

SPECIAL TOWN MEETING
Town of Dennis
October 18, 2016

Robert C. Chamberlain, Moderator, called the Special Town Meeting held at the Nathaniel H. Wixon Innovation School to order at 7:00 p.m. He declared a quorum present and noted that the Warrant had been posted by Gerald DeSalvatore, Constable. Tellers were Robert Duffy, Katie Clancy, Bob Mezzadri, MaryEllen Stowe, Trish McDowell and Paul Covell, Head Teller.

Moderator Chamberlain asked the assembly to kindly rise and salute the flag as we recite the Pledge of Allegiance.

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 Selectmen Member Wayne Bergeron, duly seconded, it was voted by majority to authorize the Board of Selectmen to lease for a term of no more than 99 years, such portion of the premises located at 1341 Route 134, property shown on Assessor's Map 359, Parcel 53 containing approximately .38 acres, as shown on a Land Court Subdivision Plan 34127A, B-1 by Nickerson & Berger dated September 5, 1972 filed with certificate of Title #120831 and filed with the Town Clerk's Office for the purpose of affordable housing for Honorably Discharged Veterans to be limited to 5 bedrooms on such terms and conditions, and for such consideration, which may be nominal consideration, as the Board of Selectmen deems appropriate, and authorize the Board of Selectmen to accept on behalf of the Town, an affordable housing restriction, enforceable in perpetuity in compliance with G.L. Chapter 184, Sections 31-32.

ARTICLE 2: On motion of Board of Selectmen Member Sheryl McMahon, duly seconded, it was voted by majority, pursuant to the Community Preservation Act, G.L. c.44B, to appropriate and transfer \$200,000 from the Undesignated Reserves Fund as a grant to the Dennis Planning Department for the development a five bedroom home for Veterans located at 1341 Route 134 Dennis, pursuant to a grant agreement between the Board of Selectmen and the Dennis Planning Department, upon such terms and conditions as it deems appropriate.

ARTICLE 3: On motion of Board of Selectmen Member Sheryl McMahon, duly seconded, it was voted by majority, pursuant to the Community Preservation Act, G.L. c.44B, to appropriate and transfer \$350,000 from the Community Affordable Housing Reserves Fund as a grant to purchase existing housing units in established neighborhoods at or below assessed value that will be converted to deed restricted affordable rental housing; pursuant to a grant agreement between the Board of Selectmen and the Dennis Municipal Affordable Housing Trust, upon such terms and conditions as it deems appropriate and further to authorize the Board of Selectmen to accept an affordable housing restriction on said project.

ARTICLE 4: On motion of Board of Selectmen Member Sheryl McMahon, duly seconded, it was voted by majority, pursuant to the Community Preservation Act, G.L. c.44B, to appropriate and transfer \$12,000 from the Community Affordable Housing Reserves Fund as a grant to the Town of Dennis Planning Department, to fund the remaining partial year for an Affordable Housing Coordinator, and further to authorize the Board of Selectmen to enter into an agreement with the Dennis Planning Department upon such terms and conditions as it deems appropriate, which agreement shall include, but not limited to, the performance goals for the housing coordinator.

ARTICLE 5: On motion of Community Preservation Committee Member Diane Rochelle, duly seconded, it was unanimously voted, pursuant to the Community Preservation Act, G.L. c.44B, to appropriate and transfer \$75,000 from the Community Preservation Historic Preservation Reserves Fund as a grant to the Dennis Historical Commission, pursuant to a grant agreement between the Board of Selectmen and the Dennis Historical Commission to fund the restoration and preservation of the historic West Schoolhouse located at 61 Whig Street, upon such terms and conditions as it deems appropriate.

