

# TOWN OF SANDWICH

THE OLDEST TOWN ON CAPE COD

130 MAIN STREET  
SANDWICH, MA 02563

TEL: 508-888-4910 AND 508-888-5144

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BOARD OF  
SELECTMEN

TOWN  
MANAGER

## SANDWICH BOARD OF SELECTMEN AGENDA

November 19, 2015 – 7:00 P.M.

Sandwich Town Hall – 130 Main Street

1. Convene Meeting & Pledge of Allegiance
2. Review & Approval of Minutes
3. Public Forum (*15 Minutes*)
4. Town Manager Report
5. Correspondence / Statements / Announcements / Future Items / Follow-up (*10 Minutes*)

6. Staff Meeting (*90 Minutes*)

DPW Director/Town Engineer Paul Tilton & Asst. Town Engineer Sam Jensen

- Preliminary Vote to Refer Road Taking to Planning Board – Aviators Lane
- Pavement Management Update – Town Roads & Infrastructure
- National Grid Service Road Project

Large-Scale Capital Planning Efforts & Discussion – Public Safety Planning; Roads & Infrastructure Needs; Beach Reconstruction Project; Wastewater Planning; Henry T. Wing School Feasibility Study; School Capital Planning; Special Purpose Stabilization Fund Override; Etc.

8:30 P.M. Public Hearing: Shellfish Regulations for 2015/16 Season – Assistant Director of Natural Resources Dave DeConto

7. Old Business (*15 Minutes*)  
Recommended Council on Aging Appointment – Jill MacDonald  
November 16, 2015 Special Town Meeting Recap  
Other Matters Not Reasonably Anticipated by the Chairman
8. New Business (*5 Minutes*)  
Other Matters Not Reasonably Anticipated by the Chairman
9. Public Forum (*15 Minutes*)
10. Closing Remarks
11. Adjournment

**NEXT MEETING:** Thursday, December 3, 2015, 7:00 P.M., Town Hall



## MEMORANDUM

**To:** Frank Pannorfi, Chair  
Board of Selectmen

**From:** Paul S. Tilton, P.E.  
Director of Public Works/Town Engineer

Samuel J. P. Jensen, P.E.  
Assistant Town Engineer

**Date:** November 13, 2015

**Subject:** Private Street Acceptance Program

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The Department received three petitions submitted for consideration under the Board's Street Layout and Acceptance Policy. The streets, and a summary of the Department's preliminary findings are as follows:

1. Aviators Lane (off Boardley Road) – All requisite petition items were submitted by the deadline. Generally, this street is in very good condition with few defects.
2. Hamilton Court (off Madison Drive) – A signed petition was submitted by the deadline, and an as-built plan is on file with the Department. The other petition items including pavement cores/test hole logs, a certified abutters list, and a certified check were not submitted. Generally, this street is in good condition with some minor defects.
3. Clipper Circle (off Boardley Road) – A petition signed by 26 of 31 abutters and a check for a portion of the required recording fees were received by the deadline. An as-built plan, pavement cores/test hole logs, and a certified abutters list were not received. It appears that the fee in the road is owned by the homeowners association, and support by all landowners may not be necessary for the Town's acquisition of road easements. This street is generally in very good condition with few defects. However, this street was established as part of a "40B" subdivision under a comprehensive permit that relied on waivers from Town construction standards. This may result in more extensive and costly maintenance requirements.

The Department recommends that Aviators Lane be considered for layout and acceptance at the upcoming Annual Town Meeting, understood to be planned for May 2, 2016. It is also recommended that the petitions for Hamilton Court and Clipper Circle be referred back to the

Private Street Acceptance Program  
November 13, 2015

petitioners to resubmit together with all required items for consideration at a future Annual Town Meeting.

The Board's Street Layout and Acceptance Policy explains that a statutory requirement for the Board is to vote its intention to lay out the way(s) as a town way(s) and refer the matter to the Planning Board. It is recommended that the Board take this action for Aviators Lane.

Please contact the Engineering Department with any questions regarding this.

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BOARD OF  
SELECTMEN

TOWN  
MANAGER

## TOWN OF SANDWICH – BOARD OF SELECTMEN

May 21, 2015

### STREET LAYOUT AND ACCEPTANCE POLICY AND PROCEDURE TIMELINE

#### Introduction

This policy is intended to establish procedures that the Board of Selectmen will utilize in processing petitions for the layout and acceptance of private roads as public ways. Nothing in this policy is intended to prohibit any inhabitant from petitioning for the layout of a particular road, but rather establishes standards and procedures that the Board of Selectmen intend to utilize as a condition of voting to accept the layout of private roads as public ways. Furthermore, nothing in this policy is intended to vary the statutory requirements and procedures for street layouts and acceptances under the Massachusetts General Laws.

In order for the Town to lay out and accept a private road as a public way, the following is a brief summary of the statutory requirements pursuant to G.L. c. 82, ss. 17-32:

1. A petition from an inhabitant of the Town is submitted to the Board of Selectmen to lay out a private way as a public way.

2. Once the Board of Selectmen votes its intention to lay out the way as a town way, the matter is then referred to the Planning Board for a recommendation. The Planning Board has 45 days after such reference in which to make its report. A public hearing is not required by statute. Once the Planning Board issues its report or the 45 days have passed, whichever is the earlier, then the public way proceedings may continue.

3. Once the Planning Board has submitted a report, or 45 days have lapsed since the referral to the Planning Board, and notice has been given to the landowners granting the easement for the roadway or from whom an easement in the roadway will be taken, at least seven (7) days prior to the meeting, the Board of Selectmen shall hold a public meeting at which time it may vote to approve the layout as shown on the layout plan.

4. The layout description as voted, including the layout plan, must be filed with the Town Clerk at least seven (7) days prior to Town Meeting.

5. In order for the street layout to be accepted by the Town as a town way, the Town Meeting must vote to accept the street as a town way as described in the layout of the street voted by the Board of Selectmen. A majority vote is required to accept a way that is shown on an approved subdivision plan. A two-thirds vote is needed to accept any other way. However, in the event that there is an appropriation of funds to acquire the easements or for improvements to the roadway, then a two-thirds vote of Town Meeting is required.
6. Within 120 days after Town Meeting voted to accept the way as a town way, the Board of Selectmen is required to acquire the necessary easements by purchase or gift; or adopt an order of taking pursuant to G.L. c.79. If an Order of Taking is adopted, the order must be recorded with the Registry of Deeds within 30 days of the adoption of the order.

### Procedure and Timeline

In order to comply with the statutory requirements for the lay out and acceptance of a private way as a town way, the Town of Sandwich has adopted the following procedures. The following schedule is for informational purposes and is subject to change, depending upon circumstances in the review of the petitions and completed applications. The Petitioner must submit the following documents to the Board of Selectmen at the Office of the Town Manager for the Town's consideration to layout and accept a street as a town way:

4:30 p.m. last  
Business day of June

1. Petition- The Petition must be submitted to the Board of Selectmen on the form prescribed by the Town Engineer and it must be received no later than 4:30 p.m. on the last business day of June for consideration by the Board of Selectmen for the upcoming fiscal year, signed by one hundred percent (100%) of the property owners abutting the road. Blank Petition forms are available at the Engineering Department. The acceptance of the layout of a street as a public way shall only be considered at Annual Town Meetings. The Board of Selectmen shall only consider the **FIRST FIVE FULLY COMPLETED PETITIONS**, containing all of the documents required to be submitted with the Petition as set forth below, for consideration for each fiscal year. The remaining petitions will be put on a list in the order in which they are fully completed for consideration for the following fiscal year. The Board of Selectmen may accept additional petitions each year if they determine it is in the Town's best interests to do so.

Petitions will only be considered for layout of roads that are determined by the Town Engineer to be in good condition, free of significant defects, and that meet the standards specified in the Planning Board's Subdivision Rules and Regulations. Petitions for roads not meeting these criteria may be considered by the Board of Selectmen provided that the abutters of the subject road(s) agree to

betterments to be assessed by the Town for one hundred (100%) percent of the costs to improve the road(s) in accordance with the aforementioned criteria.

Prospective petitioners are encouraged to meet with Department staff prior to submission to review the layout and acceptance process.

2. Two (2) originals of the layout plan and profile of the existing roadway meeting the requirements of the Town of Sandwich Planning Board Subdivision Rules and Regulations for an "as-built" plan, prepared and certified by a Massachusetts Registered Professional Land Surveyor. Existing plans on file at the Planning Department are acceptable if they meet current regulations.
3. Coring and/or test hole logs showing pavement structure performed and certified by a Massachusetts Registered Professional Engineer approved by the Town of Sandwich Engineering Department. Said corings and/or test holes shall be taken at the limits of the petitioned road and at points every 300 feet in between, or at the midpoint if less than 300 feet.
4. A certified abutter's list from the Town of Sandwich Assessor's Office indicating property owners abutting the roadway being petitioned. The Town Clerk shall certify such list.
5. A certified check made payable to the Town of Sandwich in an amount to cover the following costs:
  - a. \$100.00 application fee PER STREET request;
  - b. \$22.00 publication fee is required per application;
  - c. \$6.49 PER ABUTTER fee (certified letters must go to every abutter), (Only one notification letter is required if a person owns more than one piece of property on a given street.)
  - d. Recording fees in accordance with Registry of Deeds requirements. Contact the Engineering Department in advance of filing the application to determine the recording fees for each road petition. This fee will be returned if the road is NOT accepted.

July 1<sup>st</sup> to  
Mid August:

In consideration of each Petition, the Engineering Department shall first perform a preliminary investigation of each petitioned road(s) including;

1. Research of construction records and historical information as needed to determine road construction quality.

2. Field inspection of road pavement, structure, drainage components, utilities and other pertinent items.
3. Review submitted plans and all researched data and develop list of road conditions not meeting current Planning Board Rules & Regulation Standards and submit to Planning Board.

Note: As an option, abutters may improve the private road at their own expense without using the betterment process. All construction work shall be completed for Engineering Department inspection by August 1, to be discussed at a mid-August Planning Board Hearing.

Mid August:

Once the Engineering Department had completed its preliminary review of the petitioned road, the Board of Selectmen shall vote its intention to layout the street as a public way and shall pursuant to G.L. c. 41, §81G, refer the matter to the Planning Board for a recommendation. Upon receipt of the Planning Board's report or 45 days having elapsed since the Petition was referred to the Planning Board, whichever is the earlier, then the Board of Selectmen may hold a meeting to vote on the layout of the street as a public way.

September:

Engineering Department develops preliminary estimates of betterment including legal and survey costs, in order for the street to be laid out as a public way and determines cost per abutter based on appropriate method (i.e. per lot, frontage, etc.). Board of Selectmen then notifies each abutter by certified mail of the estimated betterment cost and requests each abutter to return an executed form agreeing to the assessment of the betterment. The notice shall include the terms for the payment of the betterment.

Beginning of  
October:

Board of Selectmen gives written notice of the meeting at which the Selectmen will consider the layout to property owners from whom the Town intends to acquire easements by gift or by eminent domain. The Town must give notice at least 7 days prior to the meeting at which the layout will be voted. The Board of Selectmen may vote to accept the layout of the street as a public way provided all of the abutters of the street agree to accept the betterment costs and agree to grant the roadway easements or the taking of the roadway easements by the Town. In the event that all of the abutters do not agree to accept the betterment and the roadway easements, then the Board of Selectmen may agree to layout the street as a public way by a majority vote that a compelling public need exists for the layout of the road as a public way. Nothing herein prohibits a petition to be filed by less than one hundred percent (100%) of the

owners abutting the road. Furthermore, this policy does not prohibit the Board of Selectmen from laying out and accepting roads pursuant to its authority under G.L. c. 82.

Beginning of  
February:

The Board of Selectmen shall place an article on the Town Meeting Warrant for acceptance of the street as a public way. If land or easements need to be acquired by the Town, the Article should authorize the acquisition of the land or easements by purchase, gift or eminent domain and, if necessary, appropriate funds therefor. If an Article placed on the warrant, the Petitioner shall submit Construction and Layout Plans per Town regulations.

