through the noncriminal or criminal procedure or through the civil procedure for injunctive relief.

#### **D. Enforcement and Remedies and Inspections.**

1. The Town and its Appropriate Department(s) shall have the authority to enforce this by-law in accordance with Massachusetts General Law, the Code of Massachusetts Regulations and existing local regulations and may enter upon the premises to inspect the Significant Building and/or Structure either with the permission of the owner or upon obtaining an administrative search warrant.

#### **E. Administration.**

The Board of Selectmen shall adopt such rules and regulations as are necessary to administer the terms of this by-law.

#### **F. Conflicts.**

- No provision of this by-law shall be interpreted or applied so as to conflict with the provisions set forth under G. L. c.143 and the State Building Code, regarding emergency Demolition procedures. The Commission may request that the Property Owner provide an independent evaluation from a structural engineer, qualified in evaluating historic structures, as to the structural soundness of the subject Building.
- Nothing in this by-law shall be interpreted or applied so as to conflict with the provisions of the Historic Districts Act, Massachusetts General Law Chapter 40C. If any of the provisions of this law so conflict, that act will prevail.
- Nothing in this by-law shall be interpreted or applied so as to conflict with the provisions of other applicable town or historic district regulations.

#### **G. Severability.**

If any section, paragraph or part of this by-law be for any reason declared invalid or unconstitutional by a court of competent jurisdiction, every other section, paragraph and part shall continue in full force and effect.

**ARTICLE 11:** On motion of Board of Selectman Member Wayne Bergeron, duly seconded, it was unanimously voted to indefinitely postpone the article.

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, and that there shall be deposited into the fund, without further appropriation, forty (40%) percent of the fees collected from the sale of ORV permits, and that appropriations from the fund shall be made by a majority vote of Town Meeting, only for Barrier Beach protection, law enforcement and restoration.

The Board of Selectmen may, if authorized by by-law, increase or decrease the portion of the above noted fees. The Barrier Beach Protection/Stabilization Fund shall be maintained by the Town Treasurer as a separate account, subject to any applicable

provision in MGL Chapter 44, and any interest accrued shall be credited to and become part of said Fund.

**ARTICLE 12:** On motion of Board Of Selectman Member Heidi Schadt, duly seconded, it was unanimously voted to amend the Town Code under Article IV, Waterways Commission by deleting the language in §5-5 in its entirety and replacing it with the new language, as follows, with the following exception: in paragraph A. at the end of the second sentence, after the word “term”, add the words: “and upon appointment, a member shall file with the Town Clerk a financial disclosure form as required by G.L. c.268A, Sect 19”.

**§ 5-5 Authority to appoint, membership; charge; alternate members.**

- A. The Board of Selectmen shall appoint a Commission to be known as the Waterways Commission, hereinafter referred to as the Commission. Said Commission shall be composed of seven (7) members for three (3) year staggered terms and two alternates one for a two (2) year term and one for a one (1) year term and upon appointment, a member shall file with the Town Clerk a financial disclosure form as required by G.L. C268a, Sec. 19. Members must be full time residents and registered voters of the Town of Dennis who possess knowledge of and an interest in the operation of the Town waterways. The Commission shall annually appoint a chairperson, a vice chairperson and a recording secretary.
- B. The Commission shall advise the Board of Selectmen, Harbormaster and Town Administrator on the use, maintenance, regulations, administration, and development of all navigable Town waterways and lakes over ten (10) acres in area including related shore facilities. Commission members will be expected to attend occasional meetings beyond their regularly scheduled meeting in support of the Commission’s charge.

The Commission’s work shall include, but not be limited to the following:

- 1) Assist the Harbormaster in providing input to the Department’s annual operating budget and capital budget requests. Including the five (5) year capital plan;
  - 2) Assist the Harbormaster in the development of short and long term goals and objectives for the Department;
  - 3) Assist the Harbormaster in developing a long range maintenance plan for all waterways and facilities;
  - 4) Receive and review monthly and annual financial reports of waterways revenue.
  - 5) Seek information, advice, and assistance from various town departments that are affected by or affect waterways operation;
  - 6) Encourage community support of the Town waterways;
  - 7) Review and become acquainted with all waterways and their assets;
  - 8) Provide annual updates to the Board of Selectmen and the Town Administrator as to the Commissions deliberations and recommendations during the annual fee hearing, review of the Harbormaster’s goals and objectives as well as capital and operating budget reviews;
  - 9) Advise, consult and confer with the Town Administrator regarding any operational issue affecting the Town’s waterways.
- C. The Commission shall meet at least on a monthly basis, and a majority of members must be present for the Commission to meet and conduct any business scheduled before it. All meetings of the Commission or any sub-Commission established by the Commission are to be held in a public location, properly posted and open to the public, in accordance with the Massachusetts Open Meeting Law. Minutes of each meeting shall be prepared and approved by the Commission within a reasonable time after said meeting and distributed to the Board of Selectmen. Commission members shall be mindful of their attendance obligations at Commission meetings as identified in Article VII, §5-10 of the Town Code.

**ARTICLE 13:** On motion of Board of Selectman Member Sheryl McMahon, duly seconded, it was unanimously voted to amend Chapter 79, of the Town Code, "Dogs and Other Animals By-Law" under Article VI, Animal Neglect, by adding a new §79-10A:

**79-10A Animal Neglect**

A. Any person owning, keeping, or otherwise responsible for a companion animal or pet or farm animal or livestock who confines said animal in a parked vehicle or trailer where the vehicle confinement endangers the health or safety of the animal shall be subject to a fine.

B. Violations and penalties. Any person who violates the provisions of Section 79-10A shall be subject to a Warning for the First Offense, a fine of \$50.00 for the Second Offense and a fine of \$100.00 for a Third or Subsequent Offense. In addition to any other legal remedies that may be available, the Animal Control Officer or other designated enforcing person may enforce these penalties through the Town's Noncriminal Disposition Bylaw, Chapter 1, Article I.

**ARTICLE 14:** On motion of Board of Selectman Chairman Paul McCormick, duly seconded, it was unanimously voted to transfer \$25,000 from free cash to be used to promote tourism in the Town of Dennis.

**ARTICLE 15:** On motion of Board of Selectman Member Alan Tuttle, duly seconded, it was unanimously voted to rescind the balance of \$500,000 from the original \$3,200,000 borrowing authorization for Bass River Park, voted under Article 1 of the October 18, 2005 Special Town Meeting.

**ARTICLE 16:** On motion of Board of Selectman Member Alan Tuttle, duly seconded, it was unanimously voted to rescind the remaining balance of \$261,464 from the original borrowing authorization for Sea View Park of \$261,464 voted under Article 1 of the December 13, 2007 Special Town Meeting.

**ARTICLE 17:** On motion of Board of Selectman Chairman Paul McCormick, duly seconded, it was unanimously voted to authorize the Board of Selectmen to acquire by purchase, gift or eminent domain, a permanent sidewalk easement as shown on a plan entitled "Plan of Easement , Exhibit "A" 773 Main Street, Dennis, Massachusetts for N&K Holdings, LLC, dated 08/09/2012" prepared by Choubah Engineering Group of North Dartmouth, MA, a copy of which is on file in the office of the Town Clerk, and further, to vote to transfer \$250.00 from free cash for this purpose and any expenses related thereto, and to authorize the Board of Selectmen to take all related actions necessary or appropriate to effect this acquisition.

**ARTICLE 18:** On motion of Board of Selectmen Member Heidi Schadt, duly seconded, it was unanimously voted to transfer \$80,499.79 from free cash to return to the Capital Improvement Fund the remaining balances in the fiscal year 2012 Capital Outlay Equipment and Projects voted under Article 16 of the May 3, 2011 Annual Town Meeting:

1. \$ 318.08 – Mun. Bldgs. Multiple Roof Projects
  2. 80,000.00 – Mun.Bldgs. WD Graded Schoolhouse Painting
  3. 181.71 - Fire Dept. Replace Pumper
- TOTAL \$80,499.79**

It was unanimously voted to adjourn (dissolve) the meeting at 9:31 p.m. on November 13, 2012.

A True Copy Attest:

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Theresa T. Bunce, Town Clerk