

**TOWN OF SANDWICH
2001 SPECIAL TOWN MEETING
March 19, 2001**

The Special Town Meeting was called to order by Moderator Garry Blank at 7:15 p.m. after ascertaining a quorum was present.

Selectman Jan Teehan led the Pledge of Allegiance. A moment of silence was observed in memory of Edward L. Condon, who served as Selectman and member of the Board of Appeals. Reverend Bruce Bardon, pastor of the Covenant Baptist Church, gave the Invocation.

The Moderator swore in the following persons as tellers: Alan D. MacKay, James Kelley, Wade D. Saucier, and Paul Tilton. Marie Buckner was designated as timekeeper.

Selectman Teehan moved that articles could be summarized rather than read totally as printed in the warrant. It was seconded and declared carried by the Moderator.

Mrs. Teehan made a motion to allow the Moderator discretion to call a voice vote a two-thirds vote or unanimous vote where it is obvious the "ayes" have it. This motion was seconded and declared carried.

Robert S. Jones moved suspension of the rules to allow Article 17 and Article 18 to be heard first. The Moderator stated the motion was not subject to amendment nor was it debatable. After a voice vote, the Moderator declared the motion not carried since it was not a unanimous vote.

ARTICLE 1

To see if the Town will vote to appropriate by borrowing under the statutes referred to in this Article the sum of \$2,500,000.00 for the purpose of acquiring the land and improvements thereon identified in this Article as Parcel A and Parcel B and more particularly described below, for the purpose of acquiring the personal property described in this Article; and to authorize the Board of Selectmen, on such terms and conditions as the Selectmen may determine, to acquire such real and personal property by gift, purchase or eminent domain for the purposes referred to in this Article.

Parcel A and Parcel B are shown on the plan titled "Town of Sandwich Acquisition of SSYMCA Property, Sandwich, Massachusetts," dated February 28, 2001, prepared by David C. Thulin, PE, PLS, a copy of which is filed with the Town Clerk. Parcel A and Parcel B are to be acquired for the purposes set out in Section 3 of Chapter 293 of the Acts of 1998, and for the purpose of conveyance to the Sandwich Water District for water protection purposes and water supply purposes such portion of Parcel A as the Board of Selectmen determines is no longer needed for the other purposes for which Parcel A is acquired and for the purpose of conveying necessary easements to the Sandwich Water District. The Treasurer is hereby authorized to borrow \$2,500,000.00 by issuance of general obligation bonds or notes under Section 7 of Chapter 293 of the Acts of 1998 in anticipation of revenues to be received under Section 6 of said Chapter 293, or any other enabling authority, for this purpose.

The real property authorized to be acquired by this Article is some or all of the premises shown on Assessors Maps of the Town as follows: Map 24, Lots 142, and 173; Map 18, Lot 122, said premises believed to be owned by the South Shore YMCA and the Quincy YMCA. The real property is described in the following deeds:

Deed Book 4199, Page 33
Deed Book 665, Page 15
Deed Book 612, Page 254

Meaning and intending to acquire all of the land shown on the plan as Parcel A and Parcel B, even if not specified by Assessors Map or deed reference in this Article.

Or take any action relative thereto.

VOTED:

That the Town adopt the provisions of Article 1 and appropriate \$2,500,000.00 for acquiring land with improvements thereon, identified as parcels A & B on a plan entitled "Town of Sandwich Acquisition on SSYMCA Property, Sandwich, Massachusetts" and to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow \$2,500,000.00 for the purchase of parcels A & B by issuance of general obligation bonds or notes, under Section 7 of Chapter 293 of the Acts of 1998 in anticipation of revenue received or to be received under Section 6 of said Chapter 293 as described and printed in the warrant under Article 1. This was a hand vote and declared carried by a vote of 269 Yes and 74 No.

ARTICLE 2

To see if the town will vote to amend the Sandwich Protective Zoning By-law by changing the title of "Article VII" which currently sets forth the definitions section of the Zoning By-law, to "Definitions" and reserve Article VII for other use, or take any action relative thereto.

And further,

To see if the town will vote to amend the Sandwich Protective Zoning By-law by adding the following Article VII (7000) Three Ponds District and to amend the Town of Sandwich Zoning Map to create the

Three Ponds District as described herein. The "Three Ponds District" is created pursuant to a District of Critical Planning Concern nomination by the Board of Selectmen and the subsequent designation by the Cape Cod Commission and the Barnstable County Assembly of Delegates.

Or take any action relative thereto.

Three Ponds District

- 7000. Purposes and Objective.** The purpose and objective of the Three Ponds District (the "District") is to accomplish the following:
- Protect, to the greatest extent possible, surface and groundwater resources and their quality;
 - Preserve rare and endangered species and habitat existing within fragile ecosystems;
 - Preserve the scenic character of the District roads as well as the scenic views of the pond shores and woodlands;
 - Foster carefully planned land uses such as small scale densely clustered residential development with recreational amenities of an appropriate scale;
 - Preserve existing single family homes;
 - Foster existing open space and recreation land uses including summer camps as this is a use that encompasses both recreation and education;
 - Allow for additional recreational uses that are compatible with resource protection;
 - Manage growth in a manner that will not adversely affect municipal infrastructure.
- 7010. Three Ponds District.** The District encompasses approximately 692 acres of land area and approximately 313 acres of pond surface area. The boundaries of the District are shown on a plan entitled "Three Ponds District" prepared by the Cape Cod Commission, dated January 30, 2001 is hereby made a part of this by-law. This plan is on file in the Planning & Development Office. In addition, a natural resources inventory prepared by Horsley & Witten, Inc. and dated October 5, 2000 is on file in the Planning & Development Office.
- 7020. Definitions.** In addition to the definitions contained in the Definition Section of the Sandwich Protective Zoning By-law, the following definitions shall apply to the provisions of this bylaw. In the event of a conflict, the definitions below shall be applied to uses or structures located in the District. Any definition used in this section shall be strictly interpreted by all permit-granting authorities.

Adult Retirement Development. (ARD) A self-contained alternative residential community located on a parcel or contiguous parcels that total at least five (5) acres in area. An ARD shall be developed expressly for and specifically limited to use and residency by persons, and their dependents as defined under state and federal regulations, who have achieved a minimum age requirement for residency of at least fifty-five (55) years of age. A resident or occupant of an ARD shall mean a person who has achieved a minimum age of at least 55 years. An ARD shall be established for the following purposes:

- a. to meet the housing needs of an older population;
- b. to provide an attractive and suitable residential environment that is amenable to the needs of an older population;
- c. to encourage creative and innovative site design to enhance the attractiveness and suitability of smaller homes, the preferred housing for the older population; and to preserve open space in perpetuity for the protection of natural resources and the character of the existing land.

An ARD shall be subject to all the provisions of Article VI, Sections 7700 through 7790 inclusive.

Adult Retirement Development Accessory Uses. Accessory facilities including but not limited to the provision of services to residents of the Adult Retirement Development, including daily meals, necessary personal services, medical monitoring and supervision. Such accessory facilities shall be of a reasonable size and in no case shall the general public use any facility accessory to an adult retirement development.

Accessory dwelling unit. See Section 4130 of these Zoning By-laws.

Accessory structures to a single-family dwelling. The following structures may be allowed as of right as accessory to a single-family dwelling. A garage for the storage or keeping overnight of not more than four motor vehicles. Only one of said vehicles may be a commercial vehicle and shall not exceed a gross vehicle weight of twelve thousand five hundred (12,500) pounds or measure more than seven feet, six inches (7'6") from the ground to the top of the roof, or measure more than twenty one feet (21') from the front bumper to the rear bumper. A shed such as a greenhouse, tool shed or playhouse may be allowed.

Accessory uses to single-family dwelling. Home occupation, bed and breakfast, stable, accessory dwelling unit.

Agricultural Use. The agricultural uses provided for under Massachusetts General Law,

Chapter 40A, Section 3 shall be allowed in the District on any parcel or series of contiguous parcels containing at least five acres. Premises, including necessary structures and equipment, containing at least five acres, which are used for gain in the growing of agricultural crops, or the raising of livestock including a stand for the sale of produce, 50% or more of which is raised on the premises upon which the farm stand is located. Structures which house or otherwise contain animals shall be set back a minimum of 100 feet from every lot line and a minimum of 200 feet from every dwelling. Agriculture shall not mean the removal from the District of any natural resource such as minerals, rocks, air, or water.

Assisted Living Facility. An assisted living facility shall include: single and/or multi-family dwelling units and accessory facilities designed for independent living that provides continuous protective oversight and assistance with activities of daily living to frail elderly persons or other persons needing such assistance. Assistance with the activities of daily living may include, but is not limited to, bathing, dressing, eating, getting on to and out of bed or chairs, walking, going outdoors, using toilet facilities, laundry, home management, meal preparation, shopping, supervision or medication and housework.

Assisted Living Accessory Facilities. Facilities allowed only in conjunction with a duly permitted Assisted Living Facility. Such accessory facilities may include food service, small-scale medical facility, and recreational facility housing for staff. The total floor area of all combined accessory facilities shall not exceed 20% of the total square footage of the assisted living facility. Parking shall be the minimum parking area required by Section 3100 of this Zoning By-law. In no case shall the general public use any facility accessory to an adult assisted living facility.

Bed and Breakfast. An owner-occupied dwelling for the rooming and boarding of guests. Food or beverage shall only be served to those who let a room in such a dwelling. A Bed & Breakfast shall not be considered a Home Occupation.

Boathouse. A structure erected for the sole purpose of storing only personal property of the boathouse owner such as watercraft and related equipment such as personal flotation devices, oars and other items necessary to the use of personal watercraft. Storage of gasoline, motor oil, engine oil, and all hazardous materials shall be strictly prohibited. A boathouse shall not include permanent sanitary facilities, sleeping quarters, food service of any sort including vending machines, office space, recreational space or any other area or use other than watercraft storage. The minimum lot area required for any principal use to site an accessory boathouse shall be 60 acres and the 60 acres shall have been owned by the owner of the principal use at the time of the passage of this Zoning By-law.

Campground – Not for Profit. Premises operated by a not-for-profit organization that is tax exempt under the Internal Revenue Code used for travel trailers, campers, tenting or for temporary overnight facilities of any kind where a fee is charged.

Camping, Supervised – Not for Profit. Facilities operated by a not-for-profit organization that is tax exempt under the Internal Revenue Code on a primarily seasonal basis for continuing supervised recreational, health, educational, religious, and/or athletic programs, with persons enrolled primarily for periods of not less than one week, and with a group dining facility only if overnight accommodations are included. Such a camp may erect or maintain one boathouse per pond per camp facility ownership in effect at the time of the passage of this by-law. Such structures shall be permitted only in accordance with the provisions of Section 7550.

Campground – For Profit. Premises used for campers, tenting or for temporary overnight facilities of any kind where a fee is charged.

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

Educational Use. Use of land and structures within the meaning of M.G.L. Chapter 40A, Section 3.

Golf Course. A recreational facility for the practice, instruction and playing of golf. Miniature golf courses and any golf course of more than nine (9) holes shall be prohibited. A nine (9) hole golf course shall be permitted only as an accessory use to a principal use such as a supervised campground or an adult retirement cluster subdivision, and only upon issuance of a special permit. The minimum lot area required for any principal use that desires to construct a nine (9) hole golf course shall be 300 acres owned by the principal use at the time of the passage of this Zoning By-law.

Home Occupation. A business or profession engaged in within a dwelling by a resident of thereof as a secondary use of the dwelling. Home occupations shall comprise no more than 30% of the floor area of the dwelling. All outdoor storage of equipment shall be prohibited. The provisions of Section 4110 of this Zoning By-law shall apply to all home occupations.

Lot Coverage. For the purposes of this Article, lot coverage shall mean any land surface area covered by an impervious surface. Impervious surfaces shall include, but not be limited to, any roof, concrete or other impervious material or surface, swimming pool, any impervious sport or recreation area such as basketball or tennis courts, driveways constructed with asphalt or other types of impervious paving. The roof(s) of accessory structures shall be included in the maximum lot coverage calculation.

Municipal Use. A municipal use shall include any use of land, buildings, and structures by the Town of Sandwich that is compatible with the purpose of the District. No state or municipal entity shall locate a public well within the District without first demonstrating that the water withdrawals proposed by such public supply well will not be a detriment to the ponds, rare or endangered species or any other resource within the District.

Museum. Premises for the procurement care and display of inanimate objects of lasting historical or cultural interest and value.

Nursing home, convalescent home. An establishment providing housing and general care for the aged or the convalescent including any premises licensed as such by the Massachusetts Department of Public Health under Section 51 or 71 of Chapter 111, Massachusetts General Law.

Open Space Residential Development. A form of residential subdivision that encourages variation in development styles and minimizes the impacts of development while providing efficient arrangement of roads and utilities and preserves open space in perpetuity for the protection of natural resources and the character of the District. All parcels or contiguous parcels of land of 80 or more acres seeking subdivision approval shall be subdivided as an Open Space Residential Development through a special permit from the Planning Board.

Philanthropic Institution. An endowed or charitably supported, not-for-profit religious, educational or non-sectarian activity maintained for public or semi-public use.

Preservation Zone. An area of land depicted on the Three Ponds District Map that is not suitable for development due to the sensitive nature of the natural resources located there. No new development or extension of any existing use or structure shall occur within any Preservation Zone.

Religious Use. Section 3. Use of land, buildings, and structures by a religious sect, denomination, or community service organization as defined under M.G.L. c.40A,

Seasonal Facility. A facility that offers activities that do not occur and are not designed to occur on a year round basis.

Single Family Home. A free standing building located on a separate building lot that is used exclusively for residential use by not more than one family.

Spa. A resort that provides services that enhances the health and well being of its guests. Typical spa facilities provide: instruction in exercise, nutrition, general health and fitness; opportunities to access a wide variety of exercise equipment, body work therapists, swimming facilities, outdoor hiking trails and small scale outdoor recreation such as tennis courts, croquet courts, etc. The spa shall consist of a building or group of buildings, a portion thereof designed for serving food in a dining room and containing 15 or more sleeping rooms for overnight guests together with both the indoor and outdoor recreational facilities. All spa facilities shall be for the exclusive use of the overnight guests of the spa. A spa is not allowed on parcels less than 25 acres in area. Setback requirements of the district are doubled for spa lots. The spa lot must maintain a 50' undisturbed vegetated buffer around the lot perimeter.

Stables. Premises used for the shelter and feeding of horses.

Structure. See Definition section of this Zoning By-law.

Swimming Pool. See Definition section of this Zoning By-law.

Water Dependent Structures. Any structure that requires direct access to or location on Lawrence, Spectacle or Triangle ponds. Such a structure shall include, but not be limited to, any structure that provides access to the ponds for the purposes of fishing, swimming, diving, boating or other water based recreational activities. Any boardwalk or other walkway constructed for the

purpose of gaining access to the ponds shall be limited to three (3) feet in width, or any greater width required by law. Water dependent uses and structures other than those proposed or used for recreation or education shall be prohibited.

Wireless Telecommunications Services. As provided in Section 3800 of this Zoning By-law.

7100. Permitted Uses.

Agricultural Uses on Parcels of more than 5 acres
Accessory Structures: Garage, shed, boathouse, or swimming pool
Campground by a not-for-profit organization
Camping, supervised by a not-for-profit organization
Educational Use
Home Occupation
Municipal Use
Religious Use
Single Family Home
Wireless Telecommunications Services

Conditional Uses. A special permit may be granted to allow the following accessory and principal uses, with appropriate conditions. Such a permit shall be granted if, it appears that nuisance, hazard, or congestion will be created by the proposed use or if for other reasons the proposed use would cause substantial harm to the neighborhood or derogate from the intent of this by-law so that the purposes and objectives of the District would not be satisfied.

Accessory Uses:

Accessory Dwelling Unit
Stables as an accessory to a principal use
Swimming Pool as an accessory to a principal use
Nine (9) Hole Golf Course as an accessory use to a principal use

Adult Retirement Development
Assisted Living Facility
Bed & Breakfast
Campground – For Profit
Camping, Supervised – For Profit
Nursing home, convalescent home
Museum
Open Space Residential Development
Philanthropic institutions
Spa

Prohibited Uses. Any use not specifically allowed as of right or by special permit within this district is prohibited.

7110. Special Permit Granting Authority. For the purpose of Article VII, the Planning Board shall serve as the Special Permit Granting Authority (SPGA) unless otherwise indicated in Article VII.

7120. Special Permit Application Guidelines. The issuance of any special permit for any use or structure in the District shall be governed by the requirements of this Article and by the requirements and procedures set forth under Sections 1330 through 1370 of this Zoning By-law. In the event of a conflict between these provisions the stricter provisions shall be applied. The SPGA is authorized, upon receipt of a written request, to waive specific submission requirements of Sections 1330 through Sections 1370 if the SPGA deems a particular requirement to be duplicative or unnecessary.

7130. Nonconforming Vacant Lots. If a vacant lot, protected under M.G.L. Chapter 40A, Section 6 or under Section 2550 of this by-law, is too small to accommodate soil absorption systems, structures and/or stormwater runoff discharge in compliance with any Section of Article VII, these structures shall be located at least 300 feet or the maximum reasonable distance from the shoreline elevation of any pond located in the District.

7140. Existing Single Family Homes. An existing single family home that, at the time of the adoption of this by-law, does not meet the requirements of Article VII shall be allowed to continue to exist. Any additions, alterations, or septic system upgrades shall conform to the provisions of this by-law. To the extent that this provision is inconsistent with any other portion of this Zoning By-law, this Article shall control. Notwithstanding the foregoing, a landowner shall be allowed to take the following actions:

- a. Bring a substandard or failing septic system into compliance with Title V, provided that said system shall be sited at least 300 feet or the maximum reasonable distance from the shoreline elevation of any pond located in the District;
- b. Add onto any existing residential structure, provided that the cumulative resulting increase in the floor area of the addition does not exceed 60% of the total floor area of the dwelling before the first such addition (such floor area calculation shall include only habitable areas of the existing structure as defined by the Massachusetts Building Code) provided that said addition shall be sited at least 300 feet or the

maximum reasonable distance from the shoreline elevation of any pond located in the District; or

- c. Site an accessory structure provided that said structure shall be sited at least 300 feet or the maximum reasonable distance from the shoreline elevation of any pond located in the District.

7150. Change, Extension or Alteration. No change, extension or alteration of a pre-existing non-conforming use and no change extension or alteration of a pre-existing non-conforming structure shall be made except upon issuance of a special permit from the SPGA. Such special permit shall be granted only when the SPGA finds that the proposed change, extension or alteration of a pre-existing non-conforming use or the change, extension or alteration of a pre-existing non-conforming structure is not substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming structure. The following conditions shall apply to any special permit granted under this section:

- a. Any change, extension or alteration may occur only upon those parcels of land upon which the pre-existing non-conforming use or structure is located.
- b. Soil absorption systems, structures, including stormwater structures and stormwater discharge, shall be located at least 300 feet or the maximum reasonable distance from the shoreline elevation of any pond located in the District.
- c. All new construction including any parking, driveways or roadways shall be substantially screened from abutters, District scenic roads, and the ponds located in the District.
- d. All new construction shall strive to preserve any scenic views from scenic roads or from the ponds located in the District.
- e. The SPGA may consider proposals to change, extend, alter or relocate a pre-existing non-conforming use or a pre-existing non-conforming structure that provide a clearly demonstrated benefit to the District, the District surface waters and other District's resources. The applicant shall factually demonstrate to the satisfaction of the SPGA using scientific methods that the proposed change, extension or alteration better protects the resources of the District than the existing structure or use does in its present location or configuration.

7200. Dimensional Regulations. Lot size, lot width, set backs, coverage and height regulations shall be as set forth below:

Minimum Lot Size	2 acres
Minimum Lot Frontage	200 feet
Minimum front yard setbacks	50 feet
Minimum side and rear yard setbacks	45 feet
Maximum lot coverage %	25 %
Maximum building height	35 feet

7500. Pond Shoreline Buffer Requirements

7510. Shoreline Location. The pond shoreline location for District's ponds shall be measured from the following elevations as shown on the map "Three Ponds District drawn by the Cape Cod Commission and dated January 30, 2001":

Pond	Elevation
Lawrence Pond	65
Spectacle Pond	67
Triangle Pond	66

7520. Prohibitions. The following are prohibited within 300 feet of a pond's shoreline:

- a. Septic Systems (Soil Absorption Systems) and leaching fields.
- b. Direct discharge of stormwater or stormwater runoff that travels through or upon the 300 feet pond buffer originating from roads, rooftops, developed land areas and any other uses and/or activities.
- c. Use of pesticides, herbicides and fertilizers, which contain nitrogen and phosphorous, in amounts detrimental to the surface water quality.
- d. No agricultural animals shall be housed, stored, grazed or herded within the 300-foot shore buffer for any pond located in the District. No agricultural animal waste shall be stored or otherwise located within the 300-foot shore buffer for any pond located in the District.
- e. All principal and accessory structures, including impervious paving, fencing, walls and water dependent structures except as provided in Section 7020 and 7150.

7530. Water Dependent Structures. Any new water dependent structure or change, extension or alteration to an existing water dependent structure that may be allowed under Section 7150 or under the definitions in Article VII shall be located no closer than 300 feet from the shoreline elevation of any pond located in the District. However, a water dependent structure may be allowed within 300 feet of the shoreline elevation for any pond located in the District by special permit, but only if the following criteria are met:

- a. Sections 1330 and 7520 subsections a. through d. of the Sandwich Protective Zoning By-law are adhered to;

- b. The proposed structure shall have a footprint that does not exceed 24' by 30';
- c. The applicant shall demonstrate the need for placing the structure within the 300 foot buffer; and
- d. The applicant shall demonstrate the benefit of placing the structure within the 300-foot buffer.

7600. Scenic Road Corridor. The following regulations shall apply to the following roadways and roadway segments within the District:

- a. Farmersville Road from the westerly intersection with Stowe Road to the easterly intersection of Stowe Road;
- b. Pinkham Road from Stowe Road to the northern boundary of the district;
- c. Great Hill Road from Farmersville Road to Popple Bottom Road; and
- d. Stowe Road in its entirety.

7610. New Structures. The following criteria shall be met to preserve the character and enhance safe travel on the scenic roadways:

- a. New structures shall not be located closer than 100 feet from the edge of pavement on any of the roadways or roadway segments described in Section 7600.
- b. With the exception of a curb cut for a driveway, a minimum 100 foot buffer of natural vegetation, including over story and under story vegetation, shall be maintained along the frontage of all lots fronting on the roadways and roadway segments described in Section 7610.
- c. Where a lot in existence at the time of the adoption of this Article is of a size that the 100 foot scenic road buffer and/or the 300 foot pond buffer as required in Section 7500 cannot be met and the lot is protected as buildable under state or local law, development may be allowed provided the following criteria apply:
 - 1. Dense plantings of evergreen vegetation combined with the construction of berms shall be installed to screen new construction from the scenic road. Plant varieties shall be indigenous to the area and may include rhododendron, cedar, white pine, American holly, inkberry, spruce, fir, and sheep laurel.
 - 2. New lawn area shall not be planted within the 100-foot scenic road corridor.
- d. New subdivisions shall be designed to incorporate the 100-foot scenic road corridor along subdivision roadways as part of the required open space.

7620. Shared or Common Driveways. The following guidelines shall apply to new development and driveway construction on any of the roadways and roadway segments as described in Section 7600.

- a. The use of shared driveways is encouraged whenever two lots are being created by any division of land regulated by the Subdivision Control Law including Approval Not Required divisions of land.
- b. Where 3 to 5 lots are being created as described in Section 7620 subsection a. a special permit from the Planning Board may reduce the frontage required by Section 7200 to a minimum of 100 foot for any lot that is subject to a permanent deed restriction requiring a shared driveway. The deed restriction language shall be submitted with the application for the division of the land and must be of a form and content acceptable to the Planning Board and Town Counsel. The deed restriction shall be recorded with the plan that divides the parcel. This provision shall only apply to the frontage dimensional requirement; no other dimensional requirement shall be lessened through this provision. Common driveway(s) created by such a special permit shall not be used as frontage for any lot.
- c. Where shared driveways are not feasible, driveways and new subdivision roadways shall be designed to meander or wind to obscure views of new development from the scenic roadway.
- d. The use of board fencing stained to blend with the natural landscape or natural finish wooden fencing especially split rail fencing is encouraged when installing fencing along front lot lines.
- e. Landowners and land developers are strongly encouraged to use siding and roofing colors that blend with the natural landscape. Such colors include browns, greys, dark greens and naturally stained building materials.
- f. New structures shall be sited to prevent obstruction of existing views of the ponds located in the District from any scenic roadway located in the District.