Mid April:

The vote approving the layout and the layout plan must be filed with the Town Clerk at least 7 full days prior to Town Meeting. Final recordable plans and the Selectmen report are filed with the Town Clerk's Office. Documents shall be submitted in hardcopy and electronic formats. Final estimated betterment costs are calculated using lowest acceptable construction bid.

May:

For the street to be accepted as a public way, the Annual Town Meeting shall vote to (1) accept the way as laid out by the Board of Selectmen and to acquire the land or easements from all abutters by gift, purchase or eminent domain, (2) appropriate sufficient funds to make any necessary improvements to the street, and (3) assess betterments for 100% of the costs.

Within 120 days  
After ATM:

Town Counsel prepares the necessary documentation for the grant of easements to the Town or taking of easements by the Town and records all documents and plans at the Barnstable Registry of Deeds or the Barnstable Registry District of the Land Court once they have been executed by the Board of Selectmen or the property owners, depending upon the circumstances.

If necessary, the Town will undertake the necessary improvements to the way in accordance with the bidding procedures under the Massachusetts Public Construction Laws.

Upon Completion  
Of Betterments:

Each abutting owner shall be billed for his proportionate share of the actual total costs of laying out and accepting the road as a public way, and not the estimated costs. The assessment of betterments shall be governed by the applicable provisions of the General Laws.

Given under our hands this 21<sup>st</sup> day of May, 2015

Board of Selectmen:

Frank Pannofci

Susan R. James

John Stocco

D. O'Ell

Peter Beauver

# Pavement Management Update

## Roads & Town Infrastructure Improvements

Department of Public Works  
November 19, 2015

# Recently Completed Projects

- Library Parking
- Main St
- Beale Ave
- Old County Rd (West)
- Boardwalk Rd
- Piccadilly Rd
- Kensington Dr
- Holly Ridge Dr
- Country Club Rd
- Dillingham Ave
- Robin Rd
  
- Cracksealing & Patching  
Numerous Roads

# Recent Funding - 2015

- Chapter 90 - \$800,000
- Capital Outlay - \$1,300,000  
\$2,100,000

## Winter Recovery Asst. Program

- Patching \$118,000

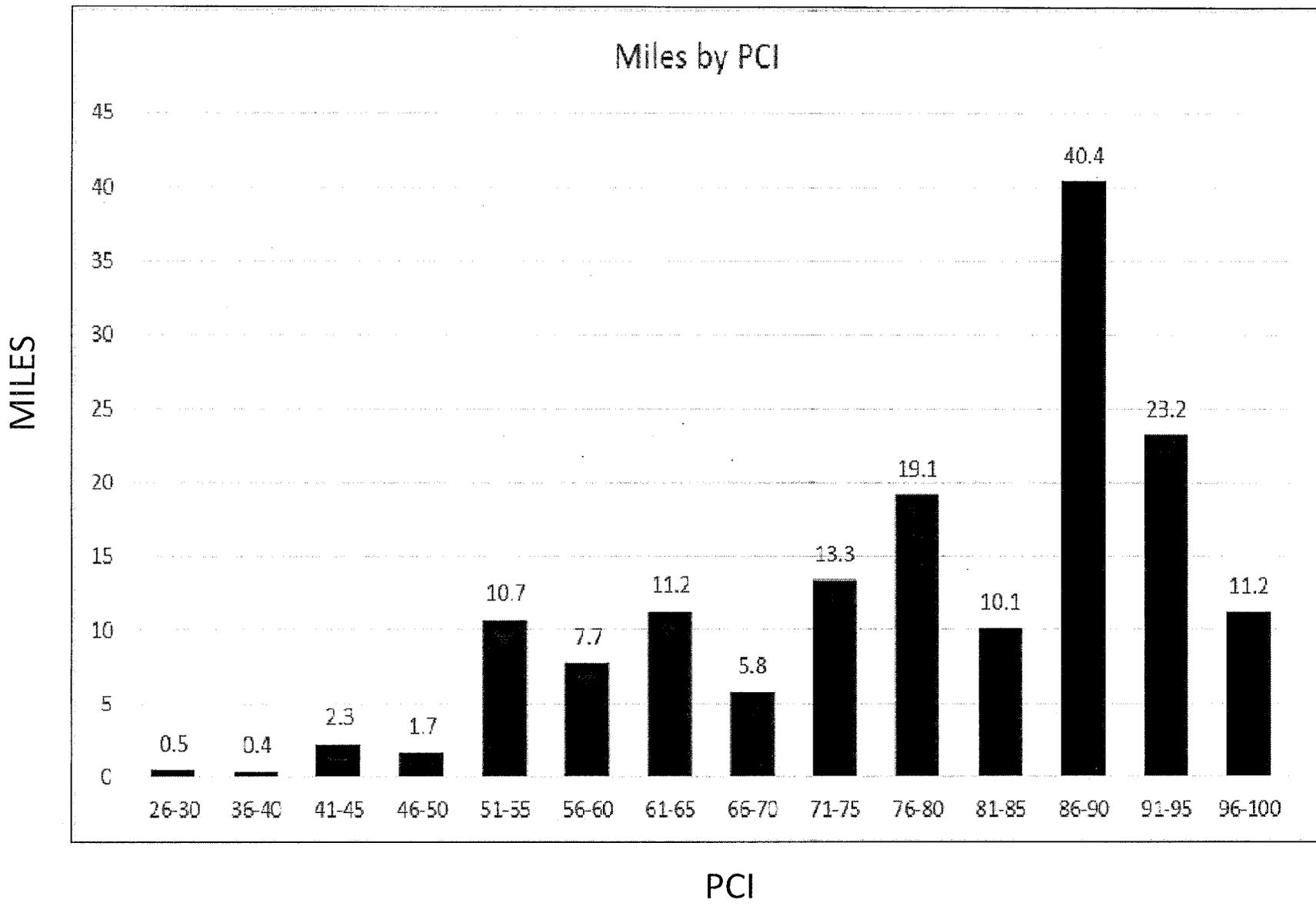
# Pavement Management Study

- Updated VHB Study
- Road Assessment
  - 2005 PCI = 83
  - 2015 PCI = 78
- Repair Needs
- Costs
- Schedule

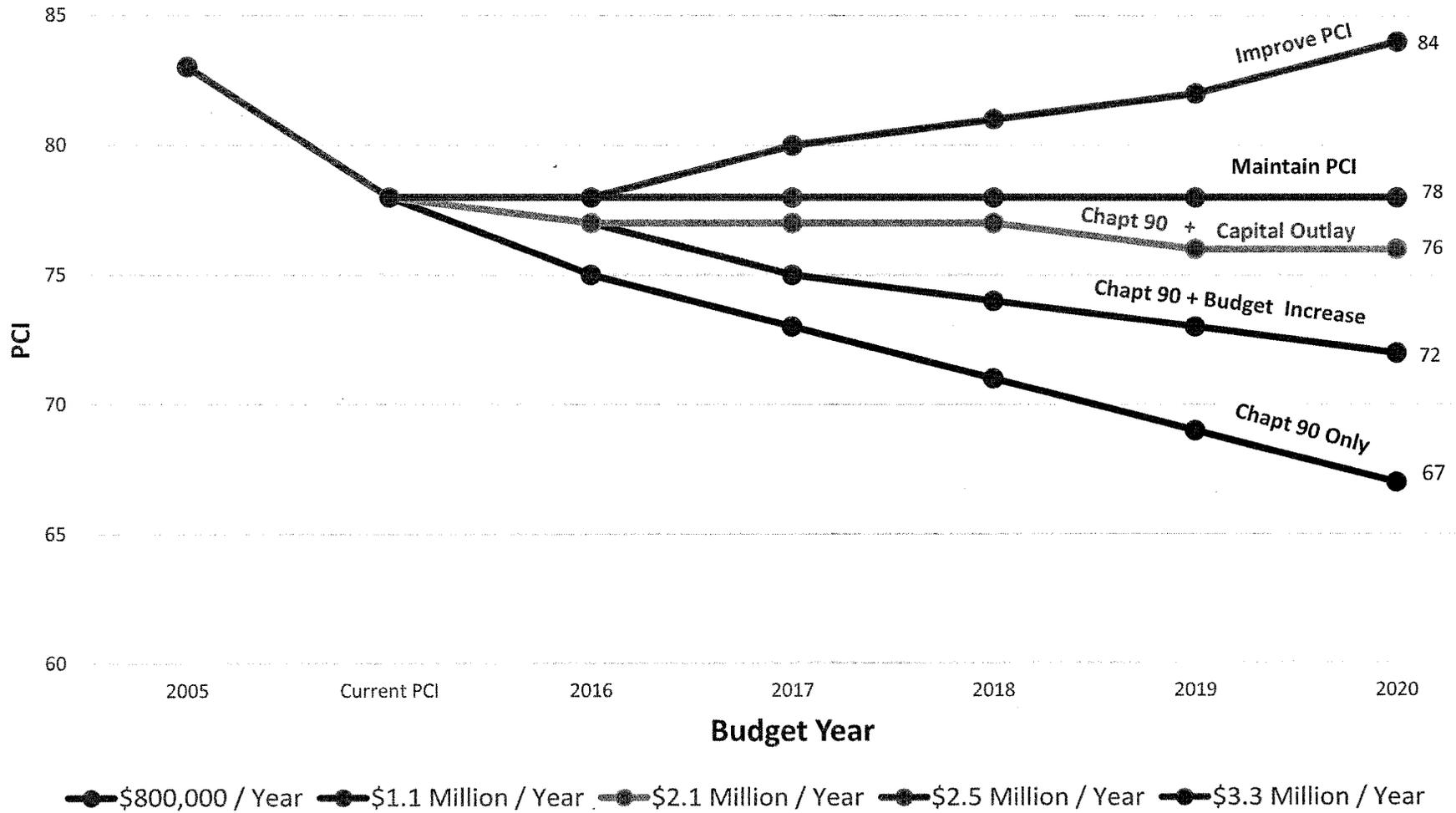
# Pavement Treatments

<u>TREATMENT</u>	<u>PCI</u>	<u>Unit Cost (\$/SY)</u>
Do Nothing (no maintenance)	93-100	\$0.00
Routine Maintenance (crack sealing, minor repairs)	86-92	\$1.00 - \$1.50
Preventative Maintenance (patching, surface seal)	73-85	\$4.50
Structural Improvement (mill and overlay)	61-72	\$14.00 - \$17.00
Base Rehabilitation (reclaim, reconstruction)	0-60	\$21.00 - \$27.00

# PCI Distribution



# PCI Summary



# Cost Summary

- Town's single largest investment – worth \$85 million
- State Chapter 90 is inadequate to cover annual Town infrastructure maintenance/repairs
- Construction costs continue to rise
- Increased funding now allows the Town to spend \$1.00/sy for maintenance versus \$15.00/sy for repairs later if we defer maintenance

# Funding Options

- Continue \$1.3 million annual funding
- One-time funding program of \$5-\$6 million
- Add \$300,000 to Operating Budget to maintain improved roads

Questions?

# LONG RANGE CAPITAL PLAN

November 19, 2012



## **BOARD OF SELECTMEN**

John G. Kennan, Jr., Chairman

Ralph Vitacco, Vice Chairman

Linell Grundman

Frank Pannorfi

James Pierce

Bud Dunham, Town Manager

Doug Lapp, Assistant Town Manager

## **CAPITAL IMPROVEMENT PLANNING COMMITTEE**

John Juros, Chairman

John Vibberts, Vice Chairman

Mike Baker

Michael Dwyer

Don Leighton

Chris Richards (Former Member)

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## **Section 1: Introduction and Executive Summary**

### **Introduction**

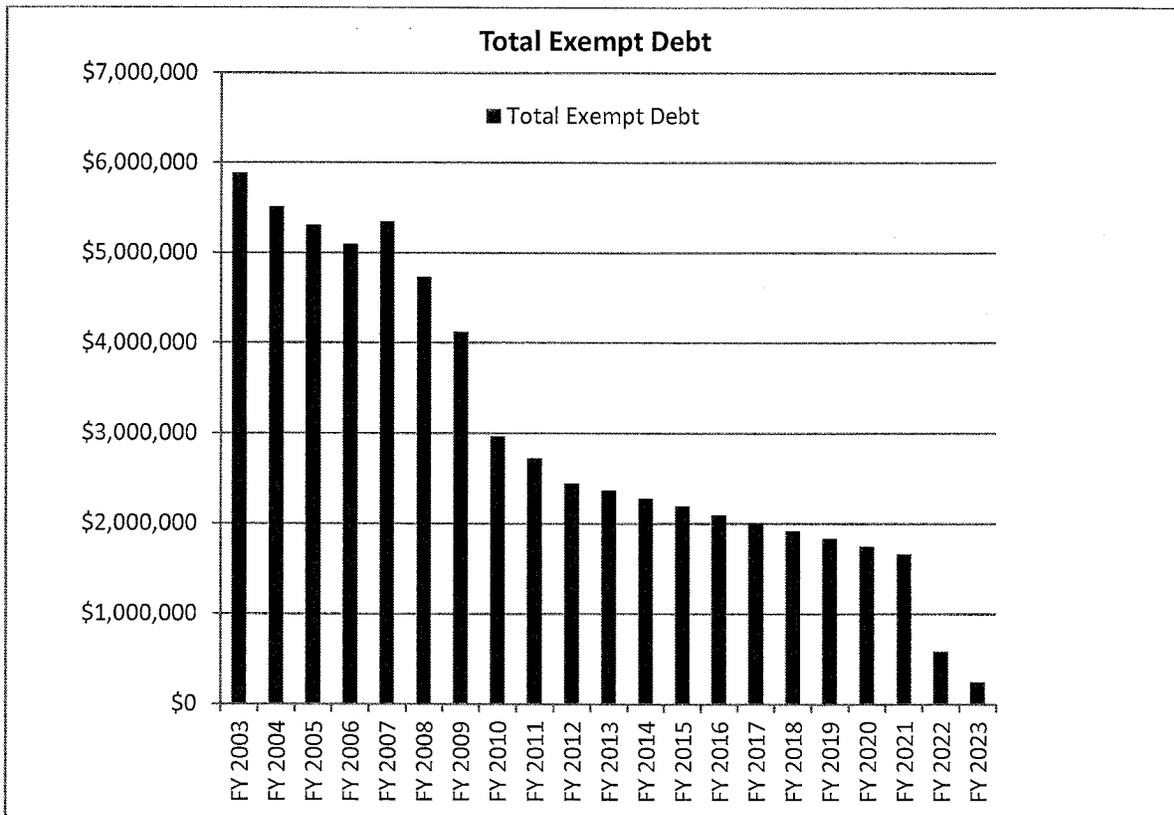
The Town of Sandwich has developed many Long Range Capital Plans and project-specific studies over the last several decades. While these plans have not been acted upon for the most part, they have been critical in raising the level of understanding about the larger capital needs of the Town and School Department. The Board of Selectmen, with the support of the Capital Improvement Planning Committee (CIPC), has identified the development of a new, comprehensive Long Range Capital Plan (LRCP) by the conclusion of 2012 as one of the primary goals of the current Long Range Plan (LRP).

It is important to point out that while there is no standard definition of the types of projects and improvements that make up a Long Range Capital Plan, the general definition we have followed is a significant project or improvement that could not be funded within the constraints of Proposition 2.5 or within the Town's existing tax levy capacity. A more detailed explanation of funding mechanisms for the projects included in this Plan is found in Section 3. These projects include the construction of new buildings, the renovation of existing buildings, and the improvement of existing public infrastructure. An example of a potential new building would be a joint public safety building. An example of renovating an existing building would be improving and reusing the Henry T. Wing School if the existing School services currently provided there were reconfigured and/or relocated to another School building. An example of improving existing public infrastructure would be a road bond and/or override to improve the condition of public roads, drainage, and other similar municipal infrastructure like access roads, parking lots, and outdoor recreation courts.

The Long Range Capital Plan does not include the replacement and purchase of vehicles, equipment and minor building repairs which are typically funded through the annual capital budget within the Town's tax levy capacity, not requiring an exclusion or override. The annual capital plan developed by the Town and approved by the Selectmen, CIPC, and Finance Committee addresses and identifies many of these needs. It should be noted that occasionally, very expensive pieces of capital equipment may need to be purchased through an exclusion. An example of this is the effort to purchase the Fire Department's ladder truck in 1992 and 1995. It's likely the eventual replacement of the existing ladder truck will need a future exclusion vote as its current replacement cost is approximately \$1.5 million.

Before identifying several needs and projects in the Long Range Capital Plan, it is important to point out why it is so critical to have a plan adopted by the Selectmen today. One of the primary reasons is because it is healthy for a community to realistically plan and project future needs and how they might be funded. The vast majority of long term capital needs are well known to Town officials and have been identified for many years. The real difficulty is determining how to fund these needs and actually implement the Plan.

The Town's debt payments outside of Proposition 2.5 have declined substantially over time. Since its recent peak in FY'07, annual debt payments have decreased by \$2.7 million by FY'13. The main reason for this significant decrease is that large School building projects – the construction of the Oak Ridge and Forestdale Schools and the major renovations to Sandwich High School – have either been fully paid off (Oak Ridge and Forestdale) or we're far enough along in the bonding schedule that annual payments have dropped over time (Sandwich High School). A chart depicting the dramatic decrease in annual debt payments since FY'07 is found below and as Attachment 1. We have also attached the Town's full Debt Schedule as it exists today as Attachment 2.



The concept of issuing new debt as previously approved debt is retired is not new. The 2005 Town of Sandwich Long Range Plan (2005 LRP) adopted by the Selectmen stated that the plan “gives the Selectmen the opportunity to prioritize projects and then schedule them when funds are available. In the case of capital building projects, this document would be used in conjunction with the Town’s debt schedule to time new capital expenditures as the debt on old ones is retired.” The 2005 LRP also set the following goal to achieve financial stability and to better manage the Town’s debt: plan future capital projects to coincide with retirement of existing debt as much as possible in order to stabilize the Town’s total debt level.

Another factor that makes the timing of this Plan so critical is the fact that the Town is very close to reaching its build out population. As explained in great detail below, Sandwich grew so rapidly from 1970 – 2000 that substantial building projects, almost exclusively School construction and renovation projects, had to be addressed. At one point in the early 1990s, Sandwich had the second largest amount of total authorized debt in the Commonwealth, behind only the City of Springfield. Now that we have approached build out, with an expected maximum future population of 28,750 based on a 30-year build out analysis in the latest Local Comprehensive Plan (p. 1-50), it’s likely that any future buildings we construct, or major renovations we undertake, will be sufficient for our maximum population in light of our current population of 22,000. This is particularly true now that it appears the 10-year trend of declining school enrollment figures will continue in the future and the possibility of reusing existing school facilities for other municipal needs is more of a reality. Attachment 3 shows the actual Town population and school enrollment figures for almost two decades.

Since the Town is so close to its projected build out population, we have a more accurate estimate of the square footage of buildings that are needed to serve this population. It’s clear that any new construction should include a reasonable amount of space to allow for future growth, but it’s also clear that the likelihood of needing substantial additions in the future to address a growing population is much less than if the buildings were constructed 20 years ago.

Yet another reason why the development of this Plan is so important at this time is the realization that the Town has, in many ways, neglected to approve the issuance of new debt to either renovate existing buildings and infrastructure or construct new ones. As identified by the primary municipal bond rating agencies, the issuance of debt is seen as a healthy sign that a community recognizes its long term infrastructure needs and takes the appropriate, responsible steps to fund these efforts for the benefit of future generations. Simply stated, towns that regularly agree to address growing

infrastructure needs are rated higher in terms of their credit ratings and are deemed healthier than towns that don't.

Today, Sandwich has the best bond rating it has ever had (AA- through Standard & Poors), interest rates to borrow money are at historic lows, and it's indisputable that the longer the Town waits to address its capital needs, the cost to do so will only increase over time. Projects that were analyzed 10-20 years ago with accurate cost estimates would cost more than double that amount today. This trend will continue in the future with public construction costs and prevailing wage rates increasing constantly.

Prior to reviewing the entire Plan, it should be noted that during the numerous, widespread capital planning efforts identified below, professional advice and input was sought from architects the Town had worked with previously, but in virtually every case, funding for these professionals was not provided, so cost figures are truly best educated estimates. The same holds true for square footage needs estimates. Except in the cases where professional architects have been retained to fully analyze space and programmatic needs and develop construction costs based on schematic design plans or detailed construction plans, it's important to remember estimates of both space requirements and project costs are purely estimates.

Finally, certain assumptions have to be made in terms of estimating construction costs, bonding rates and costs, and the commensurate impact on Town taxes. In discussing capital needs and estimated costs, the assumptions we have used in arriving at our figures, and the reasoning behind these assumptions, will be explained in greater detail in Section 6.

### Executive Summary

The prioritized listing of long term capital projects and infrastructure improvements, based on the Selectmen's prioritized project list, are explained in much greater detail in the remaining sections of this Plan. In listing the prioritized rankings, we have broken out the projects into three separate groupings. The first group – Group A – represents the highest priority projects, with the Joint Public Safety Building and Public Roads & Infrastructure projects being the clear, top two priorities. Group B represents the next several projects, most of which should be reviewed as part of the recommended feasibility study on potential reuse of the Henry T. Wing School if the School Department abandons use of this building. Group C represents the least important projects. In addition to this list, the CIPC also makes five separate recommendations to the Board of Selectmen which are explained in detail immediately following the prioritized grouping of long term capital projects.

## SUMMARY OF PRIORITIZED LARGE-SCALE CAPITAL PROJECTS

### **Group A – Top Priorities:**

1. Joint Public Safety Building
2. Public Roads / Infrastructure
3. Water Resources Management
4. Beach Erosion Prevention

### **Group B – Secondary Priorities:**

(Subject to Completion of Feasibility Study of Henry T. Wing School Re-Use)

5. Municipal Offices Consolidation
6. Henry T. Wing School Re-Use
7. School Consolidation (STEM)
8. Senior / Community Center
9. Library Facilities

### **Group C – Lowest Priorities:**

10. Recreation Field Development Plan
11. Marina Office Building
12. Pedestrian / Bike Path Improvements

## CIPC RECOMMENDATIONS TO BOARD OF SELECTMEN

1. The Board of Selectmen should proceed as soon as possible with debt exclusions for the Joint Public Safety Building and Public Roads & Infrastructure projects. These projects are the unanimous top priorities of both the Selectmen and the CIPC and are desperately needed.
2. The Board of Selectmen should support funding a feasibility study on the potential re-use of the Henry T. Wing School. Several of the projects on the LRCP list could potentially be addressed by the extensive renovation and/or construction of new space at the Henry T. Wing School if the School Committee declares the building surplus in the future. It is anticipated the cost to perform such a feasibility study based on the desired scope of work would be \$75,000.
3. In projecting future debt service obligations, the Board of Selectmen should plan on issuing new debt so it at least equals the levels funded in FY'07. The Town has not issued significant debt for several years which has led to the list of needed projects outlined in the LRCP. The only way the vast majority of these projects can be funded is through debt exclusions. Delaying project needs will undoubtedly increase costs over time. Projections of future debt exclusions are found in Section 6.
4. As required by M.G.L. c.44, §63, any funds from the sale of Town land and buildings need to be placed in a Sinking Fund, with specific restrictions on how the sale receipts can be used. The CIPC recommends that this fund only be used to pay for the issuance of new debt, not debt already issued. The Town's long range capital needs are too voluminous to spend these monies on previously issued debt.
5. The CIPC recommends a threshold be established for any New Growth over and above an amount to be determined by the Board of Selectmen, which would be dedicated for capital improvement purposes. The 10-year average of New Growth is \$550,000. Since debt payments made within the constraints of Proposition 2.5 would still need to be funded in difficult financial times, caution needs to be exercised if recurring debt payments are considered to be funded this way.

# Approximate \$15 Million Project

## Options:

1. One (1) New Fire/EMS Substations at QMH/Cotuit Rd. Site (Est. \$4.5 Million) & Minimal Improvements to East Sandwich (Est. \$0.6 Million) with Scaled-Down Police Station with EOC at Headquarters Site (Est. \$10.6 Million)
  - Does Not Include Override Cost for 8 Fire/EMS Staff
  - Does Not Move Fire Administration to QMH/Cotuit Rd. Site (i.e., No New Fire Headquarters)
  - Temporary East Sandwich Solution

## TOWN OF SANDWICH, MA – BEACH EROSION & RECONSTRUCTION SUMMARY November 2015

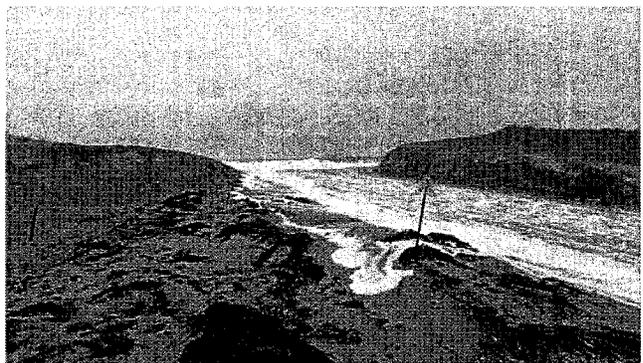
The beaches in the Town of Sandwich, including Town Neck Beach and Springhill Beach, have a history of erosion over the last century. Construction of jetties at the east end of the Cape Cod Canal (Canal) in the early 1900s by the Army Corps of Engineers (Army Corps) has been one of the primary reasons for this coastal erosion. The two Canal jetties cause an interruption in the natural longshore sediment transport from northwest to southeast, starving Sandwich Town beaches. This, combined with documented climate change impacts of rising sea levels and increased frequency of significant storm events have made this section of Sandwich extremely vulnerable to unprecedented erosion placing numerous public and private properties in immediate jeopardy.



Numerous steps have been taken by the Town to address these problems:

- Dune Restoration Projects: two projects have been completed on Town Neck Beach involving 45,000 cy (1990) and 55,000 cy (2004) of material dredged from the Canal funded by the local power plant owners
- Failed Canal Dredging Reuse Projects: two dredge projects in 2001 (power plant) and 2010 (Army Corps) resulted in off shore disposals rather than placement on Sandwich beaches, exacerbating the sand starvation caused by the Canal jetty
- Failed Permitting Efforts: in 2001 & 2004 extensive plans were filed for a Beach Management, Inlet Stabilization, and Maintenance Dredging Project; reasonable support was unable to be secured
- Section 111 Review: filed with Army Corps in 2006; work started in 2014; initial results promising for long term Corps responsibility to address problems created by Canal jetty; determination expected 2015 with extensive study required prior to federal funding

- Section 204 Review: filed with Army Corps in 2007; work started in earnest in 2014; initial results very promising for requiring east end Canal dredgings to be placed on Sandwich beaches; attempting to secure approvals in time for Fall 2015 Canal dredging of 150,000 cy; Army Corps permitting on-going
- Refocused Town Permitting Efforts: in 2011 new permitting efforts commenced focusing on a Beach Renourishment project for Town Neck Beach with an ultimate need for 400,000 cy of compatible material; largest municipal renourishment project in State history
- Sandy & Nemo: these storms in October 2012 & February 2013 caused more erosion in 6 months than the last 25 years; 3 separate surveys documented losses in excess of 120,000 cy
- FEMA Disaster Assistance: December 2013 correspondence from FEMA supported erosion mitigation approval for both storms in excess of \$4.8 million; placed on hold April 2014; additional justification submitted; formal denial February 2015 with Town filing two separate appeals on decision
- National Fish & Wildlife Hurricane Sandy Coastal Resiliency Grant: January 2014 Town submitted a \$5.0 million grant request to fund half of the Beach Renourishment project; grant not awarded
- Local Appropriations: in addition to multiple coastal engineering appropriations, a total of \$2.85 million was appropriated in 2015 to support the on-going Beach Renourishment project, CZM grant projects, and emergency work pre and post-Juno storm, which included re-opening Mill Creek
- Beach Renourishment Project Permitting: in May 2014 the Town submitted an Enhanced Environmental Notification Form for the 400,000 cy project – largest in State history; in July 2014 a waiver from submitting an Environmental Impact Report was approved; full permits are expected to be received 1<sup>st</sup> Quarter 2015
- MA Environmental Bond Bill: \$5.0 million was earmarked in the approved 2014 Environmental Bond Bill for Sandwich beach erosion; the Town is pushing to have these funds released in 2015
- Coastal Zone Management Resilience Grant Awards: the Town received \$300,000 & \$150,000 grants to analyze & permit a near shore Scusset Beach sand source & study sand migration with 25% Town match



**TOWN OF SANDWICH BEACH EROSION & RECONSTRUCTION EFFORTS  
CRITICAL DECISIONS & TIMELINE TO ACCOMPLISH RECONSTRUCTION PLAN**

**Required Components for All Projects:**

- Permits
- Sand
- Money

1. Coastal Zone Management Coastal Resilience Grant Awards – November 2014 & Summer 2015 – provides permits for long-term sand source for impacted areas & studies flow of sand in Cape Cod Bay; will need \$150,000 Town match; lengthy permitting process & study complete by June 2016 – **On-Going**
2. Obtain Required Permits for Beach Reconstruction Project – **Priority #1** – 2<sup>nd</sup> Quarter of 2015 – provides required permits for full reconstruction project, totaling approximately 400,000 cy; permits would also cover Section 204 / Cape Cod Canal Dredging project (150,000 cy); widespread federal, state, local support & political focus – **Done**
3. Reappropriate \$1.0 million in Community Preservation Act Funds – February 2015 STM – provides funding for CZM grant match and Section 204 costs for future Cape Cod Canal dredging beneficial reuse; with refocused Section 204 project & higher than expected ACE bids, needed to seek additional funds in August 2015 & November 2015 – **Done...with \$2.85 Million Appropriated**
4. Section 204 Study & Cape Cod Canal Dredging – Winter 2015/16 – Army Corps of Engineers (ACE) project will provide short-term sand and partial funding source to protect homes on Town Neck Beach; beneficial reuse project design being permitted by ACE ; likely \$525,000 Town match with approved 204 Study; \$1.5 million Town match without approved 204 Study; eventually grew to \$3.0 million required Town match when required permanent easements not received & ACE bids came in higher than expected – **Done**
5. FEMA Sandy & Nemo Decision – February 2015 – if approved, provides substantial funding source (\$4.83 million) for larger beach reconstruction project; could supplement Section 204/Dredging project to achieve much larger project; excellent FEMA news in December 2013, worse news & additional justification work in 2014, final decision = denied; primary political focus of federal delegation – **Denied...Have Appealed Twice in 2015...Awaiting Final FEMA Decision**
6. State Environmental Bond Bill Earmark – FY'16? – if approved, provides substantial funding source (\$5.0 million) for larger beach reconstruction project & inlet stabilization project; primary political focus of state delegation – **\$1.0 Million Grant Received Fall 2015...Hopeful for Future Grants**
7. Section 111 Study – 2016/17 – if approved, ACE provides long term federal responsibility for the sand interruption and depravation created by Cape Cod Canal east end jetties; extremely hard to authorize, but most important approval for long-term health of Town Neck & Spring Hill Beaches; once approved internally by ACE, needs federal legislative funding authorization – **On-Going**
8. Debt Exclusion Appropriation – ??? – if funding not received from FEMA or State Environmental Bond Bill, only way to generate the amount of funds needed for the full reconstruction project (about \$10.0 million) is through a local debt exclusion from Sandwich voters – **To Be Decided...**
9. Inlet Stabilization Project – **Priority #2** – ??? – fund design, permitting, construction of revised inlet stabilization project, with extensive outreach to impacted environmental agencies & Audubon Society; potential goal to separate human and endangered species interaction with relocated inlet; may include permitting of dredge work in Great Marsh eco-system; much of 2000s work still very relevant; significant Natural Heritage Endangered Species Program hurdles – **To Be Decided...**

BUILDING REUSE STUDY

# HENRY T. WING SCHOOL



**KAESTLE BOOS**  
associates, inc

**BOARD OF SELECTMEN**

SANDWICH, MA  
OCTOBER 22, 2015



# Options Summary

## Cost

<b><u>Option 1</u></b>	\$4,147,000
Demolish entire building; replant the Site	
<b><u>Option 2</u></b>	\$3,819,500
Demolish all but the 1927 building; replant the site	
<b><u>Option 3</u></b>	\$6,225,000
Demolish all but the Auditorium of the 1927 building; Fit out with add restrooms/replant site	
<b><u>Option 4</u></b>	\$69,153,000
Fitout to entire building and sitework upgrades	
<b><u>Option 5</u></b>	\$71,636,500
Restore the 1927 Building, demolish the rest and build new	
<b><u>Option 6</u></b>	\$33,684,500
Demolish all but the 1927 building, restore and build new Gym	
<b><u>Option 7</u></b>	\$27,395,500
Demolish all but the 1927 building and restore 1927 building	
<b><u>Option 8</u></b>	\$52,484,000
Demo Connections with 1927 building and Renovate the rest	
<b><u>Option 9</u></b>	\$34,890,000
Concentrated program: more demo less reno –1927 building left as is	

## Dunham, George

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**From:** Lauren F. Goldberg <LGoldberg@k-plaw.com>  
**Sent:** Wednesday, May 06, 2015 3:37 PM  
**To:** Dunham, George  
**Cc:** John Giorgio  
**Subject:** Special Purpose Stabilization Fund Funded by an Override

Bud,

John has forwarded me your request for an opinion concerning establishment of a special purpose stabilization fund pursuant to a Proposition 2 ½ override. As you may recall, the Municipal Relief Act of 2003, amended G.L. c. 44, §5B to allow a municipality to create multiple special purpose stabilization funds. The Act also amended Proposition 2½, in particular, G.L. c.59, §21C(g), to permit such special purpose stabilization funds to be funded by an override. Below please find an outline of the process for creating such a fund in the first instance, for appropriations into and expenditures from the fund in future years, and changing the purpose of such fund.

### **Creation of a Special Purpose Stabilization Fund Subject to an Override**

To create any special purpose stabilization fund, Town Meeting must vote by a 2/3 vote to create the fund and specify the particular purpose. However, if the Town seeks to fund a special purpose stabilization fund through taxation and subject to an override, the following additional steps would be taken (for purposes of this e-mail the words "Stabilization Fund" shall refer to a special purpose stabilization fund created pursuant to an override)

The vote to raise and appropriate monies for the Stabilization Fund would be made contingent upon approval by the voters of a Proposition 2 ½ override question. The Board of Selectmen, as always, would retain discretion as to whether to place such a question on the ballot. Where the appropriation would be contingent, however, in order to satisfy the contingency accordance with G.L. c.59, §21C(m), the Board must place the question on the ballot no later than September 15 following an annual town meeting and no later than 90 days following a special town meeting. No supermajority vote is required to place the question on the ballot, or at the polls.

### **Funding the Stabilization fund**

*First year* - If the voters approve the override question, then in the first year the amount voted by Town Meeting for the Stabilization Fund would be raised on the tax levy for such purposes.

*Second and Subsequent Years* - Each year thereafter the "local appropriating authority," which for purposes of Proposition 2 ½ is the Board of Selectmen (rather than Town Meeting), must decide whether to "appropriate" monies from the tax levy to the Stabilization Fund. The Board may, by a 2/3 vote, appropriate an amount from the tax levy up to 102.5% of the amount raised for such purposes in the immediately preceding year. Further, the Department of Revenue has determined that if the Board makes no appropriation to the fund in a fiscal year, in the next fiscal year it may appropriate an amount equal to 102.5% of the amount last appropriated for such purposes. However, if the Board appropriates a lower amount, then it is limited to 102.5% of that lower amount in the next fiscal year. These rules can have significant implications of which the Board should be aware.

Consider, for example, the various scenarios if the initial override amount in FY2017 is \$100,000.

Scenario one (appropriate 102.5% each year) – Each year Board of Selectmen, by a 2/3 vote, appropriates to the Stabilization Fund 102.5% of what was raised in the previous fiscal year. In FY2018 the Board would have the ability to appropriate to the Stabilization Fund the sum of \$102,500 (102.5% of the initial override amount), and the Board appropriates that amount. In FY2019, the Board would have the ability to appropriate to the stabilization fund the amount of \$105,062 (1.025 x FY2018 appropriation of \$102,500), and appropriates that amount. In FY2020, the Board would have the ability to appropriate to the Stabilization Fund the sum of 107,688.55 (1.025 x FY2019 appropriation of \$105,062), and appropriates that amount, and so on.

Scenario two (appropriate \$0 in a fiscal year) – In FY2018 (just like above), the Board of Selectmen votes by a 2/3 vote to appropriate 102.5% of the initial override amount, for a total of \$102,500. However, in FY2019 the Board

chooses to make no appropriation to the Stabilization Fund. In FY2020, the Board would have the ability to appropriate to the Stabilization Fund the sum of \$105,062 (1.025 x FY2018 appropriation of \$102,500). In FY2021, the Board would have the ability to appropriate to the Stabilization Fund the sum of 107,688.55 (1.025 x FY2020 appropriation of \$105,062).

Scenario 3 - In FY2018 (just like both scenarios above), the Board of Selectmen votes by a 2/3 vote to appropriate 102.5% of the FY2017 amount, or \$102,500. In FY2019 the Board appropriates to the Stabilization Fund the sum of \$50,000. In stark contrast to the result in Scenario Two, in FY2020, the Board would be able to appropriate to the Stabilization Fund only the sum of \$50,512.50 (1.025 x FY2019 appropriation of \$50,000). In other words, the Board would have significantly reduced the increase in the levy initially approved by the voters, and could not "jump" back up to that higher override amount.

**Expenditures from the Stabilization Fund**

*Town Meeting Vote Required* - Regardless of whether and in what amount the override special purpose stabilization fund is funded, only Town Meeting may authorize expenditures from the fund. Like all expenditures from a stabilization fund, a 2/3 vote of Town Meeting is required.

*Additional Levy Capacity Limited to Stabilization Fund* - Moreover, note that although after the first year the amount of an override is generally available for any legal purpose, in the case of an override in connection with a special purpose stabilization fund, the additional levy capacity may only be used for the specific purpose authorized by the override. Therefore, if the Board funds the Stabilization Fund at a lower amount, the additional levy capacity may not be used to fund other expenditures.

*Change in Purpose or Use of Funds* - Importantly, in order to change the purpose for which the monies in the stabilization fund can be used the same process must be followed. First Town Meeting must approve the change by a 2/3 vote. Thereafter, the matter must be placed before the voters at an election. As noted above, however, in accordance with G.L. c.59, §21C, only the Board of Selectmen has authority to call for an election or place such a question on the election ballot.

For your further information, the Department of Revenue's IGR on this topic may be viewed [here](#).

Please contact me with any further questions.

Very truly yours,

Lauren

Lauren F. Goldberg, Esq.  
Kopelman and Paige, P.C.  
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[lgoldberg@k-plaw.com](mailto:lgoldberg@k-plaw.com)

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# Informational Guideline Release

Property Tax Bureau  
Informational Guideline Release (IGR) No. 04-201  
January 2004

**CREATION OF MULTIPLE STABILIZATION FUNDS**  
**AND**  
**PROPOSITION 2½ OVERRIDES FOR STABILIZATION FUNDS**

Chapter 46 §§14 and 50 and Chapter 140 §§19 and 137 of the Acts of 2003  
(Amending G.L. Ch. 40 §5B and Ch. 59 §21C(g))

This Informational Guideline Release (IGR) informs local officials about new legislation that allows cities, towns and districts to create multiple stabilization funds for different purposes. The legislation also prohibits cities and towns from using the increased levy capacity resulting from a Proposition 2½ levy limit override approved for the purpose of making appropriations to any of those funds for any other spending purpose in a subsequent year without voter approval

Topical Index Key:

Accounting Policies and Procedures  
Appropriations  
Proposition 2½  
Special Funds

Distribution:

Accountants/Auditors  
Mayors/Selectmen  
City/Town Managers/Exec. Secys.  
Finance Directors  
Finance Committees  
City/Town Councils  
City Solicitors/Town Counsels

**CREATION OF MULTIPLE STABILIZATION FUNDS**  
**AND**  
**PROPOSITION 2½ OVERRIDES FOR STABILIZATION FUNDS**

**Chapter 46 §§14 and 50 and Chapter 140 §§19 and 137 of the Acts of 2003  
(Amending G.L. Ch. 40 §5B and Ch. 59 §21C(g))**

**SUMMARY:**

These guidelines explain new legislation that gives cities, towns and districts the flexibility to create multiple stabilization funds for different purposes. The legislation amends G.L. Ch. 40 §5B, which previously provided for a single stabilization fund into which cities, towns and districts could appropriate monies to be reserved for future appropriation for any lawful purpose. Under the amendment, a community may now establish one or more stabilization funds for different purposes by a two-thirds vote of its legislative body. It may amend the purposes of those funds at a later time in the same manner. Appropriations both into and from the funds require a two-thirds vote of the legislative body. Previously, appropriations to the stabilization fund only required a majority vote. Interest earned on all stabilization funds remains with the funds. The interest provision had been inadvertently omitted when the statute was amended, but it was restored by a recent technical amendment and applies retroactively. Ch. 140 §§19 and 137 of the Acts of 2003.

In addition, a new paragraph has been included in G.L. Ch. 59 §21C(g), which authorizes a property tax levy limit override under Proposition 2½. Under this new provision, a city or town that has an override approved by its voters for the purpose of making appropriations to any stabilization fund must now allocate or dedicate the additional levy capacity resulting from that override to the same purpose in subsequent years. Ordinarily, monies from an override are only earmarked for the stated purpose in the fiscal year the override is effective. Two-thirds of the selectmen, town council or city council, with the mayor's approval if required by law, must vote to "appropriate" the additional capacity for the same stabilization fund purpose each year after the override takes effect. If "appropriated," the assessors must raise the amount in the tax rate and the municipality's levy limit is increased accordingly for that year. Voters may approve a change in the purpose for which the additional levy capacity can be used in future years. Approval of any change is by majority vote at a referendum.

**These changes became effective July 31, 2003.** They apply to any appropriation voted and levy limit override approved for a stabilization fund after that date.

**GUIDELINES:**

**I. MULTIPLE STABILIZATION FUNDS**

**A. Creation of Funds**

Stabilization funds may be created for one or more different purposes. G.L. Ch. 40 §5B. A fund may be created for a broad category of spending purposes, *e.g.*, any lawful purpose, capital budget purposes or purposes for which the community may borrow money. It may also be created for a specific purpose or project, *e.g.*, acquire a new fire truck or undertake a particular school construction project.

Creation of a fund requires a two-thirds vote of the legislative body of the city, town or district. The vote must clearly define the purpose(s) of the fund.

**B. Pre-existing Fund**

Any pre-existing stabilization fund balance should continue to be treated as a reserve for any lawful purpose, *i.e.* a "general" stabilization fund. The city, town or district can reallocate or earmark all or part of that balance to any new stabilization funds it creates by a vote to transfer monies from that "general" stabilization fund to the newly created fund. See Section I-D below.

**C. Changing Fund Purpose**

The purpose of a stabilization fund may be changed at any later time by a two-thirds vote of the legislative body. For example, if a community had established a fund in order to reserve monies to acquire a new fire truck and a balance remains after the purchase, the legislative body could vote to change the purpose to meet some new savings objective.

If a Proposition 2½ levy limit override was approved for the purpose of funding the particular stabilization fund, however, the city or town must also follow the referendum procedure explained in Section II-C below to be able to change the fund purpose and then continue using the additional levy capacity resulting from that override in future years.

**D. Appropriations and Transfers**

Appropriations into and from any stabilization fund require a two-thirds vote of the legislative body.

Monies may also be transferred from one stabilization fund to another by two-thirds vote. If the monies in the fund from which the transfer is made could not be appropriated directly for the purpose of the fund receiving the transfer, *e.g.*, a transfer of \$50,000 from a fund for a particular school construction project to a fund to construct a new senior center, the vote also serves as a change in purpose to the extent of the amount appropriated.

**E. Investment and Interest**

The treasurer may invest stabilization funds in national, savings or cooperative banks, Massachusetts trust companies, federal savings and loans associations located in Massachusetts or securities that are legal investments for savings banks under Massachusetts law.

All interest earned on the investment of stabilization funds belongs to the funds. The treasurer may pool monies from all stabilization funds for investment purposes, but the accounting officer must account for them separately in the general ledger and allocate interest earned on the pooled monies proportionately to each stabilization fund.

**F. Limits on Funds**

1. Annual Appropriations

Total annual appropriations to all stabilization funds are limited to 10 percent of the prior year's tax levy. This includes "appropriations" of additional levy capacity resulting from Proposition 2½ overrides approved for the funds. See Section II-B below. The limit on total appropriations may be exceeded with approval of the Director of Accounts.

2. Balance

The total of all stabilization fund balances cannot exceed 10 percent of a community's equalized valuation.

**II. STABILIZATION FUND OVERRIDES**

**A. Presentation and Approval of Override Referendum**

Cities and towns may ask voters to approve a Proposition 2½ levy limit override referendum for the purpose of funding any of the stabilization funds it establishes.

If approved, the additional levy capacity is earmarked for the same stabilization fund in the fiscal year the override is effective and subsequent years. G.L. Ch. 59 §21C(g).

Therefore, the amount of any override for a stabilization fund must be clearly identified, preferably by presenting a separate override question for each stabilization fund being funded. For example:

Shall the city/town of \_\_\_\_\_ be allowed to assess an additional \$100,000 in real estate and personal property taxes for the purposes of funding the municipal capital stabilization fund for the fiscal year beginning July 1, \_\_\_\_?

Shall the city/town of \_\_\_\_\_ be allowed to assess an additional \$100,000 in real estate and personal property taxes for the purposes of funding the school capital stabilization fund for the fiscal year beginning July 1, \_\_\_\_?

If the amount is included in an override for multiple purposes, however, the exact amount allocated to the particular stabilization fund must be stated. For example:

Shall the city/town of \_\_\_\_\_ be allowed to assess an additional \$1,000,000 in real estate and personal property taxes for the purposes of funding the town and school operating budgets, the municipal capital stabilization fund (\$100,000) and the school capital stabilization fund (\$100,000) for the fiscal year beginning July 1, \_\_\_\_?

**B. Appropriation of Override in Future Years**

1. Annual Appropriation Procedure

In the year the override is effective, the appropriation of the funds generated by the override to the particular fund is made by the usual appropriation procedure, *i.e.*, a two-thirds vote of the legislative body.

Each year thereafter, however, the selectmen, town council or city council, with the mayor's approval if required by law, must decide whether to "appropriate" any of the additional capacity resulting from the override for the same stabilization fund purpose. A two-thirds vote is required to make any "appropriation".

2. Appropriation Amount

All or some of the additional levy capacity may be "appropriated." In the first year after the override is effective, the additional levy capacity that may be appropriated is 102.5 percent of the override amount. In subsequent years, it is 102.5 percent of the amount of additional levy capacity appropriated in the last year it was appropriated.

For example, a \$100,000 override is approved for a school capital project stabilization fund for fiscal year 2005 and the legislative body appropriates the same amount from that year's tax levy for that purpose. In FY2006, \$102,500 is available for "appropriation" by the selectmen, town council or city council, with the mayor's approval if required by law. That entire amount is "appropriated." In FY2007, \$105,062 (1.025 x FY2006 appropriation of \$102,500) is available, but only \$80,000 is "appropriated." The amount available in FY2008 now becomes \$82,000 (1.025 x FY2007 appropriation of \$80,000). No appropriation is made in FY2008, however. The amount available in FY2009 is \$82,000 (1.025 x last appropriation made, *i.e.*, FY2007 appropriation of \$80,000).

3. Tax Rate

The assessors must raise the amount "appropriated" in the tax rate. This "appropriation" is reported on page two of the tax rate recapitulation under "Other Amounts to Be Raised" and documented by a certified copy of the "appropriation" vote, as explained in the annual tax rate recapitulation instructions issued by the Bureau of Accounts.

4. Levy Limit Calculation

The municipality's levy limit for any year is increased by the amount of additional levy capacity that is appropriated for the stabilization fund purpose. The new limit must still be within overall levy ceiling of 2½ percent of the full and fair cash value of taxable property.

C. Change in Override Purpose

1. Presenting Referendum

The selectmen, town council or city council, with the mayor's approval if required by law, may ask the voters to approve a change in the purpose of the override. This change can result in the additional levy capacity being allocated to another stabilization fund or to any other municipal purpose. A two-thirds vote is required to place the referendum before the voters.

2. Referendum Form

The following question form should be used to present a referendum to change the override purpose:

Shall the city/town of \_\_\_\_\_ be allowed to change the purpose of a Proposition 2½ override referendum approved at an election held on \_\_\_\_\_, \_\_\_\_ for the (capital stabilization fund) to the following new purpose(s): \_\_\_\_\_ for the fiscal year beginning July 1, \_\_\_\_?

3. Referendum Approval

The referendum is approved if a majority of those voting on the question vote "yes."

4. Appropriation in Future Years

If the purpose of the override is changed to another stabilization fund, or other purpose, the additional levy capacity would have to be "appropriated" to the new purpose each year or the levy limit would be reduced. See Section II-B above.

## Dunham, George

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**From:** Galkowski, Mark  
**Sent:** Monday, November 16, 2015 4:30 PM  
**To:** Dunham, George  
**Cc:** Lapp, Doug; Coggeshall, Kathy; Deconto, Dave; Hawkins, Heidi  
**Subject:** 2015-16 Shellfish Regulations Amendment  
**Attachments:** Memo with Motion to Amend 11-19-15.pdf; Shellfish Regulation Amendment 2015-01.pdf; Red Lined Version - General Shellfish Regulations - Proposed Amendments 11-19-15.pdf; General Shellfish Regulations - Proposed Amendments 11-19-15.pdf

Bud,  
I have attached the corrected version of the proposed amendments to the 2015-16 Town of Sandwich Shellfish Regulations.

I have made minor changes to the general regulations. A few highlights are:

Pg. 7 Cleaning up the language on opening and closing times during EST and EDT.

Pg. 8 Clarifying the language the temperature restriction on specifying who makes the official determination on whether the shellfish beds are open or closed that day.

Pg. 9 add: Obstructing the movement of herring up stream.

The Department will have a "limited entry" access to oysters this year, before Christmas. We are assessing the stock and will have an announcement right after the 1<sup>st</sup> of December.

Our regular shellfishery will open the 1<sup>st</sup> Sunday of December provided we have approval from the MA DMF . As the season progresses, and we will re-assess our shellfish stock and I will consult with you (Town Manager) about possibly opening an additional day during the week. However, the weekly limit will remain the same.

Assistant Director David DeConto will be attending the Board of Selectmen meeting to answer any questions regarding these regulations or the shellfishery.

If you have any questions, please contact me.

Thanks

Mark S. Galkowski, Director

Department of Natural Resources

Enclosures: Motion to adopt the changes to the Shellfish Regulations  
Red-Line changes to the General Shellfish Regulations  
General Shellfish Regulations as amended  
Shellfish Regulation Amendment No. 2015-01

**SANDWICH ENTERPRISE  
FALMOUTH, MA. 02540**

Please publish the following ad in your legal notice column on November 13, 2015

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**TOWN OF SANDWICH  
BOARD of SELECTMEN  
Notice of Public Hearing  
Amendment to the Shellfish Regulations**

Notice is hereby given that Board of Selectmen will conduct a public hearing on Thursday, November 19, 2015 at 8:30 p.m. at the Sandwich Town Hall, 130 Main Street, to amend the current regulations pertaining to the taking of shellfish, sea worms and eels from the waters and flats of the Commonwealth within the limits of the Town of Sandwich, and the opening of the shellfish beds for this year as provided under the authority of Massachusetts General Laws, Chapter 130, Section 52.

Anyone wishing to be heard on this matter will be afforded an opportunity at that time.

Frank Pannorfi, Chairman  
Board of Selectmen

# TOWN OF SANDWICH

The Oldest Town on Cape Cod



## Department of Natural Resources

Mark S. Galkowski, Director

SANDWICH TOWN OFFICES  
16 JAN SEBASTIAN DRIVE  
SANDWICH, MA 02563

TEL: 508-833-8054  
FAX: 508-833-0018

### MEMORANDUM

TO: Mr. George H. Dunham, Town Manager

FROM: Mark S. Galkowski, Director

DATE: November 19, 2015

SUBJECT: Suggested language for Board of Selectmen motion to re-open town shellfish beds in a portion of Old Harbor Creek, Mill Creek and Dock Creek (aka Factory Creek) referred to by the DMF as the Sandwich Harbor Center Basin.

#### Motion to adopt a change to the Town of Sandwich Shellfish Regulations:

I move to amend the current Sandwich Shellfish Regulations by adopting Shellfish Regulation Amendment No: 2015-01 and to authorize the Shellfish Constable to open said areas once the MA Division of Marine Fisheries has received acceptable samples and authorizes said opening. Said areas shall close when deemed appropriate by the Shellfish Constable and Town Manager.

If you have any questions, or require additional information, please contact me.

xc: Asst. TM  
Asst. Dir. DNR  
File

# TOWN OF SANDWICH

The Oldest Town on Cape Cod



## Department of Natural Resources

Mark S. Galkowski, Director

SANDWICH TOWN OFFICES  
16 JAN SEBASTIAN DRIVE  
SANDWICH, MA 02563

TEL: 508-833-8054

FAX: 508-833-0018

### Shellfish Regulation Amendment No: 2015-01 Opening Areas for Recreational Use

**Effective Date: December 6, 2015**

Acting under the authority of Chapter 130, section 52 of the Massachusetts General Laws, as amended, the Board of Selectmen of the Town of Sandwich hereby promulgates the following amendment which affects the taking of shellfish within the waters of the Town of Sandwich. **This opening is subject to receipt of approval from the Massachusetts Division of Marine Fisheries.**

#### **Open Areas:**

##### **Sandwich Harbor Center Basin (CCB37.0)**

The waters, flats and all tributaries of Sandwich Harbor in the Town of Sandwich, southerly of a line drawn across the entrance jetties of Sandwich Harbor, southeasterly of the easterly face of the Sandwich Boardwalk where it crosses Mill Creek, northerly of a line drawn between the "NO SHELLFISHING" signs located in Dock Creek-West (also known as Factory Creek), northerly of a line drawn between the "NO SHELLFISHING" signs located at the mouth of Dock Creek-West (also known as Factory Creek), north of a line drawn between the "NO SHELLFISHING" signs located at the mouth of the Parsonage Creek, north of a line drawn between the "NO SHELLFISHING" signs located at the mouth of the OX Pasture Creek, north of a line drawn between the "NO SHELLFISHING" signs located at the mouth of the Pine Island Creek and northwesterly of a line drawn across the mouth of Springhill Creek are open to the taking of quahogs, soft shell clams, blue mussels, and sea worms. **The taking of oysters as determined by the Shellfish Constable.**

##### **Sandwich North Coastal (CCB35.0)**

"The waters and flats of the Town of Sandwich, from the Bourne town line to the Barnstable town line **excluding** the **Cape Cod Canal (BB 45.4)**, and the **Scorton Creek Approach (CCB 35.3)**, are open to the taking of sea clams, blue mussels and sea worms. No other shellfish may be harvested in this area.

#### **Closed Areas: THE FOLLOWING AREAS ARE CLOSED TO THE TAKING OF ALL SHELLFISH and SEA WORMS.**

##### **Mill Creek (CCB37.1)**

"The waters, flats and all tributaries of Mill Creek northwesterly of a line drawn between the CLOSED "No Shellfishing" signs. The area westerly of the Sandwich Boardwalk between the Boardwalk and the closed "No Shellfishing" signs is closed for propagation.

##### **Dock Creek (CCB37.2)**

"The waters, flats and all tributaries of Dock Creek southerly of a line drawn between the "NO SHELLFISHING" signs located at the mouth of Dock Creek." **PROHIBITED**

**Parsonage Creek (CCB37.3)**

"The waters, flats and all tributaries of Parsonage Creek southerly of a line drawn between the "NO SHELLFISHING" signs located at the mouth of the creek." PROHIBITED

**OX Pasture Creek (CCB37.4)**

The waters, flats and all tributaries of OK Pasture Creek southerly of a line drawn between the "NO SHELLFISHING" signs located at the mouth of the creek." PROHIBITED

**Pine Island Creek (CCB37.5)**

The waters, flats and all tributaries of Pine Island Creek southerly of a line drawn between the "NO SHELLFISHING" signs located at the mouth of the creek." PROHIBITED

**Springhill Creek (CCB37.6)**

The waters, flats and all tributaries of Springhill Creek southerly of a line drawn between the "NO SHELLFISHING" signs located at the mouth of the Springhill Creek."

PROHIBITED

**All other areas not listed as open, are closed to the taking of shellfish and sea worms. No shellfishing @ 27°F or below. All harvested shellfish must be brought to an on duty Deputy Shellfish Constable at Mill Creek for inspection.**

**All seed soft shell clams must be replanted with siphons (necks) up immediately. All dry dug holes must be fill in prior to digging new holes or leaving the area.**

**Weekly Limit:** A level ten (10) quart wire basket of quahogs, five (5) quarts of soft shell clams, five (5) quarts of blue mussels, ten (10) sea clams per calendar week and a daily limit of twenty five (25) sea worms may be taken.

**Size Limit:** No quahogs measuring less than one (1) inch across the hinge or no soft shell clams or blue mussels measuring less than two (2) inches at the longest diameter, or no sea clams less than five (5) inches at the longest diameter may be taken. Shellfish gauges must be in possession while shellfishing.

**This amendment supersedes all other recreational shellfish openings, closures and weekly limits for soft shell clams, quahogs, oysters, blue mussels, sea clams and sea worms.**

Per Order of the Board of Selectmen:      Date Adopted:      November 19, 2015

Frank Panorfi, Chair      \_\_\_\_\_

Ralph Vitacco, Vice Chair      \_\_\_\_\_

Susan James      \_\_\_\_\_

R. Patrick Ellis      \_\_\_\_\_

Peter Beauchemin      \_\_\_\_\_



**Town of Sandwich  
Shellfish Regulations**

**1. Adoption of Regulations; Posting of Changes:**

These regulations are promulgated by the Sandwich Selectmen under the authority granted to them by Massachusetts General Laws, Chapter 130 and shall continue in force until rescinded or replaced by a vote of the Board of Selectmen or until the authority to make and enforce shellfish regulations has been repealed.

These regulations and specific shellfish area openings/closures are subject to change from time to time. Said changes will be posted at the Town Clerk's Office Bulletin Board, the Town Manager's Office, the Department of Natural Resources Office and the three (3) Post Offices within the Town. Regulations and amendments shall become effective immediately upon adoption and will be posted within seventy-two hours at the locations listed above.

**2. Definitions:** As used in these Regulations, the following terms shall have the meanings indicated below.

**Approved Area**

The classification of a State Shellfish Growing Area which has been approved by the DMF for the growing or harvesting shellfish. The classification of an Approved Area is determined through a sanitary survey conducted by the DMF. An Approved Area may be temporarily made a closed area when a public health emergency resulting from, for example, a hurricane or a flood, is declared.

**Batch**

All Shellfish in each separate container.

**Catch Report**

A report required by the Town pursuant to the Regulations.

**Closed Area**

An Approved Area where the harvesting of Shellfish is temporarily or permanently not permitted by the Board of Selectmen. A "Closed Area Status" is or may be placed on any of the five (5) classified area designations; Approved, Conditionally Approved, Restricted, Conditionally Restricted, or Prohibited.

<b>Closed Area Status</b>	The harvesting of Shellfish in a particular area is Approved, Conditionally Approved, Restricted, Conditionally restricted, or Prohibited.
<b>Conch</b>	Those species of whelk known as <i>Busycon carica</i> (knobbed whelk) as <i>Busycotypus canaliculatus</i> (channeled whelk).
<b>Conditionally Approved</b>	The classification of a State Shellfish Growing Area determined by the DMF to meet Approved Area criteria for a predictable period. The period is conditional upon established performance standards specified in a management plan. A Conditionally Approved Area is open when the area meets the Approved Area criteria and is opened by the Shellfish Control Authority.
<b>Conditionally Restricted</b>	The classification of a State Shellfish Growing Area determined by the DMF to meet restricted area criteria for a predictable period. The period is conditional upon established performance standards specified in a management plan. A Conditionally Restricted Growing Area is closed when the area does not meet the Restricted Growing Area criteria and is temporarily closed by the Shellfish Control Authority.
<b>Cull</b>	To sort and measure Shellfish; to separate seed from legal sized stock and replant seed.
<b>Department</b>	The Department of Natural Resources of the Town of Sandwich.
<b>Director</b>	The Director of the Town of Sandwich Department of Natural Resources.
<b>DMF</b>	Massachusetts Division of Marine Fisheries.
<b>Domicile</b>	That place where an individual has his/her true, fixed and permanent home and principal establishment, and to which whenever he/her is absent he/her has the intention of returning.
<b>Eel or Elvers</b>	A catadromous marine animal ( <i>Anguilla rostrata</i> ) commonly know as the American eel.
<b>Enforcing Agent</b>	Any person(s) identified and designated in Section 5.1. of these Regulations.
<b>Shellfish Gauge</b>	A legal device used to measure a harvested Shellfish to determine if it is of legal size.
<b>Harvest</b>	To catch, dig or take or attempt to catch, dig, take by any method or means, any fish, Shellfish or bait.
<b>Hinge Width</b>	The distance between the convex apex of the right shell and convex apex of the left shell.

**Land or Landing**

To transfer the catch of fish or Shellfish from any vessel to any other vessel or vehicle from the waters, flats or any vessel onto any vehicle, ~~land, land, at a~~ pier, ramp, road, way, wharf, dock or other artificial structure.

**Manager**

The Town Manager of the Town of Sandwich.

**Open Area**

An area designated by the Board of Selectmen as open for shellfishing.

**Peck Basket (10qt./dry)**

The quantity contained in a standard metal wire peck basket, level with the top of said Peck Basket. Said quantity shall not exceed ten (10) quarts (672 cubic inches) dry measure. The said Peck Basket shall be the only authorized container allowed to recreationally harvest and contain Shellfish, except sea clams.

**Prohibited Area**

A Prohibited Area is a growing area where no current sanitary survey or where the sanitary survey or other monitoring program data indicate that fecal material, pathogenic microorganisms, poisonous or deleterious substances, marine toxins, or radionuclides may reach this area in excessive concentrations. The taking of Shellfish for any human food purposes from such area is strictly prohibited.

**Proof of MA Residency**

Is evidenced by a current MA real estate tax bill, current non-seasonal lease or valid Massachusetts operator's license, or any other valid ID issued by the Massachusetts Registry of Motor Vehicles, in combination with a valid Massachusetts Motor Vehicle Registration, both listing a residential dwelling within the Commonwealth of Massachusetts.

**Proof of Sandwich Residency**

A current Town of Sandwich real estate tax bill, current non-seasonal lease or valid Massachusetts Operator's License, or any other valid ID issued by the Massachusetts Registry of Motor Vehicles, in combination with a valid Massachusetts Motor Vehicle Registration, both listing a residential dwelling within the Town.

**Recreational Shellfish Permit**

A permit granted under the authority of the Board for the taking of Shellfish for non-commercial domestic use.

**Regulations Restricted**

Town of Sandwich Shellfish Regulations

<b>Area</b>	State waters that have been classified by the DMF as an area from which Shellfish may be harvested only if permitted and subjected to a suitable and effective cleansing process, as approved by the Shellfish Constable.
<b>Resident</b>	Resident real estate taxpayers, year-round tenants, non-seasonal tenants (for six (6) months or more of the calendar year) of residential dwellings located within the Town.
<b>Resident Family</b>	All those persons of the immediate family (husband, wife, father, mother, and any unmarried children and grandchildren under the age of 18) domiciled and living under the same roof in the Town.
<b>Sandwich Shellfish Permit</b>	A permit issued by the Board of Selectmen at the <u>Town of Sandwich Tax Collector's Office</u> .
<b>Seed Blue Mussel</b>	A blue mussel measuring less than two (2) inches in the longest diameter.
<b>Seed Clam</b>	A soft shell clam measuring less than two (2) inches in the longest diameter.
<b>Seed Quahog</b>	A Quahog measuring less than one (1) inch shell thickness (hinge width).
<b>Seed Oyster</b>	An Oyster measuring less than three (3) inches in the longest diameter.
<b>Seed Sea Clam</b>	A Sea Clam measuring less than five (5) inches in the longest diameter.
<b>Seed Sea Scallops</b>	A Sea Scallop measuring less than three and one half (3 1/2) inches in the longest diameter.
<b>Selectmen or Board</b>	The Board of Selectmen of the Town of Sandwich, Massachusetts.
<b>Shellfish</b>	Includes, but not limited to, clams, quahogs, mussels, oysters, scallops, razor clams, razor fish, sea clams, sea scallops, sea quahogs, conchs and whelks.
<b>Shellfish Constable</b>	The person and/or any deputies appointed by the Board pursuant to Massachusetts General Laws, Chapter 130, Section 98. In the Town of Sandwich, the Director of the Department of Natural Resources is the Shellfish Constable, who is also the Shellfish Control Authority.
<b>Shellfish Predators</b>	Green crabs, conch, whelks, starfish, moon snails, and oyster drills.
<b>Town</b>	The Town of Sandwich, Massachusetts.

**Wet Storage**

The re-immersion of shellfish in untreated salt water, to store, remove sand or condition the shellfish.

**3. Recreational Shellfishery**

**A. Classes of Recreational Permits, Licensing Requirements and Conditions:**

Any Sandwich Shellfish Permit may be suspended or revoked by the Board for any violation of the Regulations.

1. Resident Recreational Shellfish Permit: Issued to those persons who pay real estate taxes or are Residents. This permit also allows the taking of sea worms, herring and eels for non-commercial purposes. Eels may be taken from any marine waters of the Town for a fee established by the Town. Within this category:
  - a. Family Recreational Shellfish Permit: Issued on the basis of one (1) per Resident Family.
  - b. Individual Recreational Shellfish Permit: Issued to an unmarried Resident over the age of 18.
2. Senior Citizen Recreational Shellfish Permit: A senior citizen who has attained the age of seventy (70) (by July 1st of a given year) and is a legal resident of the Town, as defined by the Regulations, or pays real estate taxes to, the Town. One (1) Senior Citizen Recreational Shellfish Permit per family is allowed. These permits are intended to be used by the permit holder and are not to be used by other members of their family.
3. Massachusetts Resident - Recreational Permit: Issued to those persons who pay real estate taxes in or are residents, as defined by the Regulations, of the Commonwealth of Massachusetts are entitled to a Massachusetts Resident - Recreational Shellfish Permit. This permit also allows the taking of sea worms, herring and eels for non-commercial purposes. Within this category:
  - a. Family Recreational Shellfish Permit: Issued on the basis of one (1) per Resident Family.
  - b. Individual Recreational Shellfish Permit: Issued to an unmarried Resident individual over the age of 18.
4. Non-Massachusetts Resident - Recreational Shellfish Permit: Issued to a non-Resident of the Town or Commonwealth of Massachusetts. Within this category:
  - a. Family Recreational Shellfish Permit: Issued on the basis of one (1) per Resident Family.
  - b. Individual Recreational Shellfish Permit: Issued to an unmarried Resident individual over the age of 18.
5. Native American - Recreational Shellfish Permit: Issued to a person who can document they are of Native American heritage and who pay real estate taxes or are Residents, as defined herein, of the Town are entitled to a Native American – Recreational Shellfish Permit. This permit also allows the taking of sea worms, herring and eels for non-commercial purposes. Within this category:

- a. Family Recreational Shellfish Permit: Issued on the basis of one (1) per Resident Family.
  - b. Individual Recreational Shellfish Permit: Issued to an unmarried Resident over the age of 18.
6. Any lost Sandwich Shellfish Permit may be replaced for a replacement fee of Five Dollars (\$5.00). Should the lost permit ever be found, it shall be immediately returned to the Shellfish Constable or his/her designee.
7. Sandwich Shellfish Permits may be obtained at the Town of Sandwich Tax Collector's Office at the Town Hall Annex during normal business hours.
8. Conditions:
- a. Recreational Shellfish Permits expire on June 30 of each year. An applicant requesting a Recreational Shellfish Permit for the next permit year shall first submit a Catch Report for the immediate prior year as part of the annual application process.
  - b. Unlawful harvest without a recreational permit: No person shall take or attempt to take Shellfish or sea worms, herring or Eels within the Town; unless he or she is in possession of a valid Sandwich Shellfish Permit.
  - c. Prohibition of the sale of Shellfish: No person shall offer for sale, for money or other consideration, any Shellfish, sea worms, herring or eels harvested under a Sandwich Recreational Shellfish Permit.
  - d. Transfer of permit: A Sandwich Shellfish Permit is not transferable without the written permission of the Town Manager and/or Shellfish Constable. An illegally transferred permit shall be considered invalid.
  - e. Child under 16: No person (child) under 16 shall be allowed to use a Recreational Shellfish Permit unless accompanied by an adult with a valid Sandwich Shellfish Permit.
  - f. Guest(s) of a Recreational Shellfish Permit holder: A Recreational Shellfish Permit holder may take guest(s) to dig with them as long as only one (1) weekly limit is taken. The permit holder must be present and is responsible for any violations of the Regulations by such guest(s).
  - g. Display of Permit: A Sandwich Shellfish Permit shall be visibly displayed on the person in plain view on outer clothing while shellfishing, landing and/or transporting ashore. Permit holders, upon the request of an Enforcing Agent shall display their catch, permit and Shellfish gauge.
  - h. Landing restriction: All Shellfish harvested under a Recreational Shellfish Permit shall be landed in or displayed for inspection in the Town at locations designated by the Shellfish Constable. All Shellfish must be brought ashore intact in the shell.
  - i. No person shall take or attempt to take shellfish within the Town, unless he or she is in possession standardized Shellfish measuring device appropriate for determining legal size of his/her catch.
  - j. Shellfishing is allowed in approved Open Areas for all sShellfish, ~~except Oysters~~.

9. A schedule of permit fees is maintained by the Shellfish Constable and is available to all permittees and prospective permittees.

**B. Harvest Time Restrictions:**

1. Shellfish taken under a Recreational Shellfish Permit may be harvested only on Sundays or other approved days, except as otherwise stated.
2. Sea worms may be taken daily in areas currently open to the taking of Shellfish. Eels may be taken in any marine waters, on a daily/year-round basis.
3. The harvest of shellfish is limited to Sundays only. However, the Shellfish Constable may open an additional day for harvest of shellfish. The weekly limit remains the same.
4. Harvest Hours: No person shall take or attempt to take Shellfish, Eels, herring or sea worms during the nighttime hours from sunset to sunrise. The recreational harvesting of Shellfish is allowed from 7:00 AM to 6:00 PM (EST) and 7:30PM (EDT) on days open to Shellfishing ~~sunrise to sunset but not before 7:00 AM or after 6:00 PM or sunset (EST) and not before 6:00 AM or after 7:30 PM or sunset (EDT) on days open to Shellfishing.~~

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**C. Harvest Limits:**

The recreational weekly harvest limit for the following species of Shellfish, sea worms and Eels, in season, shall be:

1. Soft shell clams: one level half (1/2) peck per calendar week.
2. Quahogs: ~~one~~ one (1) level peck per week.
3. Blue Mussels: one level half (1/2) peck per week.
4. Oysters: ~~Closed~~ As determined by the Shellfish Constable.
5. Razor clams: one level half (1/2) peck per week.
6. Sea Clams: ten (10) per week.
7. Sea worms: not more than twenty five (25) per day.
8. Eels: not more than five (5) per day.

Authorized Shellfish Container: All shellfish harvested, with the exception of sea clams, sea worms and eels, shall be harvested, transported and contained only in a standard ten (10) quart metal wire Peck Basket, as defined by the Regulations.

**D. Minimum Size Limits:**

Shellfish shall be culled and all seed returned to the waters and flats immediately. Persons shall not take or have in their possession the following:

1. Soft shell clams less than two (2) inches in the longest diameter.

2. Quahogs less than one (1) inch shell thickness (hinge width).
3. Blue mussels less than two (2) inches in the longest diameter.
4. Oysters: ~~Closed~~ less than three (3) inches in the longest diameter.
5. Sea Clams less than five (5) inches in the longest diameter.
6. Sea Scallops less than three and one half (3 ½) inches in diameter from the hinge to the outer edge.
7. Eels or elvers less than nine (9) inches in total length.

**E. Gear Restrictions and Regulations:**

1. Soft shell clams, sea worms and razor clams may be taken with a standard clam ~~hoe~~ rake. No shovels, ~~hoes~~, pitchforks or other devices or materials shall be used, unless first receiving written approval by the Shellfish Constable.
2. Quahogs, oysters, sea clams may be taken by hand, rakes and by a mini-bull rake with a mouth not to exceed twelve (12) inches in width measured across the mouth. Handles for any rake, including mini-bull rake T-handles, shall not exceed eighty four (84) inches in total length. Extensions shall not be added to any rake handle.
3. Eels and elvers may be taken by pots, spears or angling, only. No fyke nets shall be used and a Recreational Shellfish Permit must be in possession. A maximum of three (3) eel pots may be set by Recreational Shellfish Permit holders. All pots and buoys are to be clearly marked (last name & town color). No wooden buoys or plastic bottles may be used. No permit is required for angling. Pots shall not be set in navigable, marked channels. THE TOWN BUOY COLOR IS BRIGHT ORANGE.
4. Skin or scuba diving for the taking of Shellfish is strictly prohibited within Town waters unless prior written approval is received from the Shellfish Constable.

**F. Shellfishery Conservation and Management:**

1. Temperature restriction: Shellfishing is prohibited when the shaded air temperature is ~~27°~~ is 27° F or below. Official thermometers for making this determination are located at the east end of the Town Beach Parking lot and the Boardwalk Road parking area. This will be determined by the Shellfish Constable or the Senior Deputy Shellfish Constable on duty.
2. All holes shall be backfilled before leaving the area when digging soft shell clams, razor clams, sea clams and sea worms.. Seed Clams shall be replanted, immediately, with the "neck" of the clam up at the time and place where dug.
3. All Shellfish shall be culled while fishing and all seed returned to the waters and flats immediately. Persons shall not take nor have in their possession (in baskets, bucket, vessel; bag, pockets, or other container) seed shellfish. No person shall plant, place, transplant, transfer Shellfish within the Town at any time.
4. As a means of controlling the losses of Shellfish to natural means, starfish, green crabs, conch, moon snails, oyster drills, or winkle, referred to as shellfish predators, shall not be

returned to the water. They shall be placed above the high water mark or some other suitable place out of the water.

5. Areas of the shoreline or flats may be closed from time to time by the Department for the protection and development of juvenile Shellfish populations. No person shall take or attempt to take Shellfish from such areas. Any area not specifically designated by the Board of Selectmen as an Open Area shall be considered a Closed Area.
6. No digging of Shellfish shall be allowed in vegetated areas in accordance with the Massachusetts Wetlands Protection Act and the Sandwich Wetlands Protection By-Law. The digging of or removal of thatch (grass) or peat for purposes of harvesting Shellfish is prohibited.
7. The Wet Storage of Shellfish in Town waters is prohibited in any waters at any time .
8. All Shellfish, sea worms, herring, and Eels harvested in the Town are subject to inspection. Sandwich Shellfish Permit holders, upon the request of the Shellfish Constable, or his/her designee shall display their catch, permit and gauge. All such permit holders shall land, walk ashore or deliver Shellfish at or to any place designated by the Shellfish Constable to allow for inspection. Failure to display Shellfish upon demand of the Shellfish Constable shall be considered a violation of the Regulations.

**G. Regulations Pertaining to Other Species:**

1. Taking, attempting to take or possession of alewives and blue back herring or obstructing the movement of alewives and blue back herring is prohibited.\*

\*For rules pertaining to other species, including ocean quahog, sea scallop, lobster, crabs and sea urchins, please refer to Massachusetts General Laws, Chapter 130, and the Code of Massachusetts Regulations (322 CMR).

**4. Commercial Eel Permits and Regulations:**

1. **Permit:** No person shall take or attempt to take Eels for the purpose of sale or any commercial purpose unless he or she is the holder of a Commercial Eel Permit, which is available from the Town for a fee. The Town shall not issue Commercial Eel Permits to Non-Massachusetts Residents.
2. **Catch Report:** Any applicant requesting a Sandwich Eel Permit for the next permit year shall first submit a Catch Report for the year immediate prior.
3. **Harvest Method:** Eels may not be taken by any contrivance other than by pots, spears or angling in any marine waters of the Town, daily, year-round. No fyke nets shall be used. A Commercial Eel Permit must be in possession while tending pots or storage cars. A maximum of ten (10) eel pots may be set in each estuary (Old Harbor & Scorton Creek) by Commercial Eel Permit Holders. All pots and buoys are to be clearly marked (last name & town color). A colored stripe may be added for identification. No wooden buoys or plastic bottles may be used. No permit is required for angling. Pots shall not be set in navigable or marked channels. THE TOWN BUOY COLOR IS BRIGHT ORANGE.
4. **Minimum Size:** It is unlawful for a person to take or possess Eels or elvers of a size less than nine (9) inches in total length.

5. **Fresh Water:** Taking of Eels commercially is prohibited in freshwater bodies, lakes, ponds, streams and upstream of the first bridge on coastal rivers.

**5. Enforcement and Penalties:**

1. **Enforcing Agents:** These Regulations shall be enforced by the Shellfish Constable; Deputy Shellfish Constables; Natural Resources Officers; Deputy Natural Resource Officers; Assistant Harbormasters; and any Police Officer of the Town herein all referred to as "Enforcing Agent," Agent or his/her designee.
2. **Missing Signs:** The harvest of Shellfish is prohibited in those areas posted by the Department. Unauthorized removal of signs from posted areas shall not affect the prohibition against such harvesting. ~~Such areas~~ Missing signs should be reported to the Department.
3. **Violations and Penalties:** Enforcing Agents may, at their discretion, initiate criminal proceedings for any violation of the Regulations. Alternatively, Enforcing Agents may utilize the method of non-criminal disposition established by the Town pursuant to Massachusetts General Laws, Chapter 40, Section 21D. Each separate violation may constitute a separate offense. Fines shall be paid to the Town. Any license or permit may be denied, revoked or suspended for non-payment of taxes, fees, assessments, betterments or other municipal charges pursuant to Massachusetts General Laws, Chapter 40, Section 57.
4. **Fines:** A schedule of fines for violations of these Regulations is maintained by the Shellfish Constable and is available to all permittees and prospective permittees. The fine for violations of the Regulations not specifically listed in the schedule shall be \$50.00.
5. **Revocation or Suspension of a Sandwich Shellfish Permit:** A Sandwich Shellfish, Herring or Eel Permit may be revoked or suspended by the Board of Selectmen for any violation of the Regulations after a hearing.

**6. Shellfish Area Classifications:**

The following areas are under of subject to the a Commonwealth of Massachusetts Division of Marine Fisheries oversight:

**Classified as Approved:**

The Sandwich North Coastal area (CCB35).

**Classified as Conditionally Approved (Seasonal):**

A portion of Sandwich Harbor (CCB35.2), a portion of Old Harbor Creek, a portion of Dock Creek and a portion of Mill Creek (CCB37.0) and the Sandwich North Coastal area (CCB35).

**Classified as Prohibited – (To the taking of all Shellfish (Chapter 130, s. 74A & 75)):**

A portion of Mill Creek (CCB37.1); a portion of Dock Creek (CCB37.2); all of Parsonage Creek (CCB37.3); all of Ox Pasture Creek (CCB37.4); all of Pine Island Creek (CCB37.5); all of Springhill Creek (CCB37.6); a portion of Old Harbor Creek (CCB37.7); all of that portion of the Cape Cod Canal (BB45.4) within the Town of Sandwich; Sandwich Boat Basin (CCB45.5); all of Scorton Harbor (Creek) (CCB36) within the Town of Sandwich and all of Scorton Harbor (Creek) Approach (CCB35.3).

Areas classified as Approved or Conditionally Approved may be, from time to time, subject to a management closure as recommended by the Director of Massachusetts Marine Fisheries and as voted by the Board. Persons shellfishing in contaminated areas subject to closure by the Marine Fisheries will be prosecuted via criminal proceedings and may be subject to substantial fines and imprisonment pursuant to Massachusetts General Laws, Chapter 130, Section 75.

The forgoing regulations covering the harvest of shellfish, eels, herring and sea worms from the waters and flats of the Commonwealth of MA within the limits of the Town of Sandwich are hereby adopted by a vote of the Board of Selectmen on this the ~~6th~~ 19th day of November, ~~2014~~ 2015 and will become effective, immediately upon adoption.

Frank Pannorfi ~~Ralph A. Vitacco~~, Chairman

Ralph A. Vitacco ~~Frank Pannorfi~~, Vice Chairman

Susan James

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R. Patrick Ellis  
James W. Pierce

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R. Patrick Ellis Peter Beauchemin

Rev. 114/154

**November 16, 2015 – Special Town Meeting  
Index of Warrant Articles**

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2. School Department Additional FY'16 Ch. 70 Appropriation (p. 3)
3. Fire Department Ambulance Appropriation from Ambulance Fund (p. 4)
4. Golf Department Capital Appropriation from Enterprise Fund (p. 4)
5. Zoning By-laws: Various Sections – Ground Mounted Solar Overlay District in BL-1 (p. 4)
6. Petition Article: Enforcement of Alleged Violation of Old King's Highway Regional Historic District Act (p. 6)

**Reference Material & Volunteer Application Form:**

1. A Glossary of Commonly Used Terms (p. 8)
2. Table of Basic Points of Motion (p. 11)
3. Town of Sandwich Talent Bank Application (p. 12)

**NOTE:** Petition articles have been printed as submitted and may contain typographic and other errors.

#### Section 5.1.2 COMPENSATION

The town manager shall receive compensation as may be fixed by the board of selectmen according to the town manager's expertise, education and training. Any contract between the board of selectmen and the town manager shall be made pursuant to section 108N of chapter 41 of the General Laws.

#### Section 5.1.3 TERM AND REMOVAL

The town manager may be appointed for a definite term, but may be removed at the discretion of the board of selectmen by vote of the majority of the entire board. The action of the board of selectmen in suspending or removing the town manager shall be final. It is the intention of this charter to invest all authority and fix all responsibilities of such suspension or removal in the board of selectmen.

#### Section 5.1.4 POWERS AND DUTIES

The town manager shall be responsible to the board of selectmen for the proper administration of all the affairs of the town consistent with the General Laws and this charter, and shall:

- (a) appoint, discipline, suspend, or remove town employees, including civil service positions, except that the approval of the board of selectmen shall be required for appointment of department heads and the assistant town manager;
- (b) supervise and direct all appointed department heads and organize and structure all town departments accordingly;
- (c) administer and enforce the General Laws or special acts of the commonwealth or town by-laws and all regulations established by the board of selectmen;
- (d) coordinate activities of all town departments;
- (e) attend all sessions of the town meeting and answer all questions addressed to the town manager which are related to the warrant articles and to matters under the general supervision of the town manager;
- (f) keep the board of selectmen fully informed as to the needs of the town and recommend to the selectmen for adoption such measures requiring action by the board or by the town as the manager deems necessary or expedient;
- (g) ensure that complete and full records of the financial and administrative activity of the town are maintained and render reports to the board of selectmen as may be required;
- (h) be responsible for the rental, use, maintenance, repair and the development of a comprehensive maintenance program for all town facilities;
- (i) serve as the chief procurement officer and be responsible for the purchase of all supplies, materials, and equipment, and approve the award of all contracts.; provided, however that any contract over \$1,000,000 shall require approval by the board of selectmen;

# Sandwich Police Department

## Proposed New Organizational Chart