ARTICLE 6: On motion of Community Preservation Committee Member Chris Foley, duly seconded, it was unanimously voted, pursuant to Community Preservation Act, G.L. c.44B, to appropriate and transfer \$ 27,690 from the Community Preservation Historic Preservation Reserves Fund as a grant to the Jacob Sears Library , Inc., pursuant to a grant agreement between the Board of Selectmen and said Library for the installation of gutters and a water diversion system at the Jacob Sear Memorial Library located at 23 Center St. Dennis, and further, authorize the Board of Selectmen to enter into said agreement, upon such terms and conditions as they deem appropriate; and further to authorize the Board of Selectmen to accept a Historic Preservation Restriction on said property.

ARTICLE 7: On motion of Community Preservation Committee Member Diane Rochelle, duly seconded, it was unanimously voted, pursuant to the Community Preservation Act, G.L. c.44B, to appropriate and transfer \$57,530 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 fund the Restoration of the Howes Family Cemetery, and further to authorize the Board of Selectmen to enter into a grant agreement with the Dennis Historical Society, Inc., upon such terms and conditions as it deems appropriate, which agreement shall include, but not be limited to, the restoration and preservation of the historic Howes Family Cemetery located at 48 Bramble Lane, Dennis, a Town managed cemetery; and further to authorize the Board of Selectmen to accept a Historic Preservation Restriction on said property.

ARTICLE 8: On motion of Community Preservation Committee Member Frank Dahlstrom, duly seconded, it was unanimously voted, pursuant to the Community Preservation Act, G.L. c.44B, to appropriate and transfer \$ 58,238 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 fund the continuation of the Accessible Digital Archives Project, and further authorize the Board of Selectmen to enter into a grant agreement with the Dennis Historical Society, upon such terms and conditions as it deems appropriate, which agreement shall include, but not be limited to, requirements that the Dennis 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 digital material over to the Town.

ARTICLE 9: On motion of Board of Selectmen Member Sheryl McMahon, duly seconded, it was unanimously voted to appropriate and transfer \$11,793.41 from free cash to pay Law Budget Attorney's Fees

ARTICLE 10: On motion of Dennis Yarmouth Regional School District School Committee Chairman Brian Carey, duly seconded, it was unanimously voted to appropriate and transfer \$20,000 from free cash for asbestos remediation of ceiling tiles at the Nathaniel H. Wixon School.

ARTICLE 11: On motion of Board of Selectmen Member Sheryl McMahon, duly seconded, it was unanimously voted to indefinitely postpone the article.

To see if the Town will vote to transfer \$5,700 from free cash to Library- Personal Services line item 123 to fund additional staffing hours or take any other action relative thereto;

ARTICLE 12: On motion of Board of Selectmen Member Wayne Bergeron, duly seconded, it was unanimously voted to transfer \$5,000 from free cash to fund the fuel assistance special article.

ARTICLE 13: On motion of Board of Selectmen Member John Terrio, duly seconded, it was voted 377 yes to 35 no to appropriate the sum of \$5,500,000 for the purpose of constructing an addition to and reconstructing the existing Dennis Senior Center located at 1045 Route 134, East Dennis, MA, including all design costs, furnishings and equipment, and any other costs incidental or related thereto; that to meet said appropriation authorize the Treasurer, with the approval of the Board of Selectmen, to borrow the sum of \$5,500,000 under and pursuant to Chapter 44, Section 7(3A) of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor; and further to see if the Town will vote to transfer for the same purpose the sum of \$100,000 from the Town Hall Renovation account approved at the November 19, 2013 Special Town Meeting under Article 15, for a total appropriation of \$5,600,000; provided, however, that no sums shall be borrowed or expended hereunder unless and until the Town shall have voted to exclude the amount required to pay for the bonds or notes issued for said project from the limitation on total property taxes set forth in Chapter 59, Section 21C of the General Laws (Proposition 2 ½, so called). Any

premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote in accordance with Chapter 44, Section 20 of the General Laws, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount.

ARTICLE 14: On motion of Board of Selectmen Member John Terrio, duly seconded, it was unanimously voted to transfer \$120,000 from free cash to pay for underground electrical repairs at the Dennis Highlands Golf Course.

ARTICLE 15: On motion of Planning Board Chairman Robert Mezzadri, duly seconded, it was unanimously voted to amend Section 2.3.3.6 of Dennis Zoning By-law, Accessory Structures, by amending subsection 2.3.4.6.a. from “A single accessory building with a footprint of 120 square feet or less:” to “A single accessory building with a footprint of 200 square feet or less, and a building height of no more than 15 feet:”

ARTICLE 16: On motion of Planning Board Chairman Robert Mezzadri, duly seconded, it was unanimously voted to amend Section 2.4.2.1 of the Zoning By-Law, “Single Lots”, by adding a comma between “frontage” and “width” in the first sentence. With the change the section will read as follows:

2.4.2.1 Single Lots: Any increase in area, frontage, width, yard or depth requirements of this Zoning By-law shall not apply to a lot for single or two family residential use which at the time of recording or endorsement, whichever occurs sooner, conformed to then existing zoning requirements, had less than the new requirement but at least five-thousand (5,000) square feet of area and fifty (50) feet of frontage and was not held in common ownership with any other adjoining lot on the effective date of the increased requirements.

ARTICLE 17: On motion of Board of Selectmen Chairman Paul McCormick, duly seconded, it was voted 305 yes to 74 no to amend the Town of Dennis General Bylaws by adding a new Chapter: Environmental Hazards, Reduction of Waste Single Use Plastic Bags

Purpose and Intent

A. The production and use of single-purpose plastic bags has significant impacts on the marine and land environment of communities, including coastal communities, including but not limited to deaths of marine and terrestrial animals through ingestion, entanglement, the pollution of land resources through litter requiring significant expense to remove, the clogging of storm drainage system, interference with single stream resources recovery systems, which are generally not equipped to handle plastic bags, and using millions of gallons of fossil fuels in the U.S. in connection with their manufacturing.

B. Therefore, the Town of Dennis seeks to phase out the single-use plastic bags by all retail establishments over the period of twelve (12) months from the effective date of this bylaw. The purpose of this legislation is to phase out the usage of single-use checkout bags by retail establishments and restaurants in the Town of Dennis.

DEFINITIONS

As used in this article, the following terms shall have the meanings indicated:

ESTABLISHMENT

Any business selling goods, articles, food or personal services to the public, including takeout restaurants.

REUSABLE BAG

A bag that is specifically designed for multiple uses and is made of cloth, fabric or other durable materials.

SINGLE-USE PLASTIC BAG

Bags made of plastic with integral handles, and a thickness less than 2.5 mils that are intended to be used for the transport of products purchased at an establishment as defined herein.

USE REGULATIONS

A. Single-use plastic bags shall not be distributed or sold at any establishment within the Town of Dennis. Existing stock of single-use bags shall be phased out within twelve (12) months of adoption of this bylaw; any remaining stock shall be disposed of properly by the establishment.

B. Customers are encouraged, in the meantime, to bring their own reusable shopping bags to stores. Establishments may provide reusable bags at no charge. Establishments are strongly encouraged to make reusable bags available to customers at a reasonable price.

C. Thin-film plastic bags used by establishments to contain dry-cleaning, newspapers, produce, meat, bulk food, wet items and other similar merchandise, typically without handles, are exempt from the provisions of this bylaw.

ADMINISTRATION AND ENFORCEMENT

A. This bylaw may be enforced by any Town police officer, enforcement officers or agents of the Board of Health.

B. This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, noncriminal disposition pursuant to MGL Ch. 40 § 21D, and the appropriate chapter of the General Bylaws of the Town of Dennis. If noncriminal disposition is elected and by the Board of Selectmen in its enforcement policies then any establishment which violates any provision of this bylaw shall be subject to the following penalties.

- (1) First offense: \$50 fine.
- (2) Second offense: \$100 fine
- (3) Third and subsequent offense: \$200 fine.

C. Subsequent offenses shall be determined as offenses occurring within two years of the date of the first noticed offense. Each day or portion thereof shall constitute a separate offence.

ARTICLE 18: On motion of Board of Selectmen Chairman Paul McCormick, duly seconded, it was voted by majority to amend the Town of Dennis General Bylaws by adopting a new Chapter: Environmental Hazards, Reduction of Waste Expanded Polystyrene Food and Beverage Containers Prohibited as follows:

Purpose and Intent

A. Expanded polystyrene food and beverage containers form a significant portion of the solid waste stream going into our transfer station. Expanded polystyrene food and beverage containers are not biodegradable. The elimination of expanded polystyrene food and beverage containers is in the best interest of the health and welfare of the inhabitants of the Town of Dennis.

B. This bylaw shall take effect twelve (12) months following the effective date of the bylaw to allow time for Restaurants and Retail Food Establishments to use their existing inventory of Expanded Polystyrene food or beverage containers and to convert to alternative materials.

DEFINITIONS

As used in this article, the following terms shall have the meanings indicated:

“Disposable Food Service Container” shall mean single-use disposable products for serving or transporting prepared food or beverages, including, without limitation, take-out foods and/or leftovers from partially consumed meals prepared by a restaurant and/or retail food establishment. This includes, but is not limited to, plates, cups, bowls, trays, hinged or lidded containers, straws, cup lids, or utensils. It shall not include single-use disposable packaging for unprepared foods.

“Expanded Polystyrene” shall mean blown polystyrene (polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam) and expanded and extruded forms, which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form

molding, and extrusion-blow molding (extruded foam polystyrene), sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam.

“Food Establishment” shall mean an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption, as further defined in 105 CMR 590.002. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et. seq., shall be considered a Food Establishment for purposes of this bylaw.

“Prepared Food or Beverage” shall mean any food or beverage prepared on the restaurant and/or retail food establishment's premises using any cooking or food preparation technique. Prepared food shall not include any raw uncooked meat, fish or eggs unless provided for consumption without further food preparation. Prepared food may be eaten on or off the food establishment's premises.

USE REGULATIONS

Expanded Polystyrene food or beverage containers shall not be used as Disposable Food Service Containers by Food Establishments within the Town of Dennis. This bylaw only applies for Prepared Food or Beverage, and shall not apply to the packaging of uncooked meat, uncooked poultry, and/or uncooked fish.

List of available alternatives

Not later than sixty (60) days following approval hereof by the Attorney General, the Board of Health shall adopt a list of available suitable affordable biodegradable/compostable or recyclable alternatives for each product type, which the Board of Health shall be updated regularly.

Enforcement; Violations and Penalties

A. This bylaw may be enforced by any Town police officer, enforcement officers or agents of the Board of Health.

B. This bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, noncriminal disposition pursuant to MGL Ch. 40 § 21D, and the appropriate chapter of the General Bylaws of the Town of Dennis. If noncriminal disposition is elected, by the Board of Selectmen in its enforcement policies then any establishment which violates any provision of this bylaw shall be subject to the following penalties.

- (1) First offense: \$50 fine.
- (2) Second offense: \$100 fine
- (3) Third and subsequent offense: \$200 fine.

C. Subsequent offenses shall be determined as offenses occurring within two years of the date of the first noticed offense. Each day or portion thereof shall constitute a separate offense.

D. The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 590.15, may suspend or revoke the food service permit for any Food Establishment failing to comply with this bylaw.

ARTICLE 19: On motion of Planning Board Chairman Robert Mezzadri, duly seconded, it was voted 269 yes to 74 no to amend Section 2.2.2.5 of the Zoning By-Law, "Use Regulation Schedule Commercial Uses", by adding "o. Hookah Lounge" and to amend Section 5 "Definitions" by adding a definition for "Hookah Lounge (Shisha Bar)".

"HOOKAH LOUNGE (SHISHA BAR): An establishment where patrons share flavored smoking tobacco, herbs or synthetic material from a communal hookah.

Amend Section 2.2.2.5 Commercial Uses to add "o."

Principal Uses		DISTRICT								
	R-40 R-60	Quivet Neck/Crowe's Pasture Resource Protection District	RR	LB	EB	GC-I	GC-II	I	DPVC Area A	DPVC Area B
5. Commercial Uses										
o. Hookah Lounge (Shisha Bar)	N	N	N	N	N	N	N	N	N	N

Amend Section 5 Definitions to add Hookah Lounge (Shisha Bar):

"HOOKAH LOUNGE (SHISHA BAR): An establishment where patrons share flavored smoking tobacco, herbs or synthetic material from a communal hookah.

ARTICLE 20: On motion of Board of Selectmen Member Cleon Turner, duly seconded, it was unanimously voted to indefinitely postpone the article.

To see if the Town will vote to amend the Town of Dennis Waterways By-Law by deleting the following Chapters; Chapter 55 – Boats, Chapter 117 – Jet Skis and Chapter 231 – Waterways or take any other action relative thereto;

These Chapters of the Town Code are obsolete given the adoption of the 2016 regulations and should be removed from the code by action of Town Meeting.

ARTICLE 21: On motion of Board of Selectmen Member John Terrio, duly seconded, it was unanimously voted to transfer \$40,000 from free cash to fund the first twenty-five 25% percent of design and estimated construction costs for water quality and storm water mitigation improvements for a large portion of a drainage system in Dennis Port.

ARTICLE 22: On motion of Board of Selectmen Member Cleon Turner, duly seconded, it was unanimously voted to transfer \$100,000 from free cash for the purpose of designing and constructing comfort stations.

ARTICLE 23: On motion of Board of Selectmen Member Wayne Bergeron, duly seconded, it was voted 367 yes to 5 no to appropriate \$50,000 from the Barrier Beach Protection Stabilization Fund for the purpose of hiring a professional consultant to assist the Town in obtaining new permits for ORV use at Chapin Beach and Crowes Pasture Beach. The new permits will incorporate updated requirements related to the protection of the piping plovers, while simultaneously insuring reasonable access to those who have shellfish grants.

ARTICLE 24: On motion of Walter Hulse, duly seconded, it was voted by majority to transfer \$65,000.00 from the Beach Capital Improvement Fund for the purpose of designing and constructing new stairs at Corporation Beach.

ARTICLE 25: On motion of Board of Selectmen Member Cleon Turner, duly seconded, it was unanimously voted to appropriate and transfer \$40,000 from free cash to promote tourism in the Town of Dennis.

ARTICLE 26: On motion of Board of Selectmen Member Cleon Turner, duly seconded, it was unanimously to transfer of \$ 64,264.00 from Article 6, Line Item #3A Town Administrator Settlements from the Annual Town Meeting of May 3, 2016 to fund a collective bargaining agreement between the Town and the Service Employees International Union, Local 888 personnel for Fiscal Year 2017.

ARTICLE 27: On motion of Board of Selectmen Member Cleon Turner, duly seconded, it was unanimously voted to transfer of \$ 43,745.00 from Article 6, Line Item #3A Town Administrator Settlements from the Annual Town Meeting of May 3, 2016 to fund a collective bargaining agreement between the Town and AFSCME Council 93, Local 2977 Union for Fiscal Year 2017.

ARTICLE 28: On motion of Board of Selectmen Member Cleon Turner, duly seconded, it was unanimously voted to transfer of \$42,992.00 from Article 6, Line Item #3A Town Administrator Settlements from the Annual Town Meeting of May 3, 2016 to fund a collective bargaining agreement between the Town and the Mass Laborers' District Council, Local 1249 personnel for Fiscal Year 2017.

It was unanimously voted to adjourn (dissolve) the meeting at 8:41 p.m. on October 18, 2016.