7700. Special Permit Criteria for Uses Accessory to an Allowed Principal Use

- 1. Nine (9) Hole Golf Course: The SPGA may grant a special permit for a nine (9) hole golf course in the District, but only after the applicant has demonstrated the following:
 - a. The design and layout of the golf course minimizes to the greatest extent possible impacts to the environment, water bodies, adjacent properties, and the natural habitats of plants and animals. These impacts shall be minimized or eliminated by retaining original land contours; by the installation of monitoring wells to ensure continued protection of the ground water and surface water quality; by conducting a thorough natural resources inventory; and by using encapsulated greens and/or other protective technologies that eliminate any threat to the resources of the District.
 - b. The design and layout of any nine (9) hole golf course shall avoid disturbing, impacting or altering key features of the landscape; natural landforms; plant and/or

- animal habitat; unfragmented forest areas; cultural and historical features; existing scenic views of the ponds; surface water bodies; surface and groundwater quality.
 - c. The plan shall show large buffer zones around the edges of habitat areas.
 - d. The proposal complies with all applicable sections of the Sandwich Protective Zoning By-law.
 - e. The proposal includes a thorough description of best management practices for maintenance of the course that includes minimizing or eliminating the use of pesticides, herbicides and fertilizers; installing irrigation systems that reduce water demand and reuses water; and by using drought and disease resistant plants and grasses. Best management practices shall be included as a condition of approval of any special permit.
 - f. The land upon which the golf course is to be constructed may include up to 50 acres of adjacent land not owned by the owner of the principal use to which the golf course is accessory. The owner of the principal use shall demonstrate control over any such adjacent property to the satisfaction of the SPGA.
2. Stables. The SPGA may grant a special permit for an accessory stable only after the applicant demonstrates the following:
- a. Stables housing or otherwise containing animals shall be set back a minimum of 100 feet from every lot line and a minimum of 200 feet from every dwelling or other principal structure.
 - b. No animals shall be housed, grazed, or herded within the 300-foot shore buffer for any pond located in the District. No animal waste shall be stored or otherwise located within the 300-foot shore buffer for any pond located in the District.
3. Swimming Pools. The SPGA may grant a special permit for an accessory swimming pool after the applicant demonstrates the following:
- a. That the installation of the swimming pool does not alter the natural landforms or topography in any way that is detrimental to the surface water quality of the ponds in the District or to any adjacent habitat areas.
 - b. That the erosion control plan submitted for approval by the Town Engineer prevents all erosion during site preparation, construction, installation, use, and maintenance of the swimming pool.
 - c. That the process of draining and/or filling the swimming pool is not detrimental to the pond water quality or to any adjacent habitat areas.

7800. Open Space Residential Development (OSRD). This section is established to permit variation in development styles and minimize the impacts of development while providing efficient provision of roads and utilities and to preserve open space in perpetuity for the protection of natural resources, the character of existing land by a special permit from the Planning Board.

7810. Application. An open space residential development is permitted in the District on upon issuance of a special permit from the Planning Board in accordance with Section 1330 of this Zoning By-law and Section 4400 through Section 4448 and upon issuance of definitive subdivision approval. The applications for a special permit and definitive subdivision approval shall proceed concurrently.

7820. Number of Dwelling Units. In addition to the provisions of Section 4441 of this Zoning By-law, the total number of residential units allowed within an open space residential district shall not exceed the number of units that would be allowed as demonstrated by the submission of an engineered plan of a conventional grid subdivision that conforms to the dimensional requirements of Section 7200 and the requirements of the most recent edition of the Sandwich Planning Board's Subdivision Rules & Regulations.

7821. Preservation Zone Transfer Of Development Rights. The allowed number of dwelling units (density) in an OSRD may include the number of units that could be constructed in any Preservation Zone depicted on the District map. The calculation for the applicable number of dwelling units shall be made in accordance with Section 7830. This number of units transferred to adjacent property shall be under the same ownership.

- a. No development shall take place within a Preservation Zone.
- b. The density allowed in the OSRD shall be calculated as the sum of the number of dwelling units transferred from a specifically described portion of a Preservation Zone plus the number of dwelling units allowed on the parcel(s) to be developed.
- c. Land that is the subject of a permanent conservation restriction or that has been dedicated as open space by any special permit or Development of Regional Impact decision shall not be used in the density calculation/transfer of development rights calculation.
- d. In no case shall the total density of any development in the District increase over the total allowed as demonstrated by an engineered plan of a conventional grid subdivision for all parcels included in the density calculation/transfer of development rights according to the dimensional requirements of Section 7200 and the requirements of the most recent edition of the Sandwich Planning Board's Subdivision Rules & Regulations.

7830. Dimensional Requirements. OSRD lot coverage, yard, frontage, and lot area regulations shall be as follows in lieu of Section 7200:

Minimum Lot Area	5,000 SF
Minimum Frontage	25 feet
Maximum Frontage	100 feet
Minimum Front Yard Setback	10 feet
Minimum Side and Rear Yard Setback	0 feet
Maximum Lot Coverage:	
Lot area – 5000 – 10000 SF	80 %
Lot area – 10001 – 20000 SF	70%
Lot area – 20001 – 30000 SF	60%
Lot area – 30001 – 1 acre	50%

7840. Permitted Uses. The following uses are permitted in an open space residential development:

- a. Single Family Dwelling: Detached, single family dwellings.
- b. Uses and structures accessory to single family homes including a duly permitted wastewater treatment facility.
- c. Open Space: Common open space, restricted in perpetuity.
- d. Recreational Facilities; Recreational facilities and activities for the exclusive use by the residents of the open space residential development.
- e. Commercial Uses: One commercial structure in OSRD's of 50 acres or more in size is allowed by special permit in conjunction with the construction of single or multi-family homes. Such structures shall house only the following uses: a general store that provides groceries, conveniences, sundries, mail center, indoor automatic teller machines, or a combination of these uses. All other commercial uses shall be prohibited. If a use proposed for such commercial structures is expected to generate traffic of more than 300 vehicle trips per day, such use shall be prohibited. Any such commercial structure shall have a maximum square footage of 800SF including all storage areas. Basement areas of the commercial structure may also be used for storage. Public use of basement areas is prohibited. Additionally, a second or third story for such structures may be allowed but shall be dedicated solely to residential use. The architecture of such a commercial structure shall be compatible with the architecture of the area and shall be designed to blend with the OSRD and the surrounding community. A maximum of 6 parking spaces (as defined in the Definition Section of this Zoning By-law) including employee parking and delivery areas may be constructed and shall be located entirely to the rear of the structure. Provisions for on street parking are encouraged. Lighting shall follow the requirements of Section 3470 of this Zoning By-law. Signage shall be limited to two signs per structure with a total area of 16SF painted to blend with the surrounding landscape and architecture.

7850. Waste Water. The OSRD shall comply with the provisions of 310 CMR 15.00 of the State Environmental Code (Title V), as amended, and the onsite wastewater disposal regulations of the Board of Health, as amended, including regulations for the design, operation, and maintenance of small wastewater treatment facilities. Based upon the recommendation of the Board of Health pursuant to Massachusetts General Law Chapter 41, Section 81U, OSRD lots may be developed utilizing a shared waste water system subject to under 310 C.M.R. 15.00 of the State Environmental Code and the wastewater Disposal Regulations of the Board of Health for the Design, Operation and Maintenance of Small Wastewater Treatment Facilities and subject to the following conditions and limitations which apply in addition to the provisions of Article V of this by-law.

- a. Any such wastewater system shall comply with all other provisions of this Article and the Zoning By-law.
- b. The concentration of nitrate resulting from such wastewater disposal system shall not exceed five (5) parts per million (PPM).

7860. Common Open Space. Within an OSRD the balance of the area requirement for lot size shall be provided in common open space, designated as an open space lot or lots on the definitive subdivision plan. Common open space shall be maintained in an open and natural condition, without clearing, in its natural condition for the protection of habitat. The open space shall be used, designed and maintained in accordance with the following standards:

- a. Purposes: Open space shall be used solely for recreation, conservation, or agricultural purposes by residents of the OSRD and/or the public. A minimum of 80% of the open space shall be left in the undisturbed, natural state existing at the time of the submission of the plan. In no case shall any land within the Preservation Zone be disturbed for any purpose. The proposed use of the open space shall be specified in the application and depicted on the plan. The Planning Board shall reserve the authority to approve or disapprove use(s) proposed for designated open space.
- b. Recreation lands: Where appropriate to the topography and natural features of the site, the Planning Board may require that 10% of the open space or two acres, whichever is less, shall be of a shape, slope, location and condition to provide an informal field for group recreation or community gardens for the residents of the OSRD.

- c. Leaching Facilities: Subject to the approval of the Board of Health, as otherwise required by law, the Planning Board may permit a portion of the open space to be used for components of sewage disposal systems serving the OSRD only, where the Planning Board finds that such use will not be detrimental to the character, quality or the use of open space, wetlands, surface water, or rare and endangered species habitat. The Planning Board shall require adequate legal safeguards and covenants that such facilities shall be adequately maintained by the landowners in the OSRD.
- d. Accessory Structures: Up to 5% of the open space may be set aside and designated to allow for the construction of structures and facilities accessory to the proposed use of the open space. The portion of the open space shall be calculated using the definition of maximum lot coverage in Section 7020.

7870. Common Open Space Ownership and Management. The Applicant for the approval of an OSRD special permit shall demonstrate to the Planning Board ownership and control of the open space as specified in the Cluster Special Permit Regulations of the Planning Board.

7900. Application Procedures

7910. Pre-Application Review. To promote better communication and avoid misunderstanding, applicants are encouraged to submit preliminary materials for informal review by the SPGA and the Director of Planning & Development before filing a formal application.

7920. Submission. Proposed Open Space Residential Developments shall comply with the "Cluster Development Special Permit Regulations" of the Sandwich Planning Board. In the case of an application to amend an existing Cluster Special Permit, the procedures in Section 4440 through Section 4448 inclusive shall apply, except as to such materials as the Planning Board may waive as duplicative of materials previously submitted. In the event that the above referenced sections conflict with any portion of this Zoning By-law, the more restrictive provision shall apply.

7930. Requirements. In addition to the provisions of this Article and the Zoning By-law, the OSRD shall comply with the "Cluster Development Special Permit Regulations" of the Sandwich Planning Board and M.G.L. Chapter 40A, Section 9.

7940. Open Space Residential Development Criteria for Approval. Approval of an Open Space Residential Development may be granted upon a determination by the Planning Board that the plan complies with all of the requirements of this Article, the other provisions of this Zoning By-law, the Planning Board's Regulations, and that the proposed plan meets or exceeds the following criteria:

- a. Preserves open space for conservation, recreation and the protection of the resources within the District;
- b. Utilizes, preserves and enhances the natural features of the land in the District;
- c. Provides the most efficient arrangement of streets, utilities and other public services in the District;
- d. Minimizes to the greatest extent possible the impacts of development upon the natural features and resources of the District;
- e. Enhances the character of the District by preserving scenic vistas, limiting traffic impacts, limiting the height of structures to the height of existing tree canopy and using building materials that blend with existing structures and the surrounding area; and
- f. Preserves, improves or enhances the surface water quality of the District.

7990. Other Conditions. The SPGA may require the applicant to provide or pay for engineering services, including but not limited to the following: evaluation of submitted proposals; natural resources inventory; evaluation of potential impacts to surface and ground water quality and any other reasonable evaluation for which the SPGA or town staff is not professionally qualified to conduct.

Jan Teehan moved the Article, amending the wording in the printed warrant as follows: To see if the Town will vote to amend the Sandwich Protective Zoning ByLaw by adding the following Article VII (7000) Three Ponds District and to amend the Town of Sandwich Zoning Map to create the Three Ponds District under M.G.L., c 40A. She also amended the wording of 7100 as follows:

7100 under **Conditional Uses** change the word "if" in the beginning of the second sentence to "unless" so that the amended sentence reads "Such a permit shall be granted unless it appears that a nuisance, hazard, or congestion will be created by the proposed use or if for other reasons the proposed use would cause substantial harm to the neighborhood or derogate from the intent of this Zoning ByLaw so that the purposes and objectives of the District would not be satisfied.

And

7130 A. **Protections under M.G.L. c.40A, §6.** All of the protections afforded under M.G.L. c.40A, §6 shall apply to the land within the District.

B. Nonconforming Vacant Lots. If a vacant lot, protected under either M.G.L. c.40A, §6 as a separate lot or under Section 2550 of this Zoning ByLaw, is too small to conform with any particular

requirement set forth under this Article than any resulting structure, including a soil absorption system or stormwater discharge, shall be located at least 300 feet or the maximum reasonable distance from the shoreline elevation of any pond located in the District.

VOTED:

That the Town amend the Sandwich Protective Zoning ByLaw by adding the following Article VII (7000) Three Ponds District and to amend the Town of Sandwich Zoning Map to create the Three Ponds District under M.G.L. c.40A as described in the warrant under Article 2 with the following amendments:

7100 under Conditional Uses change the word "if" in the beginning of the second sentence to "unless" so that the amended sentence reads "Such a permit shall be granted unless it appears that a nuisance, hazard, or congestion will be created by the proposed use or if for other reasons the proposed use would cause substantial harm to the neighborhood or derogate from the intent of this Zoning ByLaw so that the purposes and objectives of the District would not be satisfied."

and

7130 A. Protections under M.G.L. c.40A, §6. All of the protections afforded under M.G.L. c.40A, §6 shall apply to the land within the District.

B. Nonconforming Vacant Lots. If a vacant lot, protected under either M.G.L. c.40A, §6 as a separate lot or under Section 2550 of this Zoning ByLaw, is too small to conform with any particular requirement set forth under this Article then any resulting structure, including a soil absorption system or storm water discharge, shall be located at least 300 feet or the maximum reasonable distance from the shoreline elevation of any pond located in the District.

VOTED: This was a voice vote and declared carried by the necessary two-thirds majority by the Moderator.

ARTICLE 3

To see if the Town will vote to amend the Sandwich Town Bylaws by adopting the following as a new Chapter 9, Boat Operations and Use of Waterways, or take any action relative thereto.

Chapter 9

Boat Operations and Use of Waterways

Section 9.01 Purpose

The purpose and intent of this bylaw is to protect the health, safety and well being of the citizens and visitors using Sandwich's waterways and to protect the quality and viability of the Town's natural resources by the reasonable regulation of the operation of watercraft.

Section 9.02 Definitions

Great Pond shall mean a natural pond the area which is twenty (20) acres or more.

Headway Speed shall mean the minimum speed at which a vessel may be operated and maintain steerage way, but not to exceed six (6) miles per hour.

Horsepower shall mean the aggregate rated horsepower of all propellant machinery at maximum operating revolutions per minute.

Licensed Docks and Piers shall mean docks and piers that have a valid Order of Conditions from the Sandwich Conservation Commission and a valid license from the Massachusetts Department of Environmental Protection, to install and maintain the dock or pier.

Limited Operation Zone shall mean the area of the waterbody, as measured three hundred (300) feet from the shoreline being used as a public or private swimming beach, towards the center of the particular waterbody.

Motorboat shall mean any vessel propelled by machinery whether or not such machinery is the principal source of propulsion.

Nighttime shall mean the period from sunset to sunrise as determined by the chart attached in Appendix 1.

Overloaded shall mean the number of persons aboard or cargo being carried, exceeds the manufacturer's recommended limit for such vessel or is excessive given wind, water and weather conditions.

Owner shall mean the person to whom the vessel is registered, or to whom the vessel mooring is registered. In the case of an unregistered vessel, the last registered owner/purchaser shall be considered the owner.

Personal Watercraft shall mean a vessel, by whatever name, propelled by a water jet pump or other machinery as its principal source of motor propulsion which is designed to travel over water and to be operated by a person sitting, standing or kneeling on the vessel rather than being operated in the conventional manner by a person sitting or standing inside the vessel, including but not limited to, jet skis, surf jets, and wet bikes.

Shoreline Safety Zone shall mean the area of the waterbody, as measured, one hundred fifty (150) feet from a shoreline, which is being used as a public or private swimming area or the area of the waterbody, as measured, seventy five (75) feet from the waterside boundary of a public or private swimming area, if designated by markers, floats, or otherwise, towards the center of the particular waterbody.

Similar Device when used in connection with the words "water skis" and "surfboard" shall mean any object used in the towing of a person or persons by a motorboat whether the person or persons ride on the device or hold onto it.

Sunrise – Sunset shall be determined by the chart set forth in the current issue of Eldridge's Tide and Pilot Book.

Town shall mean the Town of Sandwich, Massachusetts.

Town Hall Annex shall mean the building at 145 Main Street Sandwich, Massachusetts.

Town Office Building shall mean the building at 16 Jan Sebastian Drive, Sandwich, Massachusetts.

Vessel is a watercraft of every description used or capable of being used as a means of transportation on water, except a seaplane on the water.

Wake - Wash shall mean the discharge from the stern portion of a motorboat or personal watercraft or other vessel which causes excessive rocking to other vessels, rafts, or floats.

Water Skiing shall mean the towing of a person or person(s) on water skis, or manipulation of a person or person(s) on water skis, or on a surfboard or other similar device behind a vessel.

Section 9.03 VESSEL SPEED

- (1) Vessel speed shall not exceed headway speed and no wake - wash shall be created on any pond not a Great Pond.
- (2) Vessel speed shall not exceed headway speed and no wake - wash shall be created on the following Great Ponds: Lower Shawme Pond, and Upper Shawme Pond, or other Great Pond of less than seventy five (75) acres in size.
- (3) Vessel speed shall not exceed headway speed and no wake - wash shall be created in areas posted by the Town, within marked channels, nor within one hundred fifty (150) feet of individual bathers, divers, small vessels propelled by means other than machinery (e.g. rowboats, sailboats), mooring areas, public and private boat launch areas, floats, marinas, licensed docks and piers, vessels not underway, nor within a limited operation zone.
- (4) No vessel shall be operated at any time on any pond at a speed greater than is reasonable and proper having regard for the lives and safety of the public; the state of visibility; the traffic density; the maneuverability of the vessel; the state of wind, water and current; and the proximity of navigational hazards.
- (5) Vessels operating on Peters Pond shall not exceed thirty five (35) miles per hour.

Section 9.04 HORSEPOWER

- (1) Horsepower of internal combustion engines shall not exceed six (6) horsepower on any pond not a Great Pond, and on the following ponds: Lower Shawme Pond and Upper Shawme Pond.
- (2) Horsepower of internal combustion engines shall not exceed ten (10) horsepower on Pimlico Pond.
- (3) Horsepower of internal combustion engines shall not exceed fifteen (15) horsepower on the following Great Ponds: Lawrence Pond; Triangle Pond; Spectacle Pond; Snake Pond.
- (4) There shall be no horsepower limitation on Peters Pond.
- (5) Notwithstanding the other provisions of Chapter 8, the Board of Selectmen or their designee shall permit persons operating larger horsepower engines on Town waterways, prior to January 2001, to continue to operate larger horsepower engines, but not including personal watercraft, on Lawrence

Pond, Spectacle Pond, and Snake Pond, for a period of seven (7) years from the date of the approval of the Director of the Division of Law Enforcement and the Attorney General of Chapter 8, but no later than December 31, 2008, provided such persons shall provide proof of such use to the Conservation Officer, and provided that such persons meet the guidelines promulgated by the Board of Selectmen concerning the requirements for continuation of the use of larger horsepower engines. These guidelines shall be promulgated by the Board of Selectmen within one hundred twenty (120) days of the receipt of the approval of the Director of the Division of Law Enforcement and the Attorney General of Chapter 8.

- (6) Notwithstanding the other provisions of Chapter 8 and recognizing that some long standing non-profit organizations have utilized various waterbodies for instructional purposes, the Board of Selectmen may permit these non-profit organizations continued use of larger horsepower engines for transport or safety vessels, not to exceed fifty (50) horsepower, within set guidelines. These guidelines shall be promulgated by the Board of Selectmen within one hundred twenty (120) days of the receipt of the approval of the Director of the Division of Law Enforcement and the Attorney General of Chapter 8. The non-profit organization shall submit an application which is available at the Conservation Department. Following a public hearing on the application, the Board of Selectmen may issue a permit to allow the continued use of larger horsepower engines. Any permit issued shall expire five (5) years from the date of issue. Violations of the permit conditions may be cause for revocation.
- (7) Sections 8.04 (3), (5) & (6) shall not be enforced until the guidelines referenced in 8.04 (5) & (6) are promulgated by the Board of Selectmen.

Section 9.05 OPERATION

- (1) Vessels shall not be operated on any pond at greater than headway speed and create no wake - wash, between the hours of sunset to sunrise.
- (2) No vessel shall be operated at any time on any pond in an overloaded condition.
- (3) Motorboats and Personal Watercraft shall not be operated within a shoreline safety zone except for the purpose of launching or retrieving such vessel provided they remain outside of the designated swimming area(s), and operate at headway speed, only within the shoreline safety zone.
- (4) Personal Watercraft operation is prohibited on Peters Pond, after the hour of 7:00 PM or after sunset, whichever occurs first, daily.
- (5) Personal Watercraft operation is prohibited on Peters Pond, when vision is unduly restricted by weather.

Section 9.06 SCUBA DIVING

- (1) Any person SCUBA diving or group of SCUBA divers while swimming on or under the surface of the waters of Sandwich shall display for each diver or group of divers as a warning device to boat operators, a diver's flag, so called, constructed of rigidly supported material, at least twelve (12) inches by fifteen (15) inches in area of red background with a white diagonal stripe. Such diver's flag shall be displayed on a boat or surface float and shall extend a minimum distance of three (3) feet from the surface of the water. Divers shall remain in an area within one hundred (100) feet of such displayed diver's flag while at or near the surface of the water. A boat operator within sight of a diver's flag shall proceed with caution and within a radius of one hundred (100) feet of such flag shall proceed at a speed not to exceed headway speed.

Section 9.07 POLLUTION

- (1) The discharge or disposal of oil, sewage, dead fish, fish parts, garbage, waste, rubbish or debris from vessels on or into the waters or onto the shores of Sandwich, is prohibited.

Section 9.08 ENFORCEMENT

- (1) The provisions of this bylaw shall be enforced by the Conservation Officer, Harbormaster, Assistant Harbormasters, or by a Police Officer of the Town assigned to patrol Town waterways.
- (2) All persons shall stop when directed to do so by an officer empowered to enforce this bylaw.

Section 9.09 PENALTIES

- (1) Whoever violates any of the provisions of this bylaw and refuses or neglects to obey the lawful and reasonable order of those empowered to enforce the same, or resists them in the discharge of their duties, shall be fined not more than three hundred (300) dollars or in the case of non-criminal enforcement, fifty (50) dollars for the first offense and two hundred (200) dollars for every violation, thereafter. Each day or portion thereof during which a violation continues shall constitute a separate offense and each provision of the bylaw violated shall constitute a separate offense.
- (2) As an alternative to criminal prosecution, the enforcing agent may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Chapter 40, Section 21D as adopted by the Town of

Sandwich.

Section 9.10 JURISDICTION

- (1) Nothing contained herein shall be held or construed to supersede or conflict with or interfere with or limit jurisdiction of the United States Government with respect to the enforcement of the navigation, shipping, anchorage and associated laws of the United States, or any lawful regulation of the Massachusetts Division of Waterways, or the Division of Law Enforcement, or to conflict with any laws or regulations of the Commonwealth of Massachusetts. Vessels operated by public safety agencies of the Town, State or the United States Government are exempt from complying with the provisions of this bylaw.

Section 9.11 SEVERABILITY

- (1) The invalidity of any provision of this bylaw shall not invalidate any other provision thereof.

Jan Teehan moved the Article, amending the wording as follows: Section 9.05 (4) After the word “first,” insert the words “and before sunrise.” This should now read: Personal watercraft operation is prohibited on Peters Pond, after the hour of 7:00 P.M. or after sunset, whichever occurs first, and before sunrise, daily.

George H. Dunham, Town Administrator, noted a typographical error in the Warrant, stating that all references to Chapter 8 or Section 8 should be Chapter 9 or Section 9.

Charles W. Kleekamp offered the following amendment: Delete paragraph (1) of Section 9.04 HORSEPOWER and replace it with the following paragraph:

- (1) Horsepower of internal combustion engines shall not exceed six (6) horsepower on any pond not a great pond; however, no internal combustion engines shall be operated on the Upper and Lower Shawme Ponds except for emergency watercraft or town-authorized maintenance vessels. An electric motor, commonly known as an electric trolling motor, may be used for propulsion on the Upper and Lower Shawme Ponds.

A voice vote was taken on the amendment and the Moderator declared it carried.

Matthew S. Crocker offered the following amendment: Amend Article 3, Chapter 9, Section 9.04 (3) which states horsepower not to exceed fifteen horsepower to exclude Snake Pond and include Snake Pond in Section 9.04 (4) which would impose no limitation of horsepower.

A voice vote was taken on the amendment and the Moderator declared it was defeated.

Another amendment was offered as follows: 9.04 (3) to read: horsepower of internal combustion engines shall not exceed 15 horsepower on the following great ponds: Triangle Pond, Spectacle Pond, and Snake Pond, and 9.04 (4) to read: There shall be no horsepower limitation on the following ponds: Peters Pond, Lawrence Pond.

A voice vote was taken on the amendment and the Moderator declared it was defeated.

Back to the main motion as amended.

VOTED: That the Town amend the Sandwich Town ByLaws by adopting Chapter 9, “Boat Operations and Use of Waterways” as follows:

Chapter 9
Boat Operations and Use of Waterways

Section 9.01 Purpose

The purpose and intent of this bylaw is to protect the health, safety and well being of the citizens and visitors using Sandwich’s waterways and to protect the quality and viability of the Town’s natural resources by the reasonable regulation of the operation of watercraft.

Section 9.02 Definitions

Great Pond shall mean a natural pond the area which is twenty (20) acres or more.

Headway Speed shall mean the minimum speed at which a vessel may be operated and maintain steerage way, but not to exceed six (6) miles per hour.

Horsepower shall mean the aggregate rated horsepower of all propellant machinery at maximum operating revolutions per minute.

Licensed Docks and Piers shall mean docks and piers that have a valid Order of Conditions from the

Sandwich Conservation Commission and a valid license from the Massachusetts Department of Environmental Protection, to install and maintain the dock or pier.

Limited Operation Zone shall mean the area of the waterbody, as measured three hundred (300) feet from the shoreline being used as a public or private swimming beach, towards the center of the particular waterbody.

Motorboat shall mean any vessel propelled by machinery whether or not such machinery is the principal source of propulsion.

Nighttime shall mean the period from sunset to sunrise as determined by the chart attached in Appendix 1.

Overloaded shall mean the number of persons aboard or cargo being carried, exceeds the manufacturer's recommended limit for such vessel or is excessive given wind, water and weather conditions.

Owner shall mean the person to whom the vessel is registered, or to whom the vessel mooring is registered. In the case of an unregistered vessel, the last registered owner/purchaser shall be considered the owner.

Personal Watercraft shall mean a vessel, by whatever name, propelled by a water jet pump or other machinery as its principal source of motor propulsion which is designed to travel over water and to be operated by a person sitting, standing or kneeling on the vessel rather than being operated in the conventional manner by a person sitting or standing inside the vessel, including but not limited to, jet skis, surf jets, and wet bikes.

Shoreline Safety Zone shall mean the area of the waterbody, as measured, one hundred fifty (150) feet from a shoreline, which is being used as a public or private swimming area or the area of the waterbody, as measured, seventy five (75) feet from the waterside boundary of a public or private swimming area, if designated by markers, floats, or otherwise, towards the center of the particular waterbody.

Similar Device when used in connection with the words "water skis" and "surfboard" shall mean any object used in the towing of a person or persons by a motorboat whether the person or persons ride on the device or hold onto it.

Sunrise – Sunset shall be determined by the chart set forth in the current issue of Eldridge's Tide and Pilot Book.

Town shall mean the Town of Sandwich, Massachusetts.

Town Hall Annex shall mean the building at 145 Main Street Sandwich, Massachusetts.

Town Office Building shall mean the building at 16 Jan Sebastian Drive, Sandwich, Massachusetts

Vessel is a watercraft of every description used or capable of being used as a means of transportation on water, except a seaplane on the water.

Wake – Wash shall mean the discharge from the stern portion of a motorboat or personal watercraft or other vessel which causes excessive rocking to other vessels, rafts, or floats.

Water Skiing shall mean the towing of a person or person(s) on water skis, or manipulation of a person or person(s) on water skis, or on a surf board or other similar device behind a vessel.

Section 9.03 VESSEL SPEED

- (1) Vessel speed shall not exceed headway speed and no wake - wash shall be created on any pond not a Great Pond.
- (2) Vessel speed shall not exceed headway speed and no wake - wash shall be created on the following Great Ponds: Lower Shawme Pond, and Upper Shawme Pond, or other Great Pond of less than seventy five (75) acres in size.
- (3) Vessel speed shall not exceed headway speed and no wake - wash shall be created in areas posted by the Town, within marked channels, nor within one hundred fifty (150) feet of individual bathers, divers, small vessels propelled by means other than machinery (e.g. rowboats, sailboats), mooring areas, public and private boat launch areas, floats, marinas, licensed docks and piers, vessels not underway, nor within a limited operation zone.
- (4) No vessel shall be operated at any time on any pond at a speed greater than is reasonable and proper having regard for the lives and safety of the public; the state of visibility; the traffic density; the maneuverability of the vessel; the state of wind, water and current; and the proximity of navigational hazards.

- (5) Vessels operating on Peters Pond shall not exceed thirty five (35) miles per hour.

Section 9.04 HORSEPOWER

- (1) Horsepower of internal combustion engines shall not exceed six (6) horsepower on any pond not a Great Pond; however, no internal combustion engines shall be operated on the Upper and Lower Shawme Ponds except for emergency watercraft or town-authorized maintenance vessels. An electric motor, commonly known as an electric trolling motor, may be used for propulsion on the Upper and Lower Shawme Ponds.
- (2) Horsepower of internal combustion engines shall not exceed ten (10) horsepower on Pimlico Pond.
- (3) Horsepower of internal combustion engines shall not exceed fifteen (15) horsepower on the following Great Ponds: Lawrence Pond; Triangle Pond; Spectacle Pond; Snake Pond.
- (4) There shall be no horsepower limitation on Peters Pond.
- (5) Notwithstanding the other provisions of Chapter 9, the Board of Selectmen or their designee shall permit persons operating larger horsepower engines on Town waterways, prior to January 2001, to continue to operate larger horsepower engines, but not including personal watercraft, on Lawrence Pond, Spectacle Pond, and Snake Pond, for a period of seven (7) years from the date of the approval of the Director of the Division of Law Enforcement and the Attorney General of Chapter 9, but no later than December 31, 2008, provided such persons shall provide proof of such use to the Conservation Officer, and provided that such persons meet the guidelines promulgated by the Board of Selectmen concerning the requirements for continuation of the use of larger horsepower engines. These guidelines shall be promulgated by the Board of Selectmen within one hundred twenty (120) days of the receipt of the approval of the Director of the Division of Law Enforcement and the Attorney General of Chapter 9.
- (6) Notwithstanding the other provisions of Chapter 9 and recognizing that some long standing non-profit organizations have utilized various waterbodies for instructional purposes, the Board of Selectmen may permit these non-profit organizations continued use of larger horsepower engines for transport or safety vessels, not to exceed fifty (50) horsepower, within set guidelines. These guidelines shall be promulgated by the Board of Selectmen within one hundred twenty (120) days of the receipt of the approval of the Director of the Division of Law Enforcement and the Attorney General of Chapter 9. The non-profit organization shall submit an application which is available at the Conservation Department. Following a public hearing on the application, the Board of Selectmen may issue a permit to allow the continued use of larger horsepower engines. Any permit issued shall expire five (5) years from the date of issue. Violations of the permit conditions may be cause for revocation.
- (7) Sections 9.04 (3), (5) & (6) shall not be enforced until the guidelines referenced in 9.04 (5) & (6) are promulgated by the Board of Selectmen.

Section 9.05 OPERATION

- (1) Vessels shall not be operated on any pond at greater than headway speed and create no wake - wash, between the hours of sunset to sunrise.
- (2) No vessel shall be operated at any time on any pond in an overloaded condition.
- (3) Motorboats and Personal Watercraft shall not be operated within a shoreline safety zone except for the purpose of launching or retrieving such vessel provided they remain outside of the designated swimming area(s), and operate at headway speed, only within the shoreline safety zone.
- (4) Personal Watercraft operation is prohibited on Peters Pond, after the hour of 7:00 PM or after sunset, whichever occurs first, and before sunrise, daily.
- (5) Personal Watercraft operation is prohibited on Peters Pond, when vision is unduly restricted by weather.

Section 9.06 SCUBA DIVING

- (1) Any person SCUBA diving or group of SCUBA divers while swimming on or under the surface of the waters of Sandwich shall display for each diver or group of divers as a warning device to boat operators, a diver's flag, so called, constructed of rigidly supported material, at least twelve (12) inches by fifteen (15) inches in area of red background with a white diagonal stripe. Such diver's flag shall be displayed on a boat or surface float and shall extend a minimum distance of three (3) feet from the surface of the water. Divers shall remain in an area within one hundred (100) feet of such displayed diver's flag while at or near the surface of the water. A boat operator within sight of a diver's flag shall proceed with caution and within a radius of one hundred (100) feet of such flag shall proceed at a speed not to exceed headway speed.

Section 9.07 POLLUTION

- (1) The discharge or disposal of oil, sewage, dead fish, fish parts, garbage, waste, rubbish or debris from vessels on or into the waters or onto the shores of Sandwich, is prohibited.

Section 9.08 ENFORCEMENT

- (1) The provisions of this bylaw shall be enforced by the Conservation Officer, Harbormaster, Assistant Harbormasters, or by a Police Officer of the Town assigned to patrol Town waterways.
- (2) All persons shall stop when directed to do so by an officer empowered to enforce this bylaw.

Section 9.09 PENALTIES

- (1) Whoever violates any of the provisions of this bylaw and refuses or neglects to obey the lawful and reasonable order of those empowered to enforce the same, or resists them in the discharge of their duties, shall be fined not more than three hundred (300) dollars or in the case of non-criminal enforcement, fifty (50) dollars for the first offense and two hundred (200) dollars for every violation, thereafter. Each day or portion thereof during which a violation continues shall constitute a separate offense and each provision of the bylaw violated shall constitute a separate offense.
- (2) As an alternative to criminal prosecution, the enforcing agent may elect to utilize the non-criminal disposition procedure set forth in M.G.L. Chapter 40, Section 21D as adopted by the Town of Sandwich.

Section 9.10 JURISDICTION

- (1) Nothing contained herein shall be held or construed to supersede or conflict with or interfere with or limit jurisdiction of the United States Government with respect to the enforcement of the navigation, shipping, anchorage and associated laws of the United States, or any lawful regulation of the Massachusetts Division of Waterways, or the Division of Law Enforcement, or to conflict with any laws or regulations of the Commonwealth of Massachusetts. Vessels operated by public safety agencies of the Town, State or the United States Government are exempt from complying with the provisions of this bylaw.

Section 9.11 SEVERABILITY

- (1) **The invalidity of any provision of this bylaw shall not invalidate any other provision thereof.**

This was a hand vote, 177 Yes and 147 No, and declared carried by the Moderator.

ARTICLE 4

To see if the Town will vote to hear the report of the Capital Improvement Planning Committee, or take any action relative thereto.

The Capital Planning Committee Report dated March 19, 2001 was given by Susan James as follows: At the last May's annual Town meeting the Capital Planning Committee asked to defer its final annual report because the consulting engineer's figures on the Town building maintenance costs had not yet been finalized. I am here this evening to give the Committee's delayed report.

Since its inception two years ago, the Committee has had three primary objectives:

(1) To initiate a capital budgeting process for equipment replacement and maintenance that would be consistent, collaborative, and efficient. (2) To develop a long-term capital plan that could forecast major non-recurring capital expenditures and their effect on the tax rate. (3) To complete a comprehensive assessment of Town-owned buildings, make recommendations for rectifying problems caused by deferred maintenance, and institute a regular maintenance program.

Committee members, along with the Town administrators, have put in place a process by which the capital budget can be collaboratively developed annually. Capital request forms are distributed to Department Heads in early fall and are returned to the Committee with their requests. These forms ask Department Heads to consider the current condition of equipment, the cost of the equipment or department project, the recommended method for funding the project, and whether the request relates to any of a number of priorities (public health and safety, to meet regulatory requirements, improve operational efficiency, etc.). These capital requests are then collated and put into a preliminary Town-wide five-year plan. The Capital Planning Committee, along with the Town Administrators, then review the plan and decide on a total allocation amount for the year. The objective is to sensibly plan for regular equipment replacement and maintenance, while not overburdening the taxpayers. After the allocation amount is identified, the Town Administrators hold several meetings with Department Heads where they look at the needs and requests from all departments and collaboratively decide on the plan for the year. The process appears to be working well. For the last few years, approximately \$400,000 per year has been appropriated for the capital plan.

Last fall, after much consultation with Town departments, the Committee developed a preliminary capital forecast, which looks at likely upcoming major non-recurring capital expenditures and their potential financial impact on the Town's tax rate. Because the Town can now estimate its build-out population, the

Committee has been better able to estimate the infrastructure that would be required to service that population. Space, required for efficient government functions, schools, and recreation is certainly an important issue. Maintaining the road infrastructure is also critical. The Town is in the process of looking at various plans for addressing these needs. As a result of the framework the Committee has developed, the Town is now able to begin to plan for the long term and forecast tax rate impacts under a variety of timetables and underlying assumptions.

Finally, the Committee is pleased to report that the building engineering study that began over a year ago has been completed. The good news is that the Town buildings for the most part have not suffered severe neglect as a result of the tight financial times of the late 1980s and early 1990s. However, a fairly substantial amount of money will be required over the next five years to complete deferred maintenance and bring the buildings' condition to a point that routine maintenance will prevent further deterioration. The consulting engineer made many detailed recommendations for each building. These recommendations were given to Department Heads for their review and discussion. Feedback to the Committee has resulted in a list of projects that are recommended for this year and deferred maintenance projects for the upcoming four years. The Committee and Department Heads have identified approximately \$2 million over the next five years to complete this deferred maintenance. It is important for the Townspeople to understand that maintenance is essential on Town buildings that may possibly be replaced by a municipal building project because such a project could not be completed for several years and the buildings need maintenance now. The Committee also believes that the Townspeople should be given the opportunity to make a commitment to the continuing regular maintenance and repair of Town-owned buildings by doing what they would do for their own property maintenance; that is, to put aside money regularly for maintenance and repair. This is why the Capital Planning Committee at this time is advising the Town that it will be coming to the Annual Town Meeting in May with a request for an override of \$500,000 for extraordinary maintenance. This sum will be used by the Town to complete deferred maintenance projects and to properly maintain the buildings in the future.

VOTED: To hear the report of the Capital Improvement Planning Committee.
This was a voice vote and declared carried by the Moderator.

ARTICLE 5

To see if the Town will vote in accordance with M.G.L. c.59, §38H and the regulations issued by the Department of Revenue in the Informational Guideline Release No. 98-403 to accept the terms and conditions of the Memorandum of Understanding between the Town of Sandwich and Southern Energy Canal, L.L.C. dated July 20, 2000 and entitled "Tax Valuation Agreement", a copy of which is attached to the warrant as Addendum A, or take any action relative thereto.

Edward L. Childs, Principal Assessor, gave the following report: Presentation for Southern Canal Tax Valuation Agreement.

Canal Unit 1 was constructed in 1968, Unit 2 followed in 1975. In the time since the second unit came on line, these machines and the 136 acres that hold them have paid an average of just over two million dollars per year in total taxes.

Over the course of time, there have been some sizable threats to the valuation treatment of the Canal Unit. Most notably in the mid-nineties, when the former owners filed in the Appellate Tax Board against the Town on three years of valuation, attempting to have the valuation cut by more than half. The Town stayed the course and eventually the matter was dismissed.

Currently, the Town is in the middle of a six-year agreement with Southern Canal, now known as Mirant. During this time a plan to build a new unit three was developed, and subsequently changed to a plan to refire Unit 2, adding 665 megawatts.

In the ensuing months, the Assessing Department, with the assistance of the law firm of Bernstein, Cushner, and Kimmell, and in consultation with other host communities, developed value and assessment criteria that blended the new equipment in with the existing equipment to be kept on site. Further analysis was done to weigh and allocate consistent and proper market, and pollution control exemption factors to the machinery, as well as the land site. From this research and numerous negotiations, the agreement labeled "Addendum A" in the Special Town Meeting warrant was crafted. I would like to review the highlights of this agreement and their significance to the residents of Sandwich.

- 20-Year Term for Land (real estate) and Generation Units (personal property). Twenty-year agreements are being seen in many host communities, both statewide and nationally. In Massachusetts, communities such as Agawam, Bellingham, Blackstone, Charlton, Dighton, Dracut, Everett and Weymouth, have 20-year agreements in place with power generators. This term provides a stable economic platform to move through the inconsistencies of a newly-deregulated marketplace. Through the wide fluctuations of fuel costs that plague us all. Power generator is not the only type of industry to have developed long-term agreement. Through Tax Increment financing programs, 20-year agreements increased economic viability for cities and towns such as Middleboro (with the Christmas Tree Shops distribution center) and Brockton (Footjoy). The end of the agreement will not signal an end to taxation of the property. After the twenty years the Town may a) enter into another agreement or b) assess "as is" in accordance to assessing laws and statute.
- Average Tax Payment of \$5.9 million/year. Current projected is 2.4 million/year

- Average Increase of \$3.5 million/year over term. Our tax revenue forecasts, based on the value schedule in section 4 of the agreement, will increase the tax contribution of the Units by 3.5 million per year, or 70 million dollars over the term of the agreement. With no risk of value challenges in the Appellate.
- Agreement adjusts for new construction past normal maintenance
- Agreement calls for full disclosure of Personal Property items annually. Before deregulation, all power generators submitted a Form of List to the Assessors. This form, in line with a federal report for regulated utilities (FERC1) listed every component that comprises the generation unit. Deregulation would have ended this requirement. Under Section 5 of the Agreement, Mirant will make a full disclosure to the Assessors. Section 6 states that improvements beyond normal maintenance are subject to revision in value. Projects that would increase the value of the machinery or the site will be added, and the Assessment increased accordingly. This means the value schedule is not static, it is flexible.
- Will represent 20 per cent of the entire tax base at outset. In the first year of refiring, Mirant's valuation will be one-fifth of the projected total value of the Town (based on Fiscal 2003). This from a property that sits on half of one per cent of the Town's land area.
- Total value equal to ~2500 average homes, 50 commercial plaza. To portray the significance of the proposed value of the Units, consider that at first year, it will equal almost one-third the value of all single-family dwellings in Sandwich. It will equal over 50 commercial plaza of the size of the Stop and Shop Plaza on Route 6A. That includes all of the plaza, not just the supermarket.
- New equipment will create \$3.4 million in growth revenue (typical year yields \$500,000) Since 1980, under Proposition 2 ½, a town may only increase it's tax levy by 2 and ½ per cent plus new growth. New growth accounts for new construction and personal property addition from the past calendar year. The levy for Fiscal 2001 is 27.3 million dollars. The average growth figure for the past ten years is near \$500,000. Estimates for the refiring project indicate that \$3.4 million dollars in growth will be created. That is almost seven times that normal growth of all new construction in town.
- Economic Expansion of over \$220 million to C/I/P tax base. This project will increase the commercial, industrial, personal property tax base, value wise, by almost 60 per cent. Many residents have expressed a desire to enhance the economic base of this heavily residential town. This agreement does just that.
- Estimated offset over \$250/year per homeowner. The tax reduction per year, per homeowner with the inclusion of this agreement.
- In conclusion, this is an agreement that was conducted with respect to what is possible, what is legal and defensible, assessment and appraisal-wise. When refired, the Mirant property will provide \$118 million in total tax revenue to the Town, an estimated increase of 70 million over the period. The agreement has been approved by unanimous vote of both the Assessors and Selectmen. In its totality, the agreement is a good one and makes sense for the Town.

VOTED: That the Town accept the terms and conditions of the agreement between the Town of Sandwich and Southern Energy Canal, L.L.C. entitled "Tax Valuation Agreement" and dated July 20, 2000. This was a hand vote, 196 Yes and 65 No, and declared carried by the Moderator.

ARTICLE 6

To see if the Town will vote to transfer and appropriate \$200,000.00 from the Stabilization Fund, said funds to be expended under the direction of the Board of Selectmen, for the purpose of completing repairs and improvements to the Sandwich Boardwalk, and further, to authorize that any proceeds from the sale of Boardwalk planks or any other funds received by the Sandwich Boardwalk Committee be placed directly into the Stabilization Fund as reimbursement for the \$200,000.00 appropriated under this Article, with any additional proceeds or any other funds in excess of the \$200,000.00 appropriated under this Article placed in the Sandwich Boardwalk Repair and Donation Account, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$200,000.00 from the Stabilization Fund, to be expended under the direction of the Board of Selectmen, for completing repairs and improvements to the Sandwich Boardwalk and authorize proceeds from the sale of Boardwalk planks or other funds received by the Sandwich Boardwalk Committee to be placed directly into the Stabilization Fund up to \$200,000.00, with any additional funds over \$200,000.00 to be placed in the Sandwich Boardwalk Repair and Donation Account.

ARTICLE 7

To see if the Town will vote to transfer and appropriate \$94,725.00, received or to be received, under the Chapter 70 Education Reform Act Program, said funds to be expended under the direction of the School Committee, for School Department purposes during FY'01, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$94,725.00

received under the Chapter 70 Education Reform Act program, to be expended under the direction of the School Committee for School Department purposes for FY 2001.

ARTICLE 8

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$6,591.00, to be expended under the direction of the Board of Selectmen, for the purpose of increasing the salary of the following Elected Officials for Fiscal Year 2001 in accordance with the following list, as provided in M.G.L. c.41, §108, or take any action relative thereto.

Tax Collector	4,750.00
Town Clerk	1,841.00

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$6,591.00 from Surplus Revenue, to be expended under the direction of the Board of Selectmen, to increase the salary of the Tax Collector and Town Clerk for FY 2001 as provided in Massachusetts General Laws Chapter 41, Section 108, as follows:

Tax Collector	\$4,750.00
Town Clerk	1,841.00

ARTICLE 9

To see if the Town will vote to transfer and appropriate a sum of \$5,000.00 from the Ambulance Fund, to be expended under the direction of the Board of Selectmen, for the purpose of completing repairs and improvements to the Fire and Police Department phone systems, or take any action relative thereto.

VOTED: That the Town transfer and appropriate \$5,000.00 from the Ambulance Fund, to be expended under the direction of the Board of Selectmen, for completing repairs and improvements to the Fire and Police Department phone systems. This was a voice vote and declared carried by the Moderator.

ARTICLE 10

To see if the Town will vote to transfer and appropriate a sum of \$14,000.00 from the Ambulance Fund, to be expended under the direction of the Board of Selectmen, for Fire Department purposes during FY'01, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$14,000.00 from the Ambulance Fund, to be expended under the direction of the Board of Selectmen, for Fire Department purposes for FY 2001.

ARTICLE 11

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$50,000.00, to be expended under the direction of the Board of Selectmen, for the purpose of providing the Town's matching share of a Coastal Zone Management Coastal Pollution Remediation grant for Town Neck drainage improvements and construction, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$50,000.00 from Surplus Revenue, to be expended under the direction of the Board of Selectmen, to provide the Town's matching share of a Coastal Zone Management Coastal Pollution Remediation grant for Town Neck drainage improvements and construction.

ARTICLE 12

To see if the Town will vote to appropriate a sum of \$200,000.00, received or to be received, for the purpose of financing the following water pollution abatement facility projects: repair, replacement and/or upgrade of septic systems, pursuant to agreements with the Board of Health and residential property owners, as authorized by General Laws, Chapter 111, Section 127B 1/2, including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; to determine whether this appropriation shall be raised by borrowing from the Massachusetts Water Pollution Abatement Trust or otherwise; or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town appropriate \$200,000.00 for financing water pollution abatement facility projects: repair, replacement and/or upgrade of septic systems as authorized by Massachusetts General Laws Chapter 111, Section 127B 1/2, including all costs thereof as defined in Section 1 of Chapter 29C of the General Laws, and further to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow from the Massachusetts Water Pollution Abatement Trust the sum of \$200,000.00

ARTICLE 13

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$55,080.00, to be expended under the direction of the Board of Selectmen, for the purpose of paying for the borrowing costs associated with the Sandwich High School construction loan, or take any action relative thereto.

VOTED: To indefinitely postpone Article 13. This was a voice vote and declared carried by the Moderator.

ARTICLE 14

To see if the Town will vote to accept the layout of Route 130 and easements adjacent to Route 130 and Pimlico Pond Road for the Route 130, Snake Pond Road, Pimlico Pond Road intersection improvement project as laid out and recommended by the Board of Selectmen, in accordance with the plans thereof entitled "County of Barnstable, Massachusetts, Plan of Forestdale Road (Route 130) in the Town of Sandwich as altered" as prepared by Vanasse Hangen Brustlin, Inc. and dated June 15, 2000, as approved by the Town Engineer, and further, to see if the Town will vote to authorize and instruct the Board of Selectmen to take by eminent domain on behalf of the Town such land as may be necessary therefore, and to raise and appropriate a sum of \$1.00 for said purpose, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town accept the layout of Route 130 and easements adjacent to Route 130 and Pimlico Pond Road for the Route 130, Snake Pond Road, Pimlico Pond Road intersection improvement project, as laid out and recommended by the Board of Selectmen and authorize the Board of Selectmen to take by eminent domain on behalf of the Town such land as may be necessary thereof, and to appropriate \$1,000 from Surplus Revenue for said purpose

ARTICLE 15

To see if the Town will vote to authorize the Board of Selectmen, on such terms and conditions as the Selectmen may determine, to acquire by gift the fee ownership interest in the following property, for the purposes of conservation, agriculture and historical preservation and for the purpose of leasing the property and granting restrictions and easements on the property, said property being known as the Roberti Farm, and described as follows:

Lot B containing 275,498 square feet (6.325 acres) as shown on a plan of land entitled "Plan of Land in Sandwich, Massachusetts, Prepared for: Tedeschi Realty, Prepared by: Vanasse Hangen Brustlin, Inc." dated August 23, 1999 recorded in Barnstable County Registry of Deeds in Plan Book 552, Page 10, being all or a portion of the land described in the deed recorded with said Deeds in Book 10310, Page 48.

And further to authorize the Board of Selectmen to petition the General Court to the end that legislation be adopted precisely as follows. The General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court. The Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition:

Section 1. Notwithstanding the provisions of chapter 30B, sections 38A½ - O of chapter 7, section 39M of chapter 30, sections 26 through 37 of chapter 149, and sections 44A through 44M of chapter 149, or any other special or general law relating to designer selection, bidding of public construction contracts or the payment of prevailing wages on construction contracts, and notwithstanding that the Town of Sandwich may hold the fee ownership interest or an option or a right of reverter with respect to the real property described in this act, a lessee or owner of such real property which would not be subject to such laws if the Town of Sandwich did not hold such fee, option or right of reverter, shall not be subject to such laws.

Section 2. This act applies to the land and improvements thereon located in the Town of Sandwich known as the Roberti Farm, shown as Lot B containing 275,498 square feet (6.325 acres) as shown on a plan of land entitled "Plan of Land in Sandwich, Massachusetts, Prepared for: Tedeschi Realty, Prepared by: Vanasse Hangen Brustlin, Inc." dated August 23, 1999 recorded in Barnstable County Registry of Deeds in Plan Book 552, Page 10, being all or a portion of the land described in the deed recorded with said Deeds in Book 10310, Page 48.

Section 3. This act shall take effect upon its passage.

or take any action relative thereto.

VOTED: That the Town authorize the Board of Selectmen to acquire by gift the fee ownership for the property known as the Roberti Farm, as described in the warrant in Article 15, for the purposes of conservation, agriculture and historical preservation and for the purpose of leasing the property, and to further authorize the Board of Selectmen to enter into such leases and grant such restrictions and easements with respect to the property as the Board may determine, and to further authorize the Board of Selectmen to petition the General Court that legislation be adopted to except any improvements to the property from designer selection, public bidding, and prevailing wage requirements, as printed in the warrant under Article 15. This was a voice vote and declared carried by the Moderator.

ARTICLE 16

To see if the Town will vote to appropriate by borrowing under the statutes referred to in this Article a sum of money for the purpose of acquiring the land and improvements thereon identified as Assessors Map 29, Lot 37 consisting of approximately 31.52 acres off Service Road, said premises believed to be owned by Alfred C. Fish, Jr.; and to authorize the Board of Selectmen, on such terms and conditions as the Selectmen may determine, to acquire such real and personal property by gift, purchase or eminent domain for the purposes set out in Section 3 of Chapter 293 of the Acts of 1998; and to authorize the Treasurer to borrow a sum of money by issuance of general obligation bonds or notes under Section 7 of

Chapter 293 of the Acts of 1998 in anticipation of revenues to be received under Section 6 of said Chapter 293, or any other enabling authority, for this purpose, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town appropriate \$200,000.00 for acquiring the land and improvements thereon identified on Assessors Map 29, Lot 37, consisting of approximately 31.52 acres off the Service Road and further, to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow a sum of money by issuance of general obligation bonds or notes under Section 7 of Chapter 293 of the Acts of 1998 in anticipation of revenues received or to be received under Section 6 of said Chapter 293, as printed in the warrant under Article 16.

ARTICLE 17

To see if the Town will vote to hear the report of the Charter Review Committee, or take any action relative thereto.

Hank Sennott, Chairman of the Charter Review Committee, gave the following report: Three years ago, the Board of Selectmen convened the Charter Review Committee from a group of volunteers. We were charged with the task of reviewing town operations, procedures and bylaws and to present a Charter to the Board, if we believed one was needed.

As you know, Sandwich is the only community on the Cape and one of the few in the Commonwealth without such a document. Like the state or federal constitution, a charter clearly outlines the roles and responsibilities of the various parts of government.

I should point out, Mr. Moderator, that the members of the Charter Review Committee have a significant experience in government on all levels. Some of us have been active in town affairs for years; others have held elected office in other communities, still others held or continue to hold positions of significant responsibility in state and federal government.

For the last three years, the Charter Review Committee has spent literally hundreds, if not thousands, of hours on our assignment. We have met with the town's elected and appointed officials and boards; Town Counsel, and representatives from other communities from on and off Cape to either discuss their recent charter experience or the forms of government they have. We have attempted to reach out to the public through public hearings; we even held one on a Saturday morning for those who could not attend an evening session. A draft copy of the Charter was distributed at May Town Meeting and a copy of the document contained in this evening's warrant was mailed to every postal address in the community. Our meetings were posted, open and noted in the local press.

This Charter is a consensus document. Every member of the Committee can point to sections that they might like to see written a little differently. Some of us argued passionately for certain proposals that are not included. In the end, however, we came together to forward to the Selectmen a strong and effective document that in our judgment is good for the Town.

However, Mr. Moderator, within the last few days, certain town boards and commissions have begun expressing concern about individual provisions in the Charter. In addition, we have believed for three years that this document was an "all or nothing proposition" when it came to a vote. This is something we have stated publicly over and over again at meetings, during public hearings, in speaking with the local press and with our friends and neighbors.

On Friday afternoon, we were informed by Town Counsel that the Charter could, in fact, be amended on Town Meeting floor; a startling piece of information running contrary to what we had been led to believe and, more importantly, what the public has been told over the last three years.

Coming as it did at the last minute, there was no way to notify the public of this significant change. We have no way to know how many people interested in the Charter stayed home tonight believing it was an all or nothing proposition.

A majority of the Charter Review Committee is deeply concerned that bringing the Charter to a vote tonight under these new circumstances would simply be unfair to the public and to the integrity of the document.

It will be with much regret that, on behalf of a majority of the Charter Review Committee, I will move that Article 18 be indefinitely postponed. Thank you, Mr. Moderator.

VOTED: That the Town hear the report of the Charter Review Committee. The Moderator declared to hear the report.

ARTICLE 18

To see if the Town will vote to adopt a charter for the Town of Sandwich as follows, and further, to authorize the Board of Selectmen to petition the General Court to the end that legislation be adopted precisely as follows in accordance with the special act charter process. The General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court. The Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition, or take any action relative thereto:

TOWN OF SANDWICH CHARTER

PREAMBLE

Good government can only be defined as that which is wholly and justly participated in by the people who are under its jurisdiction. For that purpose the citizens of Sandwich, in exercising their rights of self-government, do ordain the provisions set forth in the ensuing Charter of this town.

ARTICLE I INCORPORATION, FORM OF GOVERNMENT

Section 1.1 INCORPORATION

The inhabitants of the Town of Sandwich, Barnstable County, Massachusetts, residing within its corporate boundaries as heretofore established, are hereby constituted and shall continue to be a body politic and corporate in perpetuity under the name of "The Town of Sandwich."

Section 1.2 FORM OF GOVERNMENT

The municipal form of government provided by this Charter shall consist of a Representative Town Meeting, members elected by the people; a Board of Selectmen, elected by the people and accountable to the people; and a Town Administrator, appointed by and accountable to the Board of Selectmen for proper administration of the affairs of the town.

ARTICLE II POWERS OF THE TOWN

- a) The town shall have all the powers granted to towns by the Constitution and General Laws of the Commonwealth of Massachusetts together with all of the implied powers necessary to execute such granted powers.
- b) The powers of the town under the Charter shall be construed and interpreted liberally in favor of the town, and the specific mention of any particular power is not intended to limit in any way the general powers.
- c) The town may enter into agreements with any other agency of municipal government, agency of the Commonwealth, other states, or the United States government to perform jointly, by contract, or otherwise, any of its powers or functions and may participate in the financing thereof.

ARTICLE III LEGISLATIVE BRANCH

Section 3.1 COMPOSITION

- a) The legislative body of the town shall be a Representative Town Meeting. The members shall be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the town.
- b) There shall be twenty-one (21) Town Meeting Members from each Precinct in the town. They shall be so elected that the term of office of one-third of the members shall expire each year.

Section 3.2 ESTABLISHMENT OF PRECINCTS

The Board of Selectmen shall divide the town into a number of voting precincts in accordance with the provisions of the General Laws of the Commonwealth.

Section 3.3 TOWN MEETING MEMBERSHIP

- a) Eligibility - any registered voter shall be eligible to be a candidate, to be elected, and to serve as a Town Meeting Member.
- b) Nomination Procedures - nomination of candidates for Town Meeting Member shall be made by nomination papers signed by not less than ten (10) voters of the precinct in which the candidate resides and from which he seeks election. The nomination papers shall be filed with the Town Clerk at least forty-nine (49) days preceding the date of the town election.

Section 3.4 ELECTION AND TERMS

- a) The voters in every precinct shall, at the first annual town election held following any precinct revision that affects them, elect by ballot the number of voters of the precinct prescribed in this article to be Town Meeting Members. The first third in order of votes received shall serve for three years; the second third in such order shall serve for two years; and the remaining third in such order shall serve for one year from the date of the annual town election. In case of a tie vote affecting the division into thirds,

the members elected from the precinct shall determine the same by ballot. Thereafter, except as otherwise provided herein, at each annual election the voters of each precinct shall, in like manner, elect for three-year (3) terms one-third (1/3) of the number of Town Meeting Members to which that precinct is entitled, and shall fill for the unexpired terms any vacancies then existing.

b) In the event of a tie vote for the office of Town Meeting Member the Town Clerk shall, within seven (7) days following the election, call all of the Town Meeting Members of that precinct together at a convenient place. Under the supervision of the Town Clerk, any such tie shall then and there be broken by ballots cast by the elected Town Meeting Members present.

Section 3.5 VACANCIES

a) Resignation - a Town Meeting Member may resign by filing a written resignation with the Town Clerk, such resignation taking effect upon the date of such filing unless a later date certain is specified therein when it shall take effect.

b) Removal from Town or Precinct - a Town Meeting Member who changes legal residence from the town shall forthwith cease to be a Town Meeting Member. A town Meeting Member who removes from one precinct to another, or who is so removed by a revision of precinct lines, may continue to serve as a Town Meeting Member from the precinct from which he was elected until the next annual town election at which the remainder of his term, if any, shall be filled by ballot. Any person so removed from office may be elected at the same election as a Town Meeting Member from the precinct in which he resides.

c) Filling of Vacancies - any vacancy in the full number of Town Meeting Members from any precinct shall be filled until the next annual town election by the remaining Town Meeting Members from the precinct, from among the voters thereof. The balance of the un-expired term, if any, shall be filled at such annual town election.

Section 3.6 COMPENSATION

Town Meeting Members shall serve without salary.

Section 3.7 PRESIDING OFFICER

A Moderator, chosen in accordance with the provisions of Section 4.4 shall preside at all sessions of the town meeting

Section 3.8 CLERK OF THE MEETING

The Town Clerk shall serve as the clerk of the town meeting. In the event that the Town Clerk is absent, the Assistant Town Clerk will serve.

Section 3.9 GENERAL POWERS AND DUTIES

All legislative powers of the town shall be vested in the Representative Town Meeting, except as otherwise provided by the General Laws of the Commonwealth or this Charter.

Section 3.10 PARTICIPATION BY NON-TOWN MEETING MEMBERS

a) All appointed town officers, the Town Administrator, department heads, Chairpersons of multimember bodies or their designated representatives shall attend Town Meeting sessions when the warrant includes articles relating to their office or function.

b) Registered voters, residents and taxpayers of the town may speak on any article in the warrant in accordance with such provisions or procedures adopted by the Town Meeting. Persons who are not voters, residents or taxpayers of the town may address the Meeting only with the consent of a majority of the Town Meeting Members present.

Section 3.11 ESTABLISHMENT OF STANDING COMMITTEES

The Town Meeting may from time to time, by By-law, establish standing committees to which shall be referred warrant articles for study, review and report in advance of the sessions of the Town Meeting.

Section 3.12 WARRANT ARTICLES

a) Initiation - except for procedural matters, all subjects to be acted upon by the Town Meeting shall be placed on warrants issued by the Board of Selectmen.

b) Publication - forthwith, following receipt by the Board of Selectmen of any subject for a Town Meeting warrant article, initiated by petition or by a majority of the Board of Selectmen, a copy of such subject shall be posted on the town bulletin board and otherwise distributed as may be provided by By-law. Additional copies shall be kept available for distribution by the Town Clerk.

Section 3.13 PROCEDURES

a) Time of Meeting - the Town Meeting shall meet at least twice in each calendar year. The first such meeting shall be held during the first six (6) calendar months, at a time fixed by By-law, and shall be primarily concerned with the determination of matters that have a fiscal effect on the town, including but not limited to the adoption of an annual operating budget for all town agencies. The second such meeting, the powers of which shall be deemed those of an annual town meeting, shall be held during the last four (4) calendar months, at a time fixed by By-law. In addition to the two (2) meetings required by this section the Board of Selectmen may, in any manner provided under the General Laws of the Commonwealth or this Charter, for the purpose of acting upon the legislative business of the town in an orderly and expeditious manner, call the Town Meeting into session at other times by the issuance of warrants there for.

b) Quorum - Seventy-five (75) Town Meeting Members shall constitute a quorum.

Section 3.14 REFERENDUM PROCEDURES

a) Effective Date of final Votes - no final affirmative vote of a Town Meeting on any warrant article, except a vote to adjourn or dissolve, or votes appropriating money for the payment of notes or bonds of the town and interest thereon becoming due with the then current fiscal year, or votes for the temporary borrowing of money in anticipation of revenue, or a vote declared by preamble by a two-thirds (2/3) vote of the Town Meeting to be an emergency measure necessary for the immediate preservation of the peace, health, safety or convenience of the town, shall be operative until after the expiration of five (5) days from the dissolution of the Town Meeting. If a referendum petition, as defined in (c) of this section, is not filed within the said five (5) days, the votes of the Town Meeting shall then become operative.

b) Votes not subject to Referendum - no article which was defeated or otherwise failed to receive the necessary quantum of vote for approval shall be subject to a referendum petition pursuant to subsection (c) below. Any article disposed of by a vote to lay on the table, to postpone indefinitely or similar vote, shall be deemed to have been defeated for purposes of Section 3.14.

c) Referendum Petition to rescind - if, within said five (5) days, a petition signed by not less than three percent (3%) of the voters containing their names and addresses, is filed with the Board of Selectmen requesting that any question, not yet operative as defined in (a) above, be submitted to the voters, then the operation of such vote shall be further suspended pending its determination as provided below. The Board of Selectmen shall, within ten (10) days after the filing of such petition, call a special election that shall be held within thirty-five (35) days after issuing the call, for the purpose of presenting to the voters any such question. If, however, a regular or special town election is to be held not more than sixty (60) days following the date the petition is filed, the Board of Selectmen may provide that any such question be presented to the voters at that same election.

d) Referendum Election to Rescind - all votes upon any question so submitted shall be taken by ballot, and the conduct of such election shall be in accordance with the provisions of law relating to elections, unless otherwise provided in this section. Any questions so submitted shall be determined by a majority vote of the voters voting thereon, but no action of the town meeting shall be rescinded unless at least twenty percent (20%) of the registered voters vote on the question.

e) Format of Questions - any question so submitted shall be stated on the ballot in substantially the same language and form in which it was stated when presented by the Moderator to the Town Meeting, as appears in the records of the clerk of the meeting.

ARTICLE IV ELECTED TOWN OFFICES

Section 4.1 ELECTED TOWN OFFICES, IN GENERAL

The offices to be filled by the voters shall be: a Board of Selectmen, five (5) members; a School Committee, seven (7) members; a Moderator; a Board of Assessors, three (3) members; a Board of Health, three (3) members; a Planning Board, seven (7) members; Trustees of the Sandwich Library, nine (9) members; Trustees of the Weston Memorial Fund, three (3) members; Sandwich Historic District, five (5) members; and such other regional authorities, districts, or committees as may be required by the General Laws of the Commonwealth or inter-local agreement. All elected or appointed multiple member boards shall be arranged so that as nearly an equal number of terms as possible shall expire each year.

Section 4.2 BOARD OF SELECTMEN

The Board of Selectmen shall be composed of five (5) members. Each member shall be elected from the town at-large to a three (3) year term.

Section 4.2.1 QUALIFICATIONS

In addition to any other qualifications prescribed by law, each Selectman shall be a qualified voter of the town, and shall reside within the town while in office.

Section 4.2.2 COMPENSATION

Selectmen shall receive such compensation as may be specified in the annual budget, provided, however, that they shall be entitled to all necessary expenses incurred in the performance of their official duties upon approval by the Board of Selectmen.

Section 4.2.3 CHAIRMAN AND VICE CHAIRMAN

- a) A chairman shall be elected by the Board of Selectmen at the first meeting following each regular town election. The chairman shall preside at all meetings of the Board. The chairman shall perform such other duties consistent with this Charter, or as may be imposed on him by the Board.
- b) A vice chairman shall be elected by the Board of Selectmen at the first meeting following each regular town election. The vice chairman shall act as chairman during the disability or absence of the chairman, and in this capacity shall have the rights and duties conferred upon the chairman.

Section 4.2.4 VACANCIES

In the event of a vacancy in the office of Selectman, if such vacancy occurs more than six months before the next scheduled annual Town election, the remaining members of the Board of Selectmen shall call a special election to fill the vacancy for the balance of the unexpired term. If such vacancy occurs six months or less before the next scheduled annual Town election, the Board of Selectmen may, but are not required to, call a special election to fill the vacancy. If no special election is called, the unexpired term shall be filled at the annual Town election. Any special election shall be conducted in accordance with the Massachusetts General Laws.

Section 4.2.5 GENERAL POWERS AND DUTIES

- a) Except as otherwise provided by the General Laws of the Commonwealth or this Charter, all executive powers of the Town shall be vested in the Board of Selectmen. The Board of Selectmen shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Town by law.
- b) At least a majority of the Board of Selectmen shall sign all official documents, and approve the financial warrants.
- c) The Board of Selectmen shall serve as the Board of Directors and policy making body of the Town. They shall appoint a Town Administrator to carry out the day-to-day operations of the Town within the policies set by the Board of Selectmen. The Board of Selectmen shall appoint members of committees.
- d) No member of the Board of Selectmen may serve in any other elected and/or appointed Town office or committee during his or her term as Selectman, excluding ex-officio positions. Service as a representative from the Town to another body other than the Town shall not be prohibited by this provision.
- e) The Board of Selectmen shall set guidelines for the preparation of the annual budget and present the budget to the Town Meeting. The Board of Selectmen shall set the date and Warrant Articles for the Town Meeting and any Special Town Meeting. The Board of Selectmen shall make available sufficient copies of the warrant for the Town Meeting for all registered voters. The Board of Selectmen shall either provide direct mailings to households, or publish notice of the availability of said warrants at town facilities and other common locations throughout the town at least two (2) weeks prior to the Town Meeting.
- f) The Board of Selectmen shall be a licensing board for the Town and shall have the power to issue licenses as authorized by law, to make all necessary rules and regulations regarding the issuance of such licenses, and to impose restrictions on any such license as it deems to be in the public interest, and to enforce all laws, rules, regulations, and restrictions relating to all such businesses for which it issues licenses.
- g) The Board shall require bonds for all municipal officers and employees who receive or pay out any moneys of the Town. The amount of such bonds shall be determined by the Board and the cost thereof shall be borne by the Town.
- h) The Board of Selectmen shall exercise any other responsibilities as set forth in the General Laws of the Commonwealth.

Section 4.2.6 MEETINGS OF THE BOARD

- a) The Board of Selectmen shall hold at least two regular meetings each month. The board shall fix, by resolution, the days, times and location of its regular meetings.
- b) The Board of Selectmen may hold such special meetings as it deems necessary and appropriate, which may be called for by three members of the Board. In no event shall a regular or special meeting be held in any facility or at any locations which is not readily accessible to the public.

Section 4.2.7 RULES OF PROCEDURE

- a) The Board of Selectmen shall by resolution, determine its own rules and order of business; however, the rules shall provide that citizens of the town shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration.
- b) Voting except on procedural motions, shall be by roll call if requested by a Selectman, and the ayes and nays shall be recorded in the minutes.
- c) Three Selectmen shall constitute a quorum for the purposes of transaction of business.
- d) No action of the Board of Selectmen shall be valid or binding unless adopted by the affirmative vote of three or more members of the Board.

Section 4.2.8 PROHIBITIONS

- a) Except where authorized by law, no Selectman shall hold any other town office or town employment during his term as Selectman, nor any former Selectman shall hold any compensated appointed town office or town employment until one year after the expiration of his term as Selectman.
- b) The Selectmen shall not in any manner dictate the appointment or removal of any town administrative officers or employees whom the Town Administrator or any of his subordinates are empowered to appoint. The Board of Selectmen may express its views and fully and freely discuss with the administrator anything pertaining to appointments and removal of such officers and employees.
- c) Except for the purpose of inquiries and investigations, the Board of Selectmen and its members shall deal with town officers and employees who are subject to the direction and supervision of the Town Administrator, solely through the Town Administrator, and neither the Board of Selectmen nor any of its members shall give orders to any such officer or employee, either publicly or privately.

Section 4.3 SCHOOL COMMITTEE

The School Committee shall be composed of seven (7) members. Each member shall be elected from the town at-large to a three (3) year term. The three (3) year terms of office for school committee shall be staggered.

Section 4.3.1 GENERAL POWERS AND DUTIES

The School Committee shall have all the powers and duties given to school committees by the General Laws of the Commonwealth, except for those powers and duties as outlined in Section 5.3 of this Charter. The School Committee shall have the power to select, oversee, and to terminate the Superintendent of Schools, establish educational goals and policies for the schools consistent with requirements of the General Laws of the Commonwealth and standards established by the Commonwealth.

Section 4.3.2 VACANCIES

In the event of a vacancy in the office of School Committee, the remaining members of the Committee shall notify the Town Clerk and the Board of Selectmen. If such vacancy occurs more than six months before the next scheduled annual Town election, the Board of Selectmen shall call a special election to fill the vacancy for the balance of the unexpired term. If such vacancy occurs six months or less before the next scheduled annual Town election, the Board of Selectmen may, but is not required to, call a special election to fill the vacancy. If no special election is called, the unexpired term shall be filled at the annual Town election. Any special election shall be conducted in accordance with the Massachusetts General Laws.

Section 4.4 MODERATOR

A Moderator shall be elected by the voters for a term of three years. In the event of absence of the Moderator the Town Meeting may elect a temporary moderator, for the purpose of presiding over the Town Meeting.

Section 4.4.1 POWERS AND DUTIES

- (a) The Moderator shall have the powers and duties provided by the General Laws of the Commonwealth, by this Charter, by Bylaw or by any other Town Meeting vote.
- (b) The Moderator shall appoint members of the Finance Committee which shall consist of nine (9) members. Should the Moderator fail to fill a vacancy on the Finance Committee within forty-five (45) days of having been notified in writing by the Town Clerk of said vacancy a majority of the remaining members of the Finance Committee may nominate a person for each such vacancy. Should the Moderator fail to take action on said nomination within 21 days, the nominee shall become a member of the Finance Committee.
- (c) The Moderator shall appoint members to other committees as directed by Town Meeting.

Section 4.5 BOARDS, COMMITTEES AND OFFICERS

a) Each Board or Committee will be organized and charged with the powers and duties specified in the General Laws and Special Acts of the Commonwealth, Town Bylaw or elsewhere in this Charter. The Board of Selectmen may also, from time to time, establish boards or committees to address specific needs or issues. Each board or committee shall, at its annual organization meeting, elect a presiding officer and shall cause the Board of Selectmen and the Town Clerk to be notified of its selection. Such boards and committees shall make a written annual report of its activities to the Board of Selectmen.

b) Members of permanent committees shall be elected for a staggered term of three years unless otherwise provided for by the General Laws of the Commonwealth or this Charter. Appointees to temporary and special committees shall be appointed by the Board of Selectmen for the duration of the charge of the board or committee. Boards, committees or officers specifically provided for by the General Laws of the Commonwealth or this Charter may be continued or terminated only by the Board of Selectmen.

ARTICLE V **ADMINISTRATIVE SERVICES**

Section 5.1 TOWN ADMINISTRATOR

Section 5.1.1 APPOINTMENT AND QUALIFICATIONS

The Board of Selectmen by majority vote of the entire Board shall appoint a Town Administrator. The method of selection shall be left to the discretion of the Board of Selectmen so long as the method of selection insures orderly, nonpartisan action toward securing a competent and qualified person to fill the position. The Town Administrator shall be chosen solely upon the basis of his/her executive and administrative training, experience and ability and need not, when appointed, be a resident of the Town of Sandwich; however, during the tenure of his/her office he/she shall reside within the town. The Town Administrator shall be bonded at town expense.

Section 5.1.2 COMPENSATION

The Town Administrator shall receive compensation as may be fixed by the Board of Selectmen according to his/her expertise, education and training. Any contract between the Board of Selectmen and the Town Administrator shall be made pursuant to Massachusetts General Law, Chapter 41, Sec. 108N.

Section 5.1.3 TERM AND REMOVAL

The Town Administrator 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 Administrator 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 Administrator shall be responsible to the Board of Selectmen for the proper administration of all the affairs of the town consistent with the General Laws of the Commonwealth 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;
- b) supervise and direct all Department Heads appointed by the Town Administrator;
- c) administer and enforce all provisions of General Laws of the Commonwealth or Special Acts of the Commonwealth, or Town Bylaws, 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 Administrator which are related to the warrant articles and to matters under the general supervision of the Town Administrator;
- 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 them or by the town as the Town Administrator 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 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. Any contract over \$500,000 will require approval by the Board of Selectmen;

- j) develop and maintain a formal and complete inventory of all town owned real and personal property and equipment;
- k) administer personnel policies, practices, rules and regulations, any compensation plan and any related matters for all municipal employees and to administer all collective bargaining agreements entered into by the town;
- l) fix the compensation of all town employees and officers appointed by the Town Administrator within the limits established by appropriation and any applicable compensation plan and collective bargaining agreements;
- m) be responsible for the negotiation of all contracts with town employees regarding wages, and other terms and conditions of employment, except employees of the School Department. The Town Administrator may, subject to the approval of the Board Selectmen, employ special counsel to assist in the performance of these duties. Collective bargaining agreements shall be subject to the approval of the Board Selectmen, and the provisions of Massachusetts General Law, Chapter 150E;
- n) prepare and submit an annual operating budget and capital improvement program as provided in Section 7.1 (b) of this Charter and be responsible for its administration after its adoption. The Town Administrator may transfer funds between individual line items within a department account;
- o) keep the Board Selectmen and the Finance Committee fully informed as to the financial condition of the town and make recommendations to the Board of Selectmen;
- p) prepare and submit to the Board of Selectmen at the end of the fiscal year a comprehensive report on the finances and the activities and operations of all departments, boards and committees of the town;
- q) investigate or inquire into the affairs of any town department or office;
- r) delegate, authorize or direct any subordinate or employee in the town to exercise any power, duty, or responsibility which the office of Town Administrator is authorized to exercise, provided, that all acts performed under such delegation shall be deemed the acts of the Town Administrator; and
- s) perform such other duties as necessary or as may be assigned by this Charter, Town Bylaw, Town Meeting vote, or vote of the Board of Selectmen.

Section 5.1.5 ACTING TOWN ADMINISTRATOR

The Town Administrator shall designate, by letter filed with the Board of Selectmen, a qualified administrative officer of the town to perform the duties of Town Administrator in his/her absence. In the event of long-term disability, resignation, or termination of the Town Administrator, the Board of Selectmen shall appoint an acting Town Administrator for the duration of any such disability, or until appointment of a permanent Town Administrator. No member of the Board of Selectmen shall serve as acting Town Administrator.

Section 5.2 TOWN COUNSEL

The Board of Selectmen shall appoint a competent and duly qualified and licensed attorney practicing in the Commonwealth, who shall be the counsel for the town. He/she shall receive for his/her services such compensation as may be fixed by the Board of Selectmen and shall hold his/her office at the pleasure of the Board. The Town Counsel shall be the legal adviser of all of the offices and departments of the town, and he/she shall represent the town in all litigation and legal proceedings; provided, that the Board of Selectmen may retain special counsel at any time they deem appropriate and necessary. He/she shall review and concur or dissent upon all documents, contracts, and legal instruments in which the town may have an interest. The Town Counsel shall perform other duties prescribed by this Charter, Town By-law, or as directed by the Board of Selectmen.

Section 5.3 PUBLIC FACILITIES

The Town Administrator shall, under the provisions of Section 5.1.4 (a) of this Charter, appoint or designate an individual as Director of Public Facilities. The Director shall, under the general supervision and direction of the Town Administrator, have general care of all town buildings and property, including but not limited to schools, fire, police, highway, cemetery, recreation and other municipal buildings and property. The Director shall be responsible for the repair and preventive maintenance of all municipal buildings and facilities and shall prepare maintenance plans and budgets in consultation with department heads, boards and the Capital Planning Committee. The Director shall be charged with the administration of all maintenance funds appropriated for this purpose.

ARTICLE VI
PUBLIC RECORDS AND OPEN MEETINGS

All boards, committees, and commissions shall comply with Chapter 39, sections A, B and C of the General Laws of the Commonwealth, popularly known as the "Open Meeting Law", in the conduct of any town business.

ARTICLE VII
FINANCIAL PROVISIONS AND ADMINISTRATION

Section 7.1 **SUBMISSION OF BUDGET AND BUDGET MESSAGE**

- a) Annually, prior to the first day of November, the Town Administrator shall establish and issue a budget schedule which shall set forth the calendar dates for developing the annual budget for the next fiscal year.
- b) On or before the first day of February, the Town Administrator shall submit to the Board of Selectmen and Finance Committee a proposed budget and accompanying message.
- c) The Budget shall provide a complete financial plan of all town funds and activities, including details on debt and debt service, anticipated income, and proposed expenditures. The Budget shall include proposals for capital improvements for the next five (5) years. The budget message shall begin with a clear general summary of its content, and explain in both fiscal terms and work program objectives, proposed expenditures for each department, capital expenditures, and the projected tax rate.
- d) The Board of Selectmen shall review the proposed Town Budget and refer it, including the School Department Budget and recommendations, to the Finance Committee, on or before the first day of March.

Section 7.2 **FINANCE COMMITTEE**

- a) There shall be a permanent committee known as the Finance Committee, composed of nine (9) registered voters of the town appointed by the Moderator. They shall serve for three (3) year terms. Terms shall be staggered. Members shall serve without compensation and no member shall be an employee of the Town nor hold an elected or appointed town position during their term of office.
- b) It shall be the duty of the Finance Committee to report at the annual Town Meeting or at a special Town Meeting its advisory recommendations on all financial articles in the warrant for such Town Meetings, and the projected tax rate consistent with their recommendations.
- c) The Finance Committee may require that the Town Administrator, any town department, office, board, commission or committee furnish appropriate additional financial information, as needed.

Section 7.3 **PUBLIC NOTICE AND PUBLIC HEARING**

- a) The Finance Committee shall within sixty (60) days following the submission of the draft budget by the Town Administrator, review the proposed budget, and shall return it to the Board of Selectmen with their recommendations.
- b) The Board of Selectmen shall conduct at least one public hearing on the proposed budget, including the school budget, prior to the Town Meeting, and include the recommendations of the Finance Committee.
- c) The Board of Selectmen shall post in the Town Hall and publish in a daily newspaper of general circulation, a summary of the proposed budget and notice stating:
 - (1) the times and places where copies of the message and budget are available for inspection by the public, and
 - (2) the date, time and place where the Board of Selectmen shall conduct the public hearing on the budget.

Section 7.4 **BUDGET ADOPTION**

Town meeting shall adopt the annual operating budget, with or without amendments prior to the beginning of the fiscal year.

Section 7.5 **ANNUAL AUDIT**

At the close of each fiscal year, and at such times as it may be deemed necessary, the Board of Selectmen shall cause an independent audit to be made of all accounts of the Town by a certified public accountant. The certified public accountant so selected shall have no personal interest, directly or indirectly in the financial affairs of the Town or any of its offices. Upon completion of the audit, the results in a summary form shall be placed on file in the Town Clerk's office as a public record and in the Sandwich Public Library for public information.

Section 7.6 **EMERGENCY APPROPRIATIONS, REDUCTIONS, and TRANSFERS**

Any and all emergency appropriations, reductions, and transfers will be made in accordance with the provisions of the General Laws of the Commonwealth and the Town By-laws.

ARTICLE VIII
RECALL

Section 8.1 RECALL

Any holder of an elected office in the Town of Sandwich may be recalled there from by the qualified voters of the Town as provided in Chapter 408 of the Acts of 1987 for reasons which include but are not limited to the following: embezzlement; influence peddling; refusal to abide by or not comply with the Conflict of Interest Law, Open Meeting Law, Public Records Law, rules and regulations thereto, and the By-Laws of the Town of Sandwich which pertains to same; destruction or alteration of public records; nepotism; conviction for a felony; failure to perform the duties of the elected office; or other willful acts of omission or commission which betray the public trust.

Section 8.2 RECALL PETITION

A recall petition shall be initiated by request of ten (10) qualified voters. The recall petition shall be signed by twenty-five percent (25%) of the qualified voters and returned within twenty (20) days in accordance with the aforementioned Special Legislative Act.

**ARTICLE IX
CHARTER**

Section 9.1 SEVERABILITY

If any section, or part of a section of this Charter, shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter.

Section 9.2 CHARTER REVIEW COMMITTEE

At least every five (5) years the Selectmen shall appoint a Charter Review Committee to be composed of seven (7) members for a period not longer than six (6) months, who shall submit their recommendations to the Board of Selectmen and shall file proceedings of their deliberations.

Section 9.3 AMENDMENT TO CHARTER

- a) Notwithstanding and in addition to the provisions of this section, this Charter may be amended or revised by special act of the General Court, upon the recommendation of Town Meeting, and/or pursuant to the provisions of General Laws Chapter 43B.
- b) This charter may be amended pursuant to an initiative petition filed in accordance with this section. To commence the initiative petition process, any ten (10) registered Town voters may file an affidavit with the Town Clerk, containing the substance of the proposed charter amendment. The Town Clerk shall thereupon deliver to the voters filing the affidavit a sufficient number of initiative petition blanks, which shall be stamped with the date of issuance and contain the signature and official seal of the Town Clerk.
- c) The petitioners shall print the text of the proposed charter amendment on the petition blanks or affix the text firmly thereto. The petition shall identify by section or subsection, where applicable, that provision(s) proposed for amendment, or shall state that the proposed amendment is a new provision. Signed petition forms must be filed with the Town Clerk's office by 5:00 p.m. on the twentieth day after issuance.
- d) Initiative petition forms must be signed by no less than ten percent (10%) of the registered voters as appears on the registered voter list at the most recent annual Town election. Any petition forms received after the twentieth day shall be rejected by the Town Clerk. Upon receipt of the petitions, the Town Clerk shall transmit said petitions to the Board of Voter Registrars, who shall within five (5) days certify those signatures that are names of registered voters of the Town. In the event that the number of certified signatures is less than ten percent of the registered voters, the Board of Voter Registrars shall so notify the Board of Selectmen and the voters who filed the affidavit, and such petitions shall be void and shall not count towards any other petition. If the petitions do contain a sufficient number of signatures, the Board of Registrars shall submit the petitions with the Town Clerk's certificate to the Board of Selectmen.
- e) The Board of Selectmen shall provide a copy of the certified initiative petition to Town Counsel to conduct a review of the proposed charter amendment for consistency with the Constitution and laws of the Commonwealth. If the opinion of Town Counsel is that the initiative petition is consistent with the Constitution and laws of the Commonwealth, the Board of Selectmen shall thereafter declare that the proposed charter amendment shall appear as a ballot question at the next subsequent annual Town election ballot, provided that the Board of Selectmen receives the certified petitions no later than thirty-five (35) days before said election. If the opinion of Town Counsel is that the initiative petition is not consistent with the Constitution and laws of the Commonwealth, the Board of Selectmen shall so notify the voters who filed the affidavit and the initiative petition shall not be placed on the annual Town election ballot.
- f) The ballot question shall be worded substantially as follows: "Shall the Town approve an amendment to the Town Charter, as proposed by initiative petition of the Town's registered voters, summarized below?"

Town Counsel shall prepare a summary description of the proposed amendment. If the ballot question receives a favorable majority vote, the proposed charter amendment shall take effect thirty (30) days after such election results are certified by the Town Clerk, provided that at least thirty-five percent (35%) of the registered voters cast ballots at the election. If the ballot question does not receive a favorable majority vote, or if less than thirty-five percent of the registered voters cast ballots at the election, the proposed amendment shall not take effect.

VOTED: To indefinitely postpone Article 18. This was a voice vote and declared carried by the Moderator.

Town Meeting was adjourned at 10:45 P.M.

I certify that this is a true record of the Special Town Meeting held on March 19, 2001.

Barbara J. Walling
Town Clerk

**TOWN OF SANDWICH
2001 ANNUAL TOWN MEETING
May 7, 2001**

The Annual Town Meeting was called to order by Moderator Garry Blank at 7:10 p.m. after ascertaining a quorum was present. A total of 509 voters were checked in by the clerks. Selectman John S. Jillson led the Pledge of Allegiance. Reverend Bruce Bardon, pastor of the Covenant Baptist Church, gave the Invocation.

The Moderator swore in the following persons as tellers: Diane T. Tucker, Alan D. MacKay, Douglas S. Dexter, John E. Howell, Dale S. Forest, and Frank F. Knippenberg. Craig Sanderson was designated as timekeeper.

William F. Moore, Jr. paid tribute to James M. Foley, who is retiring from the School Committee. Selectman Ron Larkin paid homage to Jan Teehan and John S. Jillson, who are not running for re-election as members of the Board of Selectmen.

Benjamin D. Fleet recognized the many years of service by Barbara J. Walling, who is retiring as Tax Collector, as follows: I rise, for a few moments to remind this Annual Town Meeting of the near retirement of a valued town employee, Barbara Gage Walling.

Having been a 56-year neighbor of Barbara, I would wish to remind all here this evening of the total dedication and stewardship in office that Barbara has given us over the past thirty-one years. It was a bucolic place and time when I returned from the Pacific in 1945 and had the opportunity to become acquainted with the only three families living year round on Ploughed Neck Road—the Stenroos Family, the Elvander Family and the Gage Family.

In the summertime the children from these families, along with my own, wandered and played in the woods, hunting wild blueberries in July, playing in Scorton Creek, swimming in Cape Cod Bay, and skating on adjacent cranberry bogs in the wintertime. Barbara was in the older group of neighbor youngsters who helped the younger group on and off the bus, as all grades one through twelve rode the same bus to Henry T. Wing School and back in the afternoon.

After graduation from Henry T. Wing, she enrolled in Fisher College in downtown Boston and graduated from there proficient in office procedures, accounting, and the use of office machinery. Once while she was home from college, I asked her how she enjoyed being in the big city. Her response was positive enough, but I knew in a second that Barbara was still the girl from Ploughed Neck.

In 1970 Barbara took a position in the offices of Town Hall and in 1971 was certified as a permanent employee of the Tax Collector's and Town Clerk's office under the tutelage of Channing Hoxie. In 1982, Channing retired and Barbara was elected and has served to this time. This lady has served us well with professionalism in office and a keen understanding of the stewardship necessary to have her offices held in high respect by all town officials.

This community thanks you for your years of leadership in a time when handwritten ledgers gave way to the necessity of computers, as the explosive growth of Sandwich brought with it greater and greater needs in the keeping of records. We congratulate you for your decision in moving away from some ancient time of hand counting of election ballots. No longer are our employees forced to stay up until 2-3-4-5 or 6 o'clock the next morning to determine who was elected to office on the day before.

We have known you as good mother and wept silently as you were forced to care and nurse your husband, John, in his final illness, in addition to all your other responsibilities. Barbara, we love you, we will miss you and your wonderful smile and great sense of humor. We wish you the very best in retirement and know that you will always remain in our thoughts as Barbara from Ploughed Neck.

I request that this Annual Town Meeting assembled rise and give Barbara a portion of our thanks for her service.

Moderator Blank announced that Newcomers Day would be held on Saturday, May 19, 2001 from 10 a.m. to 1 p.m. at the Henry T. Wing School on Route 130.

Selectman Teehan moved that articles could be summarized rather than read totally as printed in the warrant. It was seconded and carried unanimously.

Mrs. Teehan made a motion to allow the Moderator discretion to call a voice vote a two-thirds vote or unanimous vote where it is obvious the "ayes" have it. This motion was seconded and carried unanimously.

ARTICLE 1

To see if the Town will vote to hear the reports of all Town Officers and Committees and to act thereon, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town accept the reports of all Town Officers and Committees as printed in the 2000 annual town report.

ARTICLE 2

To see if the Town will vote to authorize the Board of Selectmen to apply for and expend any available grants during Fiscal Year 2002, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town authorize the Board of Selectmen to apply for and expend any available grants during Fiscal Year 2002.

ARTICLE 3

To see if the Town will vote to fix the salaries of all Elected Officers for Fiscal Year 2002 in accordance with the following list, as provided in M.G.L. c. 41, §108, or take any action relative thereto.

Moderator	450.00
Selectmen (4)	1,500.00 each
Chairman – Selectmen	2,000.00
Assessors (2)	1,000.00 each
Chairman – Assessors	1,500.00
Tax Collector	40,000.00
Town Clerk	42,500.00

UNANIMOUSLY VOTED: That the Town fix the salaries of all elected officers for Fiscal Year 2002 according to the following:

Moderator	450.00
Selectmen (4)	1,500.00 each
Chairman – Selectmen	2,000.00
Assessors (2)	1,000.00 each
Chairman – Assessors	1,500.00
Tax Collector	40,000.00
Town Clerk	42,500.00

ARTICLE 4

To see if the Town will vote to hear the report of the Finance Committee and to see if the Town will vote to raise and appropriate the sum of \$29,528,955.00 to defray Town expenses for the Fiscal Year July 1, 2001 to June 30, 2002 as itemized below in the column entitled FY'02 Total, or take any action relative thereto. The amounts set forth herein shall not be exceeded except upon the reduction of a corresponding amount from elsewhere within the budget.

Finance Committee Budget Message:

The Finance Committee recommends approval of the FY 2002 budget in the amount of \$29,528,955, as presented in the Annual Town Meeting warrant. Included in the total is a 7% increase in the School Department appropriation and a 9% increase in the amount provided for General Government. This proposal represents the joint efforts of the Finance Committee, the Board of Selectmen, the School Committee, the Town Administrator and Department Heads in arriving at a budget that provides quality services to the public while being sensitive to the needs of the taxpayers.

The School Committee has presented a budget that attempts to keep pace with higher operating expenses for items such as electricity, gas and maintenance, increasing enrollments, and the rising cost of special education. Despite the fact that Sandwich spends better than 70% of its overall budget on the public schools, we continue to rank last among Cape Cod towns in per pupil expenditures for education and well below the state average, a situation we are unlikely to be able to remedy without additional state aid.

The increase in the general government budget is the result of the Town’s continuing effort to reverse years of operating budgets that have been essentially level-funded during a time when the Town has grown dramatically. To that end \$125,000 has been allocated in the Selectmen’s budget to provide salary adjustments for non-union personnel to bring them in line with wages arrived at through negotiation with union employees. Negotiated increases are already reflected in departmental budgets. The Legal Services budget has been increased by \$20,000 to cover additional costs and fund a comprehensive review of the Protective Zoning By-laws. Expanded use of computers in government operations has necessitated a \$48,500 increase in the Data Processing budget to cover annual network oversight expenses, web-site maintenance and associated networking costs. The amount of \$52,000 has been added to the Library budget for salary adjustments, additional automation expenses resulting in part from a change in state requirements, purchases of books and periodicals and funding for the young adult program. Amounts budgeted for Human Resources, Town Clerk and Board of Appeals have been increased to fully fund positions previously approved but only partially funded in the prior year. No personnel additions are proposed in this budget owing to the large increase in debt service in FY’02 and its effect on the tax rate. The Snow and Ice account, which has been chronically under-funded for years, has been increased by \$130,000 to more accurately reflect the Town’s actual costs. The overall increase in the operating budget of 7.5% has been partially offset by anticipated increases in local receipts and other income, resulting in a net increase of 4.3% in the amount needed for the School Department, the Upper Cape Cod Regional Technical School and

General Government. If the Town's total valuation stayed the same, that would add an estimated \$0.57 to the tax rate.

The Finance Committee also recommends approval of a number of other financial warrant articles. The Capital Improvement Planning Committee is requesting a capital budget of \$399,800, equal to the amount approved in FY'01. The article authorizing short and long-term debt service in the amount of \$6.8 million is \$3.7 million higher than debt service in FY'01. This increase reflects the impact of the High School bond issue and the Land Bank program, both previously approved by voters, and the need to provide for debt service for the Sandwich Hollows golf course.

The Capital Improvement Planning Committee has also initiated an override request in the amount of \$500,000 to fund a long-needed program to repair and properly maintain the Town's neglected facilities. This request, if approved, would add an estimated \$0.24 to the present tax rate, an addition of about \$45 on the annual tax bill of the average homeowner. The Fire Department is asking approval of a \$775,000 article to provide additional manpower to a department that has been unable to keep pace with the Town's growing population. This proposal, to be funded in equal amounts over a two-year period, would add approximately \$0.19 to the tax rate each year, for a total of \$0.38. This would ultimately add a projected \$70 to the average annual tax bill. The Finance Committee unanimously supported both of these articles.

FY'02 BUDGET TOTALS

No.	Department	APPROPRIATION	RECOMMENDED
		FY'01 Total	FY'02 Total
114	Moderator	450	450
122	Selectmen	97,537	89,356
	Wage Adjust./Personnel	5,628	125,000
123	Town Administrator	158,334	158,909
131	Finance Committee	2,200	2,200
135	Accounting	154,677	161,834
141	Assessing	266,988	261,792
145	Treasurer	131,452	140,020
146	Tax Collector	157,198	159,581
147	Tax Title	30,000	30,000
151	Legal	137,000	157,000
152	Human Resources	54,300	83,706
161	Town Clerk	70,048	101,718
162	Elections & Registrations	63,770	39,820
171	Conservation	96,214	101,504
175	Planning & Development	92,369	80,248
176	Appeals Board	57,403	71,179
188	Recreation Center	6,750	7,450
189	JSD Building	23,540	24,245
190	Town Buildings	7,400	7,500
193	Town Hall	19,840	19,840
194	Town Hall Annex	19,640	19,640
195	Town Reports	10,000	10,000
196	Bind Town Records	1,500	1,500
197	Data Processing	102,500	151,000
	Total 100s	1,766,738	2,015,492
210	Police Department	2,069,836	2,287,574
220	Fire Department	1,743,884	1,893,984
241	Inspections	166,273	171,149
244	Weights & Measures	2,545	2,545
291	Emergency Management	945	945
292	Animal Control	39,897	40,897
294	Forest Warden	1,200	1,200
297	Bourne Shellfish	4,000	4,000
299	Greenhead Fly	1,500	1,500
	Total 200s	4,030,080	4,403,794
300	School Department	17,410,203	18,628,917
313	UCCRTS	770,236	770,973
	Total 300s	18,180,439	19,399,890
No.	Department	FY'01 Total	FY'02 Total
410	DPW – Engineering	113,426	135,920
420	DPW – Highways	767,197	792,452
421	Snow & Ice	120,003	250,000
424	Streetlights	32,500	32,500
435	DPW – Sanitation	929,417	887,775
	Total 400s	1,962,543	2,098,647

510	Health Department	124,566	128,797
522	Nursing Department	109,678	113,907
541	Council on Aging	90,525	93,575
543	Veterans Services	26,723	29,233
544	Human Services Building	23,950	23,950
547	Disabilities Commission	1,500	1,500
	Total 500s	376,942	390,962
610	Library	557,081	608,878
629	Youth Task Force	2,000	2,000
630	Recreation Department	63,349	66,686
650	DPW – Parks	207,443	217,291
670	Archives	8,000	8,000
671	Hoxie House / Grist Mill	7,865	12,115
693	Memorial Day	1,200	1,200
694	Historic District	9,233	9,500
	Total 600s	856,171	925,670
940	Insurance	294,500	294,500
	Total 900s	294,500	294,500
TOTAL TOWN BUDGET		27,467,413	29,528,955

VOTED: That the Town hear the report of the Finance Committee and raise and appropriate \$29,528,955.00 to defray Town expenses for the Fiscal Year 2002, to be divided among the various departments as printed in the warrant. This was a voice vote and declared carried by the Moderator.

ARTICLE 5

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$775,000.00 to be expended under the direction of the Board of Selectmen to provide Fire Department services, including benefits, subject to a favorable vote to override Proposition Two and One-half, so-called, pursuant to M.G.L. c.59, §21C(g), on May 10, 2001, or take any action relative thereto.

VOTED: That the Town raise and appropriate \$775,000.00 to be expended under the direction of the Board of Selectmen to provide Fire Department Services, including benefits, subject to a favorable vote to override Proposition two and one-half, so called, pursuant to M.G.L. Chapter 59, Section 21C(g) on May 10, 2001. This was a voice vote and declared carried by the Moderator.

At 7:45 P.M. the meeting was temporarily recessed and the Special Town Meeting was convened by Moderator Blank.

ARTICLE 1

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money, to be expended under the direction of the Board of Selectmen, for the purpose of reducing a projected FY'01 deficit in the Snow and Ice Account, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$95,000.00 from Surplus Revenue and the following amounts from Fiscal Year 2001 Budgets:

\$60,000.00 from the DPW-Sanitation Budget
5,000.00 from the DPW-Highway Budget
20,000.00 from the DPW-Park Budget
20,000.00 from the Data Processing Budget
15,000.00 from the Tax Title Budget
5,000.00 from the Elections and Registration
5,000.00 from the Inspections Budget

for a total of \$225,000.00 to reduce the FY 2001 deficit in the Snow and Ice Account.

The Moderator then adjourned the Special Town Meeting at 8:50 P.M. and reconvened the Annual Town Meeting.

ARTICLE 6

To see if the Town will vote to hear the report of the Capital Improvement Planning Committee, and further, to see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$399,800.00, to be expended under the direction of the Board of Selectmen, for the purpose of purchasing and repairing equipment, vehicles, and buildings, and providing related services in accordance with the following list, or take any action relative thereto.

Town Hall Copier	12,000.00
Fire Department Water Tanker	61,000.00

Inspections Vehicle	28,000.00
DPW Street Sweeper	105,000.00
DPW Aerial Lift (Lease Purchase)	40,000.00
DPW Mower & Trailer	12,000.00
Oak Ridge / Forestdale Parking Lots	25,000.00
Inspections Copier	9,500.00
Conservation Land Improvements	16,000.00
JSD Storage Shed	5,000.00
Police Station Bathroom	9,500.00
Nursing Department Improvements	1,800.00
Recreation Tennis Court Lights	5,000.00
Recreation Sailboat Replacements	5,000.00
Building / Capital Purchases	65,000.00

UNANIMOUSLY VOTED: That the Town hear the report of the Capital Improvement Planning Committee, and further, raise and appropriate \$399,800.00, to be expended under the direction of the Board of Selectmen, for the purpose of purchasing and repairing equipment, vehicles, and buildings and providing related services in accordance with the list printed in the warrant under Article 6.

ARTICLE 7

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$500,000.00 to be expended under the direction of the Board of Selectmen to secure professional services and complete building repairs, maintenance and improvements subject to a favorable vote to override Proposition Two and One-half, so-called, pursuant to M.G.L. c.59, §21C(g), on May 10, 2001, or take any action relative thereto.

VOTED: That the Town raise and appropriate \$500,000.00 to be expended under the direction of the Board of Selectmen, to secure professional services and complete building repairs, maintenance and improvements, subject to a favorable vote to override proposition two and one-half, so called, pursuant to M.G.L., Chapter 59, Section 21C(g) on May 10, 2001. This was a voice vote and declared carried by the Moderator.

ARTICLE 8

To see if the Town will vote to transfer and appropriate a sum of \$214,746.00 from the Ambulance Fund, to be expended under the direction of the Board of Selectmen, for the purpose of purchasing equipment for the Fire Department in accordance with the following list, and further, to see if the Town will vote to transfer and appropriate a sum of \$136,853.00 from the Ambulance Fund, to be expended under the direction of the Board of Selectmen, for the purpose of providing Fire Department services, supplies, and equipment in accordance with the following list, or take any action relative thereto.

Quint Payment	41,900.00
Replace Ambulance Chassis	87,500.00
Replace Fire Chief Cruiser	27,000.00
Purchase AEDs for Town Departments	39,846.00
Replace Paggers	<u>18,500.00</u>
	214,746.00
Ambulance Billing Service & Training	55,000.00
Ambulance Supplies	<u>81,853.00</u>
	136,853.00

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$214,746.00 from the Ambulance Income Account, to be expended under the direction of the Board of Selectmen for purchasing equipment for the Fire Department, and further, to transfer and appropriate \$136,853.00 from the Ambulance Income Account, to be expended under the direction of the Board of Selectmen, for providing Fire Department services, supplies and equipment in accordance with the list as printed in the warrant under Article 8.

ARTICLE 9

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for the payment of Interest on Loans, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town raise and appropriate \$2,134,844.63, transfer and appropriate \$365,662.37 from Overlay Surplus, transfer and appropriate from School Construction Interest \$321,000.00 and transfer and appropriate \$1,900.00 from the Ambulance Income Account for the payment of Interest in Loans in FY 2002.

ARTICLE 10

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for the payment of Principal on Loans, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town raise and appropriate \$1,555,871.00, transfer and

appropriate \$1,689,129.00 from Surplus Revenue, transfer and appropriate \$110,000.00 from the Golf Course Income Account, and transfer and appropriate \$40,000.00 from the Ambulance Income Account for the payment of principal on loans for FY 2002.

ARTICLE 11

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for the payment of Interest on Loans and Principal on Loans from the Cape Cod Land Bank account as authorized by Chapter 293 of the Acts of 1998, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate from the Land Bank Tax proceeds \$589,050.00 for the payment of Interest and Principal on Loans for FY 2002, as authorized by Chapter 293 of the Acts of 1998.

ARTICLE 12

To see if the Town will vote to appropriate the sum of money, received or to be received, from the Chapter 90 State Aid to Highways Program for highway construction and/or maintenance on any State approved road during FY'02, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town appropriate \$370,972.73 from monies received, or to be received from the Chapter 90 State Aid to Highways Program under Chapter 53(B) of the Acts of 1999 and Chapter 150 of the Acts of 2000 for Highway Construction and/or Maintenance on any State-approved road.

ARTICLE 13

To see if the Town will vote to transfer and appropriate \$4,837,430.00, received or to be received, under the Chapter 70 Education Reform Act Program, said funds to be expended under the direction of the School Committee, for School Department purposes during FY'02, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$4,837,430.00 received, or to be received, under the Chapter 70 Education Reform Act Program, said funds to be expended under the direction of the School Committee for School Department purposes during FY 2002.

ARTICLE 14

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$1,327,747.00 to pay employee benefit assessments as listed below, or take any action relative thereto.

Medicare / FICA	240,000.00
County Retirement Assessment	1,087,747.00

UNANIMOUSLY VOTED: That the Town raise and appropriate \$148,321.00 from additional Lottery aid, said funds to be expended under the direction of the Board of Selectmen, for paying Employee Benefit Assessments as listed in the warrant under Article 14.

ARTICLE 15

To see if the Town will vote to transfer and appropriate the sum of \$22,000.00 from the Cemetery Trust Fund Account to the FY'02 Department of Public Works Parks, Buildings and Grounds Division operating budget, to be expended under the direction of the Board of Selectmen, for the purpose of maintaining the Town's cemeteries and grounds, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$22,000.00 from the new Town Cemetery Trust Fund Account to the FY 2002 Department of Public Works, Parks, Buildings and Grounds Division Operating Budget, to be expended under the direction of the Board of Selectmen for maintaining the Town's cemeteries and grounds.

ARTICLE 16

To see if the Town will vote to transfer and appropriate money received or to be received from the State Aid to Libraries Account to the FY'02 Library operating budget, to be expended under the direction of the Board of Selectmen, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$24,249.69 received from the State Aid to Libraries Account to the FY 2002 Library Operating Budget, to be expended under the direction of the Board of Selectmen.

ARTICLE 17

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$250,000.00 to establish the Reserve Account for FY'02, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$250,000.00 from the Overlay Surplus to establish a Reserve Account for Fiscal Year 2002.

ARTICLE 18

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$21,200.00, to be expended under the direction of the Board of Selectmen, to fund various Social Service

Programs for services to be performed for and on behalf of Sandwich residents as listed below, or take any action relative thereto.

Independence House	6,400.00
Legal Services of Cape Cod	2,000.00
Nauset Workshop	1,500.00
Gosnold / Children's Services	6,000.00
Special Olympics	400.00
Cape Cod Child Development	1,200.00
Sight Loss Services	600.00
Upper Cape AIDS Council	2,000.00
Big Brothers / Big Sisters	500.00
Consumer Assistance Council	100.00
Elder Services	500.00

UNANIMOUSLY VOTED: That the Town raise and appropriate \$21,200.00, to be expended under the direction of the Board of Selectmen, to fund various social service programs for services to be performed for and on behalf of Sandwich residents, as listed in the warrant under Article 18.

ARTICLE 19

To see if the Town will vote to transfer and appropriate the FY'01 income from the Hoxie House and Grist Mill for the FY'02 operation and maintenance of the Hoxie House and Grist Mill, including salaries and expenses, to be expended under the direction of the Board of Selectmen, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$35,000.00 from the Hoxie House and Grist Mill for the operation and maintenance of the Hoxie House and Grist Mill, including salaries and expenses, to be expended under the direction of the Board of Selectmen.

ARTICLE 20

To see if the Town will vote to transfer and appropriate a sum of \$15,018.00, to be expended under the direction of the Board of Selectmen, to be paid to the Town of Barnstable for the residents of Sandwich to have beach privileges at Sandy Neck Beach, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$15,018.00 from the Beach Parking Account, to be expended under the direction of the Board of Selectmen, to be paid to the Town of Barnstable for the residents of Sandwich to have beach privileges at Sandy Neck Beach.

ARTICLE 21

To see if the Town will vote to transfer and appropriate the sum of \$42,695.00, to be expended under the direction of the Board of Selectmen, from the Beach and Recreation Account for the purpose of providing FY'02 Recreation Department and beach cleaning services, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$42,695.00 from the Beach Parking Account, to be expended under the direction of the Board of Selectmen for providing FY 2002 Recreation Department and Beach Cleaning Services.

ARTICLE 22

To see if the Town will vote in accordance with the provisions of M.G.L. c. 44, §53F1/2 to raise and appropriate or transfer from available funds a sum of money, to be expended under the direction of the Board of Selectmen, for the purpose of establishing the FY'02 operating budget for Sandwich Hollows Golf Club, or take any action relative thereto.

VOTED: That the Town, in accordance with the provisions of M.G.L. Chapter 44, Section 53F1/2 transfer from available funds received, or to be received by the Sandwich Hollows Golf Club the sum of \$986,869.00, to be expended under the direction of the Board of Selectmen for establishing the FY 2002 operating budget for Sandwich Hollows Golf Club. This was a voice vote and declared carried by the Moderator.

ARTICLE 23

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for the use of the Sandwich School Department, to be expended for the annual ordinary operating costs of the community access cable studio at Sandwich High School, to be offset by an amount not to exceed the amount of said facility's actual FY'01 receipts, or such other amount as may be approved by the Commissioner of Revenue, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town raise and appropriate \$13,125.00, to be expended under the direction of the School Committee, for the Annual Ordinary Operating Costs of the Community Access Cable Studio at Sandwich High School as printed in the warrant.

ARTICLE 24

To see if the Town will vote to accept the provisions of M.G.L. c. 59, §5K to establish a senior citizen property tax work-off program, and further, to see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$2,500.00, to be expended under the direction of the Board of Selectmen, for the purpose of continuing the Senior Volunteer Tax Credit Program during FY'02, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town accept the provisions of M.G.L. Chapter 59, Section 5K to establish a Senior Citizen Property Tax Work Off Program, and further, raise and appropriate \$2,500.00, to be expended under the direction of the Board of Selectmen, for continuing the Senior Volunteer Tax Credit Program in FY 2002.

ARTICLE 25

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$47,208.00, to be expended under the direction of the Board of Selectmen, for the purpose of funding the FY'02 Sandwich Promotions Fund as established under Chapter 227 of the Acts of 1997, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town transfer and appropriate \$47,208.00, to be expended under the direction of the Board of Selectmen, for funding the FY 2002 Sandwich Promotions Fund as established under Chapter 227 of the Acts of 1997.

ARTICLE 26

To see if the Town will vote to make the office of Town Clerk an appointed office, to be filled by appointment of the Board of Selectmen, in accordance with M.G.L. c.41, §1B, or take any action relative thereto.

VOTED: That the Town make the office of Town Clerk an appointed office, to be filled by appointment of the Board of Selectmen, in accordance with M.G.L., Chapter 41, Section 1B. This was a hand vote of 161 Yes and 225 No and declared **not carried** by the Moderator.

ARTICLE 27

To see if the Town will vote to make the office of Tax Collector an appointed office, to be filled by appointment of the Board of Selectmen, in accordance with M.G.L. c.41, §1B, or take any action relative thereto.

VOTED: That the Town make the office of Tax Collector an appointed office, to be filled by appointment of the Board of Selectmen, in accordance with M.G.L., Chapter 41, Section 1B. This was a voice vote and declared **not carried** by the Moderator.

ARTICLE 28

To see if the Town will vote to amend the Sandwich Town Bylaws by amending Section 6.00, Temporary Transient Business: Door to Door, by inserting the word "services" after the word "goods" in Part 1, by increasing the fine for any offense from \$200.00 to \$300.00 in Part 4, and by adding the following sentence at the end of Part 4, or take any action relative thereto:

Any violation of this bylaw which involves a person aged 60 or older or a handicapped person as defined by M.G.L. c.265, §13R may be used as evidence in a criminal complaint of larceny as described in M.G.L. c.266, §30.

UNANIMOUSLY VOTED: That the Town amend the Sandwich Town ByLaws by amending Section 6.00, Temporary Transient Business: Door to Door, as printed in the warrant under Article 28.

ARTICLE 29

To see if the Town will vote to amend the Sandwich Town Bylaws by deleting Section 2.96, Personnel Board, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town amend the Sandwich Town ByLaws by deleting Section 2.96, Personnel Board.

ARTICLE 30

To see if the Town will vote to amend the Sandwich Town Bylaws by deleting Section 3.80, Motor Boat Operations – Snake Pond, or take any action relative thereto.

VOTED: That the Town amend the Sandwich Town ByLaws by deleting Section 3.80, Motor Boat Operations – Snake Pond. This was a voice vote and declared carried by the Moderator.

ARTICLE 31

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court to the end that legislation be adopted to authorize the Chief of Police or his/her designee to carry out the powers and duties assigned to the Board of Selectmen with respect to dogs under the provisions of M.G.L. c.140, §157, or take any action relative thereto.

VOTED: That the Town authorize the Board of Selectmen to petition the General Court to the end

that legislation be adopted to authorize the Chief of Police or his/her designee to carry out the powers and duties assigned to the Board of Selectmen with respect to dogs under the provisions of M.G.L., c. 140, §157, or take any action relative thereto. This was a voice vote and declared carried by the Moderator.

ARTICLE 32

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by adding Section 2440 through 2450 Demolition Delay to Article II Use and Intensity Regulations, or take any action relative thereto.

Section 2440. DEMOLITION DELAY

Intent and Purpose. This by-law is adopted to preserve and protect significant buildings within the Town of Sandwich which reflect distinctive features of architectural, cultural, political, economic or social history of the Town and /or Commonwealth; to encourage property owners of significant buildings to seek ways to preserve, rehabilitate or restore such buildings rather than demolish them; and by furthering these purposes, to preserve the historical resources of the Town and promote the public welfare, and to make the Town a more attractive and desirable place in which to live. To achieve these purposes, the Sandwich Historical Commission (Commission) is empowered to advise the Inspector of Buildings with respect to the issuance of demolition permits for significant buildings. The issuance of demolition permits for significant buildings is regulated as provided in this by-law.

Section 2441. Exceptions. If any of the provisions of this by-law conflict with the special act of the legislature creating the Old King's Highway Historic District Committee, the state act shall prevail.

Section 2442. Definitions.

Building - Any combination of materials forming a shelter for persons, animals, property, or an activity.

Significant Building - Any building, or portion thereof, constructed prior to 1950, within the Town that the Commission determines to be in the public interest to be preserved or rehabilitated, and whose demolition would be detrimental to the historical and /or architectural heritage and resources of the Town.

Demolition - The act of pulling down, destroying, removing, or razing a building, or commencing the work of total or substantial destruction with the intent of completing the same. A structure shall be considered demolished if it is destroyed due to the owner's failure to maintain a watertight and secure structure. A structure will also be considered demolished if more than twenty-five percent (25%) of the front or side elevations are removed, or covered. Each elevation shall be calculated separately.

Historic District - The Old King's Highway Regional Historic District, or any other historic district which from time to time may be established under Massachusetts General Law Chapter 40C.

Section 2443. Procedure. No permit for the demolition of a building shall be issued other than in conformity with the provisions of Section 2440 through 2449 inclusive of this by-law, notwithstanding the provisions of other codes and by-laws applicable to demolition of buildings and permits issued therefore.

- a. An application to the Building Department for a demolition permit shall be made and co-signed by the owner (s) of record of the subject property at the time of the application.
- b. The Inspector of Buildings, on the day of the application for demolition, or within the next five successive business days, shall submit a copy of the application for demolition to the Commission. Within five business days of the receipt by the Inspector of Buildings of said application the Inspector of Buildings shall personally inspect the site and verify that the application:
 1. Is complete.
 2. The name, address, telephone number, and any other form of reference information required by the application are correct.
 3. A map referencing current Assessor's map and parcel numbers showing the location of the building to be demolished is submitted.
 4. A statement of the reason for the proposed demolition and data supporting said reason to establish justification for the request for demolition is submitted.
 5. A description of the building, or part thereof, to be demolished, including photographs is submitted.

Section 2444. Initial Determination. Within 14 business days of the receipt of the application by the Commission, the members shall make an initial determination as to whether the building is significant. Within 21 days after the receipt of the application, the Commission shall notify the Inspector of Buildings in writing, with copies to the Town Clerk, the Director of Planning & Development, and the owner of record as indicated on the application, of their determination regarding the structure. The Commission shall determine if the building described in the application is significant according to one or more of the following criteria:

1. The building is located within any local, or regional historic district; or

2. The building is listed on or is within an area listed on the National or State Register of Historic Places; is eligible for listing on the National or State Register of Historic Places; or is a building for which a preliminary determination of eligibility has been made by the Massachusetts Historical Commission; or
3. The building, constructed prior to 1950, is associated with one or more significant historic persons or events, or with the broad architectural, cultural, political, economic, or social history of the Town or Commonwealth; or
4. The building, constructed prior to 1950, is historically or architecturally significant in terms of period, style, method of building construction, or its association with a significant architect or builder, either by itself or as part of a group of buildings.

A. Withholding the Demolition Permit. The Inspector of Buildings shall withhold a demolition permit until the procedural requirements of Section 2444 have been satisfied unless:

1. The Inspector of Buildings receives written notice from the Commission that the building does not fall into one or more of the categories described in Section 2444.
2. The Inspector of Buildings fails to receive written notice from the Commission of its initial determination as required by Section 2444 within the specified time period; or
3. The Inspector of Buildings receives written notice from the Commission that, while the building falls into one or more of the categories described in Section 2444, the Commission clearly could not deem the building significant.

B. Public Hearing. If after the Initial Determination Period the Commission determines that the building is significant, the Commission shall hold a public hearing within 45 days after the application is filed with the Inspector of Buildings. The Commission shall give public notice thereof by:

1. Publishing notice of time, place and purpose of the hearing in a local newspaper at least 14 days before said hearing.
2. Mailing a copy by certified mail of said notice to the applicant; the direct abutters as they appear on a list certified by the Assessors; the Inspector of Buildings; the Director of Planning & Development; to the Old King's Highway Regional Historic District, where applicable; and to the Conservation Commission where applicable; and to any other such persons as the commission shall deem entitled to notice.

Section 2445. Final Determination. If, after such hearing, the Commission determines that the demolition of the significant building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the applicant and the Inspector of Buildings within 10 business days of such determination.

If the Commission determines after a public hearing that the building is significant, and preferably preserved, the Commission shall notify the Inspector of Buildings, Town Clerk, Director of Planning & Development, and the owner of record as indicated on the application of its final determination within 15 business days from the date of the public hearing.

Upon determination by the Commission that a building is a preferably preserved significant building, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Inspector of Buildings. Should the owner fail to secure said building, the loss of it through fire, or other causes shall be considered voluntary demolition for the purposes of Section 2448.

Section 2446. Extended Withholding of Demolition Permit. The Inspector of Buildings shall withhold the demolition permit for a period of one year from the date when the final Commission determination of a significant and preferably preserved building was made except as provided in Section 2448.

Section 2447. Alternatives to Demolition. If the Commission makes a final determination that the building is "significant and preferably preserved", the Chair of the Commission shall invite the owner of record, the Inspector of Buildings, the Director of Planning & Development, and other persons determined to be directly affected, to participate in an investigation of alternatives to demolition, including, but not limited to, incorporation of the building into future development of the site; adaptive re-use of the building; utilization of financial incentives to rehabilitate the building; seeking a new owner willing to purchase and preserve, restore or rehabilitate the building; or moving the building.

Section 2448. Exceptions to Withholding of Demolition Permit/Emergency Demolition.

1. The Inspector of Buildings may issue a demolition permit for a significant building at any time after receipt of written notice from the Commission that it is satisfied that there is no reasonable likelihood that the building can be preserved, restored, rehabilitated, or moved.
2. Nothing in this by-law shall restrict the Inspector of Buildings from immediately ordering the demolition of any building in the event of imminent danger to the public's safety or health due to deteriorated conditions. The Inspector of Buildings shall inspect the structure, and findings and reasons for immediate demolition shall be recorded in a written report, a copy of which shall be promptly forwarded to the Commission.

Section 2449. Enforcement. The Inspector of Buildings shall institute all actions and proceedings as may be necessary and appropriate to obtain compliance with the requirements of this by-law or to prevent a violation or threatened violation thereof.

Section 2450. Non-Compliance. Anyone who demolishes a significant building except pursuant to court order without complying with the provisions of this by-law shall be subject to a fine not to exceed \$300. Each day from the date of the commencement of demolition to the final determination by court of competent jurisdiction shall constitute a separate offense. In no case shall such fines exceed \$3,000.

No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of the by-law for a period of 2 years after the date of the completion of such demolition. As used herein "premises" includes the parcel of land upon which the demolished significant building was located.

VOTED: To indefinitely postpone Article 32. This was a voice vote and declared carried by the Moderator.

ARTICLE 33

To see if the Town will vote to amend the Sandwich Protective Zoning By-law by adding definitions to the Definitions Section as follows, or take any action relative thereto:

Boat and Watercraft Storage Building - A structure used for indoor storage of boat and watercraft. The storage of hazardous materials other than those quantities normally associated with boat and watercraft storage shall be prohibited in such structures.

Medical Services and Technology - offices and clinics for medical or other health services for the examination and treatment of persons as outpatients, including laboratories that are part of such offices and clinics and pharmaceutical service or technology.

Natural State - Land that has not been cleared within the last 20 years, has not been landscaped, or in any way changed from what naturally occurs as a result of remaining undisturbed by human intervention shall be considered to be in a natural state for the purposes of this by-law.

Other Retail Business Or Service - An establishment selling or renting goods and services to the general public for personal and household consumption, including but not limited to florist, grocery, or hair styling; stores that offer the following items, including but not limited to antiques, apparel, appliances, art, candy, consignment goods, convenience, crafts, drugs, electronics, liquor, photo supplies, shoes, stationery, video and variety stores. A convenience store that sells gasoline and auto supplies but does not repair, service, or store vehicles shall be considered a retail business.

Tattoo Establishment / Body Art Establishment - A location, place, or business where the practices of body art are performed either for profit or not for profit and as further defined by the Sandwich Board of Health Regulations.

Technology Business or Service - Such businesses or services include: communications; data warehousing of any media; sales, service, data collection, research, development, assembly and manufacture of communication products, information service products and other electronic technology based business or service.

Mr. Charles Kleekamp moved that the Boat and Watercraft Storage Building section be eliminated from the motion. This was voted by voice vote and declared **not carried** by the Moderator.

VOTED: Voted that the Town amend the Sandwich Protective Zoning ByLaws by adding definitions to the Definitions Section as printed in the warrant under Article 33. This was a voice vote and declared carried by the necessary two-thirds vote by the Moderator.

ARTICLE 34

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by adding to Article II, Section 2300, Use Regulation Schedule the following principal uses, or take any action relative thereto:

	Zoning DISTRICT						
	R-1 R-2	BL-1 (6) BL-2	IND	MAR	RD	S	GD
2310. PRINCIPAL USES							
COMMERCIAL USE							
Boat and watercraft storage building	N	N	N	S	N	N	N
Medical Services and Technology	N	S	S	N	N	N	N
Technology Business or Service	N	N	S	N	N	N	N
Tattoo/Body Art Establishment	N	N	S	N	N	N	N

and further,

by adding note 12 to Section 2320 Accessory Uses, Home Occupation

2320. ACCESSORY USES							
Home occupation (see Sec. 4110) 12	Y	Y	Y	Y	Y	Y	N

12. Tattoo/Body Art Establishments shall be prohibited as home occupations.

Mr. Paul Donoghue moved that Article 33 be amended to change Principal Use of Technology Business or Service in Zone BL-1, BL-2 from N to S.

The amendment was voted by voice vote and declared **carried** by the Moderator.

UNANIMOUSLY VOTED: That the Town amend the Sandwich Protective Zoning ByLaws by adding to Article II, Section 2300, Use Regulation Schedule, The Principal Uses as printed in the warrant under Article 34 and as amended to change Principal Use of Technology Business in Zone BL-1, BL-2 from N to S.

ARTICLE 35

To see if the Town will vote to amend the Sandwich Protective Zoning By-law by adding Article III, General Regulations, Section 3120, Table of Requirements the following parking requirement, or take any action relative thereto:

Supermarket, grocery Store, Convenience Store: One (1) space per 200 square feet of gross floor area.

and further,

Delete from Section 3120 the requirement for Restaurant (with no seating)

and further,

Change Section 3120 requirement for Restaurant (with seating) to read as follows:
Restaurants: A minimum of five (5) spaces or one (1) space for three (3) seats, plus five (5) spaces per take-out area.

UNANIMOUSLY VOTED: That the Town amend the Sandwich Protective Zoning ByLaw by adding Article III, General Regulations, Section 3120, Table of Requirements, The Parking Requirements as printed in the warrant under Article 35.

ARTICLE 36

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws, Article III General Regulations, by enumerating existing Section 3510 as subsection a. and subsection b. and adding subsection 3510 c. as follows, or take any action relative thereto:

c. Vegetation Restoration. Where a lot or a portion of a lot has been previously cleared and does not currently support any vegetation, the 30% requirement described in Section 3510b shall be met by replanting an area that alone or in combination with existing natural state vegetation shall constitute 30% of the lot area.

1. Lots that do not meet the requirements of Section 3510 b shall be planted with a mixture of trees, shrubs, and groundcover species chosen to replicate natural state growth in nearby undisturbed areas.
2. Any permit application for a lot that does not meet the requirements of Section 3510 b shall submit, as part of the permit application, a planting plan stamped by a Registered Landscape Architect that shall be acted upon as part of the approval process for the permit.
3. The permitting board or agency, as a condition of their permit approval, shall require surety in a form acceptable to the permitting agency or board and the Town Treasurer in an amount sufficient to guarantee the survival of the plantings depicted on the approved restoration planting plan for two growing seasons after planting.
4. After such restoration, the restored area shall not be mowed, cleared, or otherwise disturbed.

and further,

Change the existing paragraph in Section 3510 as follows: (bolding indicates new text to be inserted, strikethrough indicates text to be deleted)

Variations from these ~~two~~ **three** standards shall require special permits from the Board of Appeals as provided for in Section 1380 herein.

VOTED: That the Town amend the Sandwich Protective Zoning ByLaws, Article III General Regulations, by enumerating existing Section 3510 as Subsection a. and Subsection b. and adding Subsection c. and further, to change the existing paragraph in Section 3510 by deleting “two” and adding “three” as printed in the warrant under Article 36. This was a hand

vote of 207 Yes and 74 No and declared passed by the necessary two-thirds majority by the Moderator.

ARTICLE 37

To see if the Town will vote to amend the Sandwich Protective Zoning By-law by amending Article II, Use and Intensity Regulations, Section 2540, Multiple Principal Buildings as follows, or take any action relative thereto:

Delete Section 2540 in its entirety.

Add new Section 2540 as follows:

2540. Multiple Principal Buildings on the Same Lot.

- a. Residential Districts.** Up to two principal dwellings may be allowed in R-1, R-2, and Ridge zoning districts on the same lot, but only upon issuance of a special permit by the Zoning Board of Appeals. Such a special permit shall not be issued unless the subject lot has at least twice the minimum lot area required for one principal dwelling, at least the required frontage for one principal dwelling; and then only if both proposed dwellings satisfy all of the minimum yard, lot coverage and other dimensional requirements set forth under Section 2600.
- b. Commercial Districts.** Multiple principal buildings may be allowed in the BL-1, BL-2, Industrial Limited, and Marine Limited Districts, but only upon issuance of a special permit by the Zoning Board of Appeals. Such a special permit shall not be issued unless the subject lot satisfies the minimum requirements set forth in Section 2600 for one building and unless each building satisfies all of the minimum yard and lot requirements set forth in Section 2600.
- c. Affordable Housing.** In the BL-1 and BL-2 Districts, one dwelling unit may be located within a structure which has a principal non-residential use, but only upon issuance of a special permit by the Zoning Board of Appeals. Additional dwelling units may thereafter be authorized by special permit; however, to be eligible for a special permit for additional dwelling units, a 1:1 ratio of market rate units to affordable units shall be established and maintained. A special permit for such additional dwelling units shall not be issued until after an accessory dwelling unit special permit has been issued by the Planning Board in accordance with Sections 4135-4139 of this Protective Zoning By-law. In addition, no special permit for more than one such unit shall be issued unless adequate parking is provided; appropriate site provisions have been made for both the residential and non-residential uses; and all of the criteria of Section 1330 have been shown to be satisfied.

VOTED: That the Town amend the Sandwich Protective Zoning ByLaws by amending Article II, Use and Intensity Regulations, Section 2540, Multiple Principal Buildings by deleting Section 2540 in its entirety and adding a new Section 2540 as printed in the warrant under Article 37. This was a voice vote and declared a two-thirds majority by the Moderator.

ARTICLE 38

To see if the Town will vote to accept the layout of the street listed below, in accordance with Chapter 80 of the General Laws relating to street betterments, as laid out and recommended by the Board of Selectmen, in accordance with the plans thereof, and as approved by the Town Engineer, and further, to see if the Town will vote to authorize and instruct the Board of Selectmen to take by eminent domain on behalf of the Town such land as may be necessary therefore, and to raise and appropriate or transfer from available funds a sum of money for said purpose, or take any action relative thereto.

Sheriff's Lane
Castle Lane
Sherwood Lane
Nottingham Drive (a portion)

UNANIMOUSLY VOTED: That the Town accept the layout of Sheriff's Lane, Castle Lane, Sherwood Lane and a portion of Nottingham Drive in accordance with Chapter 80 of the General Laws, as laid out and recommended by the Board of Selectmen and to raise and appropriate \$4.00 for said purpose, as printed in the warrant under Article 38.

ARTICLE 39

To see if the Town will vote to discontinue the rights of the Town of Sandwich under M.G.L. Chapter 82, Section 21 by discontinuing and abandoning that certain portion of West Meetinghouse Road from the end of the Town owned paved portion extending in an easterly direction to the Barnstable Town Line and as shown on Plan entitled "Definitive Plan of Land of Great Hills East, Cluster Subdivision in Sandwich, MA for J. Kevin O'Haire, Trustee, Wings Farm Realty Trust, P.O. Box 444, East Sandwich, Mass. 02537 dated May 10, 2000 revised...September 1, 2000, Scale 1"=60', Prepared by Advance Technical Solutions, P.O. Box 99, East Sandwich, Mass. 02537 and recorded in Plan Book 561, Page 14", or take any other action relative thereto.

(By Petition)

VOTED: To indefinitely postpone Article 39. This was a voice vote and declared carried by the Moderator.

ARTICLE 40

To see if the Town will vote to amend the Bylaws of the Town of Sandwich by adding the following Article:

Prohibition of Smoking in Certain Places within the Town of Sandwich

Section 1. Definitions

As used in this article:

Board: The Board of Health of the Town of Sandwich

Bar: An establishment whose business is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages. (*Incidental food is limited to prepackaged snack foods and food that only requires minimum preparation.*)

Employee: Any person who performs services for an employer.

Health Care Facility: Any office or institution providing care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions including but not limited to rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories, offices of any surgeon, chiropractor, physical therapist, physician, dentist and all specialists within these professions.

Indoor Sports Arena: Any sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar recreational facilities where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

Person: Any person, firm, partnership, association, corporation, company or organization of any kind including, but not limited to an owner, operator, manager proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the agents or designees of the foregoing.

Public Place: Any building or facility owned, leased, operated or occupied by the municipality, including school buildings or grounds; any area open to the general public including, but not limited to, libraries, museums, theaters, auditoriums, indoor sports arenas, and/or recreational facilities, inns, hotel and motel lobbies, educational facilities, shopping malls, public restrooms, lobbies, staircases, halls, exits, entrances, elevators accessible to the public, and licensed child-care locations.

Public Transportation: Buses, taxis, and other means of transportation available to the general public while such means of transportation is operating within the boundaries of the town including indoor platforms by which such means of transportation may be accessed.

Restaurant: Any coffee shop, cafeteria, sandwich shop, private and public school cafeteria and other eating establishment which gives or offers food for sale to the public, guests, or employees for on-premises consumption, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities.

Retail Food Store: Any establishment commonly known as a supermarket, grocery store, bakery, or convenience store in which the primary activity is the sale of food items to the public for off-premises consumption.

Retail Store: Any establishment whose primary purpose is to sell or offer for sale to consumers, but not for resale, any goods, wares, merchandise, articles or other things, including retail food stores. "Retail store" shall not include restaurants as defined herein.

Smoking: Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other tobacco product in any form.

Town: The Town of Sandwich

Work Place: Any enclosed area of a structure or portion thereof at which one (1) or more employees perform services for their employer.

Section 2. Notice of Prohibition.

Every person having control of premises upon which smoking is prohibited by and under the authority of this article shall conspicuously display upon the premises "No Smoking" signs provided by the Massachusetts Department of Public Health and available from the Sandwich Board of Health.

Section 3. Smoking Prohibited.

No person shall smoke nor shall any person, employer, or other person having control of the premises upon which smoking is prohibited by this article, or the agent or designee of such person, permit a person to smoke in any of the following places as defined, herein: bars, health care facilities, public places, public transportation, restaurants, retail stores, and work places except as otherwise provided in Section 4 of this article.

Additionally, no person shall smoke in any place in which a sign conforming to the requirement of Section 2 of this article is posted. No person shall remove a sign posted under the authority of Section 2 of this article.

Section 4. Exceptions.

Notwithstanding the provision of Section 3, smoking may be permitted in the following places and/or circumstances:

- a) Private residences, except those portions used as a childcare or health care office when operating as such.
- b) Hotel and motel rooms rented to guests that are designated as smoking rooms.
- c) Private or semi-private rooms of nursing homes and long term care facilities, occupied by one (1) or more patients, which are separately ventilated and all of whom are smokers who have requested in writing to be placed in rooms where smoking is permitted.
- d) Retail tobacco stores, which are solely for the sale of tobacco products, prohibit minors from entering the establishment, and which are not required to possess a retail food permit.

Section 5. Violations.

It shall be a violation for any employer or other person having control of the premises upon which smoking is prohibited by this article, or the agent or designee of such person to permit a violation of this article.

It shall be a violation for any person to smoke in any area where smoking is prohibited by the provisions of this article.

Any person who violates any provision of this article shall be subject to a fine of fifty (\$50.00) dollars for the first violation, one hundred (\$100.00) dollars for the second violation, and two hundred (\$200.00) dollars for a third or subsequent violations during any one calendar year.

Section 6. Enforcement.

The Sandwich Board of Health or its agent shall enforce this article.

One method of enforcement may be periodic, unannounced inspections of those establishments subject to these regulations.

Any citizen who desires to register a complaint under these regulations may do so by contacting the Sandwich Board of Health.

Whoever violates any provision of this article, the violation of which is subject to a specific penalty, may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint. Any fines imposed under the provisions of this article shall inure to the Town of Sandwich for such use as the Town may direct.

Each day on which any violation exists shall be deemed to be a separate offense.

Section 7. Severability.

If any paragraph or provision of this article is found to be illegal or against public policy or unconstitutional, it shall not affect the legality of any remaining paragraphs or provisions.

Section 8. Other Applicable Laws.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable health, safety or fire codes, regulations or statutes.

Section 9. Effective Date.

This article will be effective on July 1, 2001 or upon approval by the Office of the Attorney General of the Commonwealth of Massachusetts, whichever date is the later.

Or to take any other action in relation thereto.

(By Petition)

Dr. Anna A. Manatis-Lornell moved that the words "indoor enclosed" be inserted between "any" and "area" in the definition of Public Place. This was a voice vote and declared carried by the Moderator. Mrs. Kathryn M. Kleekamp moved the question, which was a voice vote and declared carried by the Moderator.

VOTED: That the Town amend the ByLaws of the Town of Sandwich by adding the article: "Prohibition of Smoking in Certain Places Within the Town of Sandwich" Section 1 through Section 9 as printed in the warrant under Article 40 and as amended above. This was a hand vote 183 Yes and 105 No and declared carried by the Moderator.

ARTICLE 41

We, the undersigned, petition to have the NOAH Rehabilitation Facility, proposed by the Hyannis Housing Assistance Corporation, relocated to an area out of town which would better serve their rehabilitative needs, as well as preserve the integrity of the surrounding neighborhoods. There is a genuine need for housing for the elderly and housing for low income families here in Sandwich. However, an experimental Rehabilitation Facility for ex-offenders and substance abusers does not meet that criteria, nor is it fiscally responsible to the taxpayers of Sandwich who will lose 47 acres to "Tax Exempt" status. Currently 40% of Sandwich land is now exempt from real estate taxes. The citizens and taxpayers of Sandwich cannot afford to support another tax-free endeavor, which will primarily benefit people from other parts of the state.

(By Petition)

VOTED: That the Town Meeting vote to adopt a non-binding, non-enforceable resolution, as printed in the warrant under Article 41. This was a voice vote of 122 Yes and 119 No, and declared carried by the Moderator.

ARTICLE 42

To see if the Town will delete section 2550 of the Sandwich Protective Zoning By-Law in its entirety and replace it as follows, or take any action relative thereto:

2550. NON-CONFORMING LOTS. Application of amended intensity of Use Regulations to previously created lots is limited by Section 6, Chapter 40A, Massachusetts General Law. In addition, any lot area, width, depth, frontage, yard or coverage requirements of this by-law shall not apply to erection, extension, alterations, or moving of a structure on a lot not meeting current requirements, provided that either the lot is in an exempted subdivision (see Section 2560) or the applicant documents that:

- (a) At the time such requirement became applicable to it, the lot:
 - 1. had at least 5,000 square feet of area and frontage on a street; or
 - 2. conformed to the dimensions required; if any, at the time of creation, and shows recorded rights of access to a street.

- (b) The lot is to be used for a single dwelling unit or for non-residential use, provided that no side yard shall be less than 20 feet on a lot having frontage of more than 100 feet but less than 200 feet and that no side yard shall be less than the greater of ten (10) percent of the lot's frontage or six (6) feet on one side and eight (8) feet on the other on a lot having frontage of 100 feet or less.

Such non-conforming lots may be changed in size or shape or their land area recombined without losing this exemption, so long as the change does not increase the actual or potential number of buildable lots.

(By Petition)

Article 42 was moved but not acted upon by the Town Meeting. Julie C. Molloy, Chairman of the Planning Board stated that under the Chapter 40A, Section 5, the Planning Board had up to twenty-one days to issue an opinion after the public hearing on the Article. Since the public hearing was held less than twenty-one days before Town Meeting, the Planning Board voted 4-3 not to issue an opinion, so the article could not be acted upon by Town Meeting.

The Moderator adjourned the Town Meeting at 11:40 p.m. to the election held on Thursday, May 10, 2001 from 8 a.m. to 8 p.m.

ARTICLE 43

To Elect the following Officers:

- Two Selectmen for a term of three years;
- One Assessor for a term of three years;
- One Assessor for a term of two years;
- One Town Clerk for a term of three years;
- One Tax Collector for a term of three years;
- One Constable for a term of three years;
- Two School Committee members for a term of three years;
- One Board of Health member for a term of three years;
- Three Trustees of the Sandwich Public Library for a term of three years;
- One Trustee of the Weston Memorial Fund for a term of three years;
- Three Planning Board members for a term of three years;
- One Planning Board member for a term of two years;
- One Planning Board member for a term of one year;
- One Sandwich Housing Authority member for a term of five years;
- and all other candidates that may appear on the official ballot,

And to vote YES or NO on the following questions:

BALLOT QUESTION #1

Shall the Town of Sandwich be allowed to assess an additional **\$500,000.00** in real estate and personal property taxes for the purposes of securing professional services and completing **BUILDING REPAIRS, MAINTENANCE AND IMPROVEMENTS** for the fiscal year beginning July first two thousand and one?

YES _____ NO _____

BALLOT QUESTION #2

Shall the Town of Sandwich be allowed to assess an additional **\$775,000.00** in real estate and personal property taxes for the purpose of providing **FIRE DEPARTMENT SERVICES**, including benefits, for the fiscal year beginning July first two thousand and one?

YES _____ NO _____

BALLOT QUESTION #3

Shall the town vote to have its elected Town Clerk become an appointed Town Clerk of the town?

YES _____ NO _____

BALLOT QUESTION #4

Shall the town vote to have its elected Tax Collector become an appointed Tax Collector of the town?

YES _____ NO _____

The polls for the election will be open at 8:00 o'clock in the forenoon on said THURSDAY, THE TENTH DAY OF MAY, 2001

The results of this election are as follows:

BOARD OF SELECTMEN, For Three Years	P1	P2	P3	P4	P5	P6	P7	TOTAL
<u>Vote for not more than two</u>								
Dick Cranky Yankee Bradley	107	104	78	59	102	155	67	672
Paul B. Donoghue	93	112	79	81	152	89	88	694
Julie C. Molloy	117	154	113	73	110	98	50	715
Hank Sennott	180	175	155	135	177	158	100	1080
Pamela E. Terry	279	269	246	228	311	193	157	1683
All Others	1	0	1	1	1	0	2	6
Blanks	129	152	90	109	125	119	84	808
Total	906	966	762	686	978	812	548	5658

BOARD OF ASSESSORS, For Three Years	P1	P2	P3	P4	P5	P6	P7	TOTAL
<u>Vote for not more than one</u>								
Lawrence B. Harrington	337	318	297	236	378	302	206	2074
All Others	3	0	2	1	2	2	1	11
Blanks	113	165	82	106	109	102	67	744
Total	453	483	381	343	489	406	274	2829

BOARD OF ASSESSORS, For Two Years, Unexpired Term	P1	P2	P3	P4	P5	P6	P7	TOTAL
<u>Vote for not more than one</u>								
James Vincent Toner III	302	301	260	225	361	282	194	1925
All Others	2	0	2	1	1	4	2	12
Blanks	149	182	119	117	127	120	78	892
Total	453	483	381	343	489	406	274	2829

TOWN CLERK, For Three Years	P1	P2	P3	P4	P5	P6	P7	TOTAL
<u>Vote for not more than one</u>								
Barbara J. Walling	371	363	305	262	394	316	221	2232
All Others	1	1	3	0	2	3	1	10
Blanks	81	119	73	81	93	88	52	587
Total	453	483	381	343	489	406	274	2829

TAX COLLECTOR, For Three Years	P1	P2	P3	P4	P5	P6	P7	TOTAL
<u>Vote for not more than one</u>								
E. Susan Flynn	341	333	280	240	377	305	206	2082
All Others	1	3	2	0	5	3	0	14
Blanks	111	147	99	103	107	98	68	733
Total	453	483	381	343	489	406	274	2829

CONSTABLE, For Three Years	P1	P2	P3	P4	P5	P6	P7	TOTAL
<u>Vote for not more than one</u>								
Joseph M. Cotter	336	318	286	232	368	299	198	2037
All Others	4	2	1	0	1	2	1	11
Blanks	113	163	94	111	120	105	75	781

Total	453	483	381	343	489	406	274	2829
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SCHOOL COMMITTEE, For Three Years

Vote for not more than two

Eleanor M. Gaffney	275	309	250	204	309	243	164	1754
Penelope Jane Blackwell	207	207	178	175	257	193	140	1357
Edward W. Gallagher, Jr.	164	223	175	116	208	180	115	1181
All Others	1	0	1	1	2	3	1	9
Blanks	259	227	158	190	202	193	128	1357
Total	906	966	762	686	978	812	548	5658

BOARD OF HEALTH, For Three Years

Vote for not more than one

Sandra Lee Tompkins	288	268	236	201	294	260	182	1729
Johnnie Franklin Morris	76	112	84	52	111	71	55	561
All Others	0	2	1	1	1	1	1	7
Blanks	89	101	60	89	83	74	36	532
Total	453	483	381	343	489	406	274	2829

TRUSTEE, SANDWICH PUBLIC LIBRARY, For Three Years

Vote for not more than three

Janet E. Czarnetski	317	300	261	214	333	272	192	1889
Carolyn A. Weimar	302	300	260	212	351	269	190	1884
Alice F. Baker	293	298	260	205	338	248	185	1827
All Others	0	0	1	0	0	4	1	7
Blanks	447	551	361	398	445	425	254	2881
Total	1359	1449	1143	1029	1467	1218	822	8487

TRUSTEE, WESTON MEMORIAL FUND, For Three Years

Vote for not more than one

Charles E. Scribner	320	309	263	217	350	279	198	1936
All Others	0	1	2	0	0	1	0	4
Blanks	133	173	116	126	139	126	76	889
Total	453	483	381	343	489	406	274	2829

PLANNING BOARD, For Three Years

Vote for not more than three

Daniel J. Fortier	274	263	245	207	320	236	169	1714
Sarah M. Regan	276	265	244	217	327	267	182	1778
Joseph A. Vaudo	285	292	255	198	325	235	176	1766
All Others	1	1	3	0	0	5	1	11
Blanks	523	628	396	407	495	475	294	3218
Total	1319	1449	1143	1029	1467	1218	822	8487

PLANNING BOARD, For Two Years, Unexpired Term

Vote for not more than one

Barbara S. Kirsch	307	304	269	220	356	277	195	1928
All Others	1	0	1	0	1	1	0	4
Blanks	145	179	111	123	132	128	79	897
Total	453	483	381	343	489	406	274	2829

PLANNING BOARD, For One Year, Unexpired Term

Vote for not more than one

John L. Holmgren, Jr.	303	293	260	217	355	274	190	1892
All Others	1	0	1	1	0	1	0	4
Blanks	149	190	120	125	134	131	84	1892
Total	453	483	381	343	489	406	274	2829

SANDWICH HOUSING AUTHORITY, For Five Years

Vote for not more than one

John E. McGinn	313	293	262	221	347	275	189	1900
All Others	3	2	2	2	3	1	2	15
Blanks	137	188	117	120	139	130	83	914
Total	453	483	381	343	489	406	274	2829

BALLOT QUESTION NO. 1

Shall the Town of Sandwich be allowed to assess an additional \$500,000.00 in real estate and personal property taxes for the purposes of securing professional services and completing BUILDING REPAIRS, MAINTENANCE AND IMPROVEMENT for the fiscal year beginning July first two thousand and one?

YES	200	165	181	137	201	148	103	1135
NO	233	302	186	188	280	245	162	1596
Blanks	20	16	14	18	8	13	9	98
Total	453	483	381	343	489	406	274	2829

BALLOT QUESTION NO. 2

Shall the Town of Sandwich be allowed to assess an additional \$775,000.00 in real estate and personal property taxes for the purpose of providing FIRE DEPARTMENT SERVICES, including benefits, for the fiscal year beginning July first two thousand and one?

YES	272	215	222	214	311	263	160	1657
NO	172	261	149	121	172	138	108	1121
Blanks	9	7	10	8	6	5	6	51
Total	453	483	381	343	489	406	274	2829

BALLOT QUESTION NO. 3

Shall the town vote to have its elected Town Clerk become an appointed Town Clerk of the town?

YES	138	131	103	119	138	103	87	819
NO	269	310	241	194	312	271	166	1763
Blanks	46	42	37	30	39	32	21	247
Total	453	483	381	343	489	406	274	2829

BALLOT QUESTION NO. 4

Shall the town vote to have its elected Tax Collector become an appointed Tax Collector of the town?

YES	135	132	101	120	136	109	80	813
NO	271	308	239	191	309	265	173	1756
Blanks	47	43	41	32	44	32	21	274
Total	453	483	381	343	489	406	274	2829

The Polls were closed at 8:00 P.M. The total vote cast was 2829. The total number of voters at the close of registration prior to the election was 13,386. The voting lists of Checkers and Ballot Clerks were checked and found in order and agreed with Ballot Box totals.

The total number of absentee ballots was 142, which included P1 – 27, P2 – 23, P3 – 27, P4 – 11, P5 – 27, P6 – 17, and P7 – 10.

I certify that this is a true record of the Annual Town Meeting and Election held on May 7 and May 10, 2001.

Barbara J. Walling
Town Clerk

**TOWN OF SANDWICH
2001 SPECIAL TOWN MEETING
September 24, 2001**

The Special Town meeting was called to order by Moderator Garry Blank at 7:10 p.m. after ascertaining a quorum was present. A total of 383 voters was checked in by the clerks. Firefighter/EMT Scott F. Ames of the Sandwich Fire Department and member of the Beverly FEMA team led the Pledge of Allegiance. Mr. Ames had recently returned from responding to the World Trade Center disaster. The Reverend John M. Murray, Parochial Vicar of Corpus Christi Church, gave the Invocation.

The Moderator swore in the following persons as tellers: Douglas S. Dexter, Walter T. Fagnant, Jr., Wayne G. Sellin, and Jan L. Teehan. Town Administrator George H. Dunham was designated as timekeeper.

Jeanne G. Prendergast, accompanied on the piano by James DeFrancesco, sang "America, The Beautiful."

Selectman Ron Larkin moved that Article 3 be taken out of order, and the Moderator so directed.

ARTICLE 3

To see if the Town will vote to accept the layout of Route 130 and easements adjacent to Route 130 for the Route 130 improvement project as laid out and recommended by the Board of Selectmen, in accordance with the plans thereof entitled "County of Barnstable, Massachusetts, Plan of Route 130 (North Section) in the Town of Sandwich, as altered, August 10, 2001, Sheets 1 thru 2" and "County of Barnstable, Massachusetts, Plan of Route 130 (South Section) in the Town of Sandwich, as altered, August 10, 2001, Sheets 1 thru 6" as prepared by Vanasse Hangen Brustlin, Inc., as approved by the Town Engineer, and further, to see if the Town will vote to authorize and instruct the Board of Selectmen to take by eminent domain on behalf of the Town such land as may be necessary therefore, and to raise and appropriate a sum of \$1.00 for said purpose, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town accept the layout of Route 130 and easements adjacent to Route 130 for the Route 130 improvement project as laid out and recommended by the Board of Selectmen as printed in the warrant under Article 3, and to authorize and instruct the Board of Selectmen to take by eminent domain on behalf of the Town such land as may be necessary therefore and to raise and appropriate \$1.00 for said purpose.

ARTICLE 1

To see if the Town will vote to hear the report of the Charter Review Committee, or take any action relative thereto.

VOTED: That the Town hear the report of the Charter Review Committee. This was a voice vote and declared carried by the Moderator.

**REPORT OF THE CHARTER COMMITTEE TO SPECIAL TOWN MEETING
September 24, 2001**

The Board of Selectmen appointed an 11-member Charter Committee in March 1998 from a group of volunteers. The Committee was instructed to review Town By-laws and methods of operation and, if appropriate, prepare a charter for Town Meeting consideration. Over two and half years, the Committee met with elected and appointed town officials, as well as representatives from communities of similar size or those that have recently addressed charter related issues. The Committee met on a regular schedule with all meetings posted and open to the public. These meetings were also noted in the local press on a regular basis. The Committee welcomed comments from those who attended meetings.

In addition, the Committee conducted three public forums, including one on a Saturday morning for those residents unable to attend meetings on weeknights. A draft copy of the Charter was also distributed at the 2000 Annual Town Meeting. In November 2000 the Committee presented the Charter to the Board of Selectmen, and the Committee was discharged. The Charter was on the warrant for the Special Town Meeting on March 19, 2001.

Following the action of the Special Town Meeting on March 19, 2001 to postpone indefinitely consideration of the Charter, the Board of Selectmen re-appointed the Charter Committee.

At the first meeting of the reconstituted Committee, Hank Sennott, Chairman, resigned from the Committee because of his election to the Board of Selectmen. The Board of Selectmen has since then appointed Hank as an ex officio liaison to the Committee. All other members of the Committee accepted the re-appointment and voted the following Committee re-organization: Chair, Barbara Durland; Vice Chair, David Gilmartin; Secretary, Paul Schrader.

Since the re-organization the Committee has met to discuss various questions with the Town Administrator, the Finance Committee and the School Committee. In light of these discussions and the

debate and actions taken at the Special Town Meeting and the Annual Town Meeting, the Committee has made several revisions to the Charter as it was originally proposed.

The major revisions are:

- Retain the Town Clerk and Tax Collector as elected positions, based on the actions taken at the Annual Town Meeting and the non-binding referendum at the Town Election (Article IV, Sections 4.5 and 4.6)
- Clarification of the role of the Finance Committee in the budget process (Article VII, Section 7.2.b)
- Clarification of the role of the Director of Public Facilities (Article V, Section 5.3)

The most significant change in the original charter proposal submitted to Town Meeting on March 19, 2001, was to institute a Representative Town Meeting for the legislative branch of town government (Article III). This change also became the most controversial in discussions at Selectmen's meetings and in media reports.

The highest priority for the Charter Committee is the adoption of a charter for the Town of Sandwich. Responding to the perception of opposition to the Representative Town Meeting, and the possible defeat of the charter, the Committee decided to revise the proposed Charter to an Open Town Meeting form. However, a majority of the Committee is convinced that a Representative Town Meeting is the right direction for the town at this time. Given that the Charter is subject to amendment at Town Meeting, we believe it may be most appropriate to offer an amendment constructed to be consistent with the remainder of the Charter. Therefore, the Committee intends to move an amendment on the floor of the Special Town Meeting on September 24, 2001 to substitute a Representative Town Meeting form for the legislative branch so that both options can be fully debated, allowing the citizens of the town to make a choice in this important matter.

The Charter Committee wishes to express its thanks to all of the members of town government who have assisted us in preparing this Charter. The proposed Charter should in no way be construed as a reflection on the conduct of government responsibilities by any of those presently involved.

In developing the proposed Charter we have had open and frank expressions of opinion by each of us and by those who have appeared at our meetings. While the members of the Committee have not always agreed on every detail, they endorse this proposed Charter.

The members of the Committee believe that this Charter with provisions for moving to a policy-setting Board of Selectmen, a strong Town Administrator, and a Town Meeting will provide an improved town government with accountability of leadership, and sound administration in a time of increasing costs and growing complexity of town business.

Respectfully submitted,

The Charter Committee:
Barbara A. Durland, Chair
David M. Gilmartin, Vice Chair
Paul W. Schrader, Secretary
Richard J. Bradley
Patrick J. Clougher
Elizabeth F. Desaulniers
Mark F. Ellis
Allen E. Peterson, Jr.
Lawrence S. Spiegel
Robert D. Whearty
Hank Sennott, ex officio

ARTICLE 2

To see if the Town will vote to adopt a charter for the Town of Sandwich as follows, and further, to authorize the Board of Selectmen to petition the General Court to the end that legislation be adopted precisely as follows in accordance with the special act charter process, such special legislation shall be effective upon acceptance by the voters at the next subsequent annual or special election. The General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court. The Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition, or take any action relative thereto:

CHARTER TOWN OF SANDWICH PREAMBLE

Good government can only be defined as that which is wholly and justly participated in by the people who are under its jurisdiction. For that purpose the citizens of Sandwich, in exercising their rights of self-government, do ordain the provisions set forth in the ensuing Charter of this town.

ARTICLE I
INCORPORATION, FORM OF GOVERNMENT

Section 1.1 **INCORPORATION**

The inhabitants of the Town of Sandwich, Barnstable County, Massachusetts, residing within its corporate boundaries as heretofore established, are hereby constituted and shall continue to be a body politic and corporate in perpetuity under the name of "The Town of Sandwich."

Section 1.2 **FORM OF GOVERNMENT**

The municipal form of government provided by this Charter shall consist of a Town Meeting open to all voters; a Board of Selectmen, elected by the people and accountable to the people; and a Town Administrator, appointed by and accountable to the Board of Selectmen for proper administration of the affairs of the town.

ARTICLE II
POWERS OF THE TOWN

- a) The town shall have all the powers granted to towns by the Constitution and General Laws of the Commonwealth of Massachusetts together with all of the implied powers necessary to execute such granted powers.
- b) The powers of the town under the Charter shall be construed and interpreted liberally in favor of the town, and the specific mention of any particular power is not intended to limit in any way the general powers.
- c) The town may enter into agreements with any other agency of municipal government, agency of the Commonwealth, other states, or the United States government to perform jointly, by contract, or otherwise, any of its powers or functions and may participate in the financing thereof.

ARTICLE III
LEGISLATIVE BRANCH

Section 3.1 **OPEN TOWN MEETING**

The legislative powers of the town shall be exercised by a Town Meeting open to all voters.

Section 3.2 **PRESIDING OFFICER**

All sessions of the Town Meeting shall be presided over by a Moderator, elected as provided in Section 4.4 of the Charter. The Moderator shall regulate the proceedings, decide questions of order, and make public declarations of all votes. The Moderator shall have all of the powers and duties given to Moderators under the Constitution and the General Laws of the Commonwealth, and such additional powers and duties as may be authorized by the Charter, by By-law or by other Town Meeting vote.

Section 3.3 **ANNUAL TOWN MEEETING**

The Annual Town Meeting shall be held on such date or dates as may be fixed by the Board of Selectmen as provided in Section 4.2.5.e of the Charter.

Section 3.4 **SPECIAL TOWN MEETINGS**

Special Town Meetings shall be held at the call of the Board of Selectmen at such times, as it may deem appropriate and whenever a special meeting is requested by the voters in accordance with procedures made available by the General Laws of the Commonwealth.

Section 3.5 **QUORUM**

The quorum for both the Annual Town Meeting and any Special Town Meeting shall be set by By-law and to the extent practical shall reflect a reasonable representation of the town registered voters. In no event, however, shall this number be less than two hundred fifty (250) registered voters.

Section 3.6 **CLERK OF THE MEETING**

The Town Clerk shall serve as the clerk to the Town Meeting. In the event that the Town Clerk is absent, the Assistant Town Clerk will serve.

Section 3.7 **WARRANT ARTICLES**

- a) Except for procedural matters all subjects to be acted on by Town Meeting shall be placed on warrants issued by the Board of Selectmen.

b) The Board of Selectmen shall receive all petitions addressed to it which require the submission of particular subject matter to the Town Meeting in accordance with the General Laws of the Commonwealth. Petitioner's warrant articles shall be submitted to the Selectmen in written form. Ten (10) signatures shall be required on a petition to have an article inserted in the warrant for an Annual Town Meeting, and one hundred (100) signatures shall be required on a petition to have an article inserted in a warrant for a Special Town Meeting.

c) Any warrant article that seeks to raise, transfer, appropriate or expend any funds shall show comparative figures including actual figures for the preceding year, appropriations for the current year, requests for the next fiscal year and amounts recommended by the Finance Committee.

Section 3.8 PUBLICATION AND DISTRIBUTION OF THE WARRANT

In addition to any notice required by the General Laws of the Commonwealth, the Board of Selectmen shall cause the Annual Town Meeting warrant to be posted on the town bulletin board and otherwise distributed as provided by Section 4.2.5.e of the Charter. Additional copies shall be kept available for distribution by the Town Clerk.

ARTICLE IV

Section 4.1 ELECTED TOWN OFFICES, IN GENERAL

The offices to be filled by the voters shall be: a Board of Selectmen, five (5) members; a School Committee, seven (7) members; a Moderator; a Town Clerk; a Tax Collector; a Board of Assessors, three (3) members; a Board of Health, three (3) members; a Planning Board, seven (7) members; Trustees of the Sandwich Library, nine (9) members; Trustees of the Weston Memorial Fund, three (3) members; Sandwich Historic District, five (5) members; Housing Authority, 5 members, 4 elected 1 appointed by the Governor; and such other regional authorities, districts, or committees as may be required by the General Laws of the Commonwealth or inter-local agreement. All elected or appointed multiple member boards shall be arranged so that as nearly an equal number of terms as possible shall expire each year. Notwithstanding any other provision of the Charter, all elected officials and officers shall have the powers and duties as prescribed by the General Laws of the Commonwealth.

Section 4.2 BOARD OF SELECTMEN

The Board of Selectmen shall be composed of five (5) members. Each member shall be elected from the town at-large to a three (3) year term.

Section 4.2.1 QUALIFICATIONS

In addition to any other qualifications prescribed by law, each Selectman shall be a qualified voter of the town, and shall reside within the town while in office.

Section 4.2.2 COMPENSATION

Selectmen shall receive such compensation as may be specified in the annual budget, provided, however, that they shall be entitled to all necessary expenses incurred in the performance of their official duties upon approval by the Board of Selectmen.

Section 4.2.3 CHAIRMAN AND VICE CHAIRMAN

a) A chairman shall be elected by the Board of Selectmen at the first meeting following each regular town election. The chairman shall preside at all meetings of the Board. The chairman shall perform such other duties consistent with this Charter, or as may be imposed on him by the Board.

b) A vice chairman shall be elected by the Board of Selectmen at the first meeting following each regular town election. The vice chairman shall act as chairman during the disability or absence of the chairman, and in this capacity shall have the rights and duties conferred upon the chairman.

Section 4.2.4 VACANCIES

Vacancies in the office of Selectman shall be filled by special election if there is more than six (6) months remaining for the term of that position. The Board of Selectmen shall, within ten (10) days after the occurrence of a vacancy, call a special election that shall be held not less than sixty-five (65) days nor more than ninety (90) days after issuing the call.

Section 4.2.5 GENERAL POWERS AND DUTIES

a) Except as otherwise provided by the General Laws of the Commonwealth or this Charter, all executive powers of the Town shall be vested in the Board of Selectmen. The Board of Selectmen shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Town by law.

- b) At least a majority of the Board of Selectmen shall sign all official documents, and approve the financial warrants.
- c) The Board of Selectmen shall serve as the Board of Directors and policymaking body of the Town. They shall appoint a Town Administrator to carry out the day-to-day operations of the Town within the policies set by the Board of Selectmen. The Board of Selectmen shall appoint members of committees.
- d) No member of the Board of Selectmen may serve in any other elected and/or appointed Town office or committee during his or her term as Selectman, excluding ex-officio positions. Service as a representative from the Town to another body other than the Town shall not be prohibited by this provision.
- e) The Board of Selectmen shall set guidelines for the preparation of the annual budget and present the budget to the Town Meeting. The Board of Selectmen shall set the date and Warrant Articles for the Town Meeting and any Special Town Meeting. The Board of Selectmen shall make available sufficient copies of the warrant for the Town Meeting for all registered voters. The Board of Selectmen shall either provide direct mailings to households, or publish notice of the availability of said warrants at town facilities and other common locations throughout the town at least two (2) weeks prior to the Town Meeting.
- f) The Board of Selectmen shall be a licensing board for the Town and shall have the power to issue licenses as authorized by law, to make all necessary rules and regulations regarding the issuance of such licenses, and to impose restrictions on any such license as it deems to be in the public interest, and to enforce all laws, rules, regulations, and restrictions relating to all such businesses for which it issues licenses.
- g) The Board shall require bonds for all municipal officers and employees who receive or pay out any moneys of the town. The amount of such bonds shall be determined by the Board and the cost thereof shall be borne by the town.
- h) The Board of Selectmen shall be authorized to institute, prosecute, compromise or defend any claim, action, suit or other proceeding in the name of the Town and to settle any claim, action, suit or other proceeding brought by or on behalf or against the Town. In the event that a settlement requires the issuance of a permit or license or the transfer of property, and such matter is not within the Board of Selectmen's jurisdiction, the Town board or officer with legal jurisdiction over the matter shall retain sole authority to act on behalf of the Town.
- i) The Board of Selectmen shall exercise any other responsibilities as set forth in the General Laws of the Commonwealth.

Section 4.2.6 MEETINGS OF THE BOARD

- a) The Board of Selectmen shall hold at least two regular meetings each month. The board shall fix, by resolution, the days, times and location of its regular meetings.
- b) The Board of Selectmen may hold such special meetings as it deems necessary and appropriate, which may be called for by three members of the Board. In no event shall a regular or special meeting be held in any facility or at any locations which are not readily accessible to the public.

Section 4.2.7 RULES OF PROCEDURE

- a) The Board of Selectmen shall by resolution, determine its own rules and order of business; however, the rules shall provide that citizens of the town shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration.
- b) Voting, except on procedural motions, shall be by roll call if requested by a Selectman, and the ayes and nays shall be recorded in the minutes.
- c) Three Selectmen shall constitute a quorum for the purposes of transaction of business.
- d) No action of the Board of Selectmen shall be valid or binding unless adopted by the affirmative vote of three or more members of the Board.

Section 4.2.8 PROHIBITIONS

- a) Except where authorized by law, no Selectman shall hold any other town office or town employment during his term as Selectman, nor any former Selectman shall hold any compensated appointed town office or town employment until one year after the expiration of his term as Selectman.
- b) The Selectmen shall not in any manner dictate the appointment or removal of any town administrative officers or employees whom the Town Administrator or any of his subordinates are empowered to appoint. The Board of Selectmen may express its views and fully and freely discuss with the Town Administrator anything pertaining to appointments and removal of such officers and employees.

c) Except for the purpose of inquiries and investigations, the Board of Selectmen and its members shall deal with town officers and employees who are subject to the direction and supervision of the Town Administrator, solely through the Town Administrator, and neither the Board of Selectmen nor any of its members shall give orders to any such officer or employee, either publicly or privately.

Section 4.3 SCHOOL COMMITTEE

The School Committee shall be composed of seven (7) members. Each member shall be elected from the town at-large to a three (3) year term. The three (3) year terms of office for school committee shall be staggered.

Section 4.3.1 GENERAL POWERS AND DUTIES

The School Committee shall have all the powers and duties given to school committees by the General Laws of the Commonwealth. The School Committee shall have the power to select, oversee, and to terminate the Superintendent of Schools, establish educational goals and policies for the schools consistent with requirements of the General Laws of the Commonwealth and standards established by the Commonwealth.

Section 4.3.2 VACANCIES

Vacancies in the School Committee shall be filled by special election if there is more than six (6) months remaining for the term of that position. The Board of Selectmen shall, within ten (10) days after the occurrence of a vacancy, call a special election that shall be held not less than sixty-five (65) days nor more than ninety (90) days after issuing the call.

Section 4.4 MODERATOR

A Moderator shall be elected by the voters for a term of three years. In the event of absence of the Moderator the Town Meeting may elect a temporary Moderator, for the purpose of presiding over the Town Meeting.

Section 4.4.1 POWERS AND DUTIES

- (a) The Moderator shall have the powers and duties provided by the General Laws of the Commonwealth, by this Charter, by By-law or by any other Town Meeting vote.
- (b) The Moderator shall appoint members of the Finance Committee, which shall consist of nine (9) members. Should the Moderator fail to fill a vacancy on the Finance Committee within forty-five (45) days of having been notified in writing by the Town Clerk of said vacancy a majority of the remaining members of the Finance Committee may nominate a person for each such vacancy. Should the Moderator fail to take action on said nomination within 21 days, the nominee shall become a member of the Finance Committee.
- (c) The Moderator shall appoint members to other committees as directed by Town Meeting.

Section 4.5 TOWN CLERK

A Town Clerk shall be elected by the voters at the annual town election, for a term of three years.

Section 4.6 TAX COLLECTOR

A Tax Collector shall be elected by the voters at the annual town election, for a term of three years.

Section 4.7 BOARDS, COMMITTEES AND OFFICERS

- a) Each Board or Committee will be organized and charged with the powers and duties specified in the General Laws and Special Acts of the Commonwealth, Town By-law or elsewhere in this Charter. The Board of Selectmen may also, from time to time, establish boards or committees to address specific needs or issues. Each board or committee shall, at its annual organization meeting, elect a presiding officer and shall cause the Board of Selectmen and the Town Clerk to be notified of its selection. Such boards and committees shall make a written annual report of its activities to the Board of Selectmen.
- b) Members of permanent committees shall be elected for a staggered term of three years unless otherwise provided for by the General Laws of the Commonwealth or this Charter. Appointees to temporary and special committees shall be appointed by the Board of Selectmen for the duration of the charge of the board or committee. Boards, committees or officers specifically provided for by the General Laws of the Commonwealth or this Charter may be continued or terminated only by the Board of Selectmen.

ARTICLE V
ADMINISTRATIVE SERVICES

Section 5.1 TOWN ADMINISTRATOR

Section 5.1.1 APPOINTMENT AND QUALIFICATIONS

The Board of Selectmen by majority vote of the entire Board shall appoint a Town Administrator. The method of selection shall be left to the discretion of the Board of Selectmen so long as the method of selection insures orderly, nonpartisan action toward securing a competent and qualified person to fill the position. The Town Administrator shall be chosen solely upon the basis of his/her executive and administrative training, experience and ability and need not, when appointed, be a resident of the Town of Sandwich; however, during the tenure of his/her office he/she shall reside within the town. The Town Administrator shall be bonded at town expense.

Section 5.1.2 COMPENSATION

The Town Administrator shall receive compensation as may be fixed by the Board of Selectmen according to his/her expertise, education and training. Any contract between the Board of Selectmen and the Town Administrator shall be made pursuant to Massachusetts General Law, Chapter 41, Sec. 108N.

Section 5.1.3 TERM AND REMOVAL

The Town Administrator 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 Administrator 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 Administrator shall be responsible to the Board of Selectmen for the proper administration of all the affairs of the town consistent with the General Laws of the Commonwealth 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 Administrator;
- b) supervise and direct all appointed Department Heads;
- c) administer and enforce all provisions of General Laws of the Commonwealth 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 Administrator which are related to the warrant articles and to matters under the general supervision of the Town Administrator;
- 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 them or by the town as the Town Administrator 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 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. Any contract over \$500,000 will require approval by the Board of Selectmen;
- j) develop and maintain a formal and complete inventory of all town owned real and personal property and equipment;
- k) administer personnel policies, practices, rules and regulations, any compensation plan and any related matters for all municipal employees and to administer all collective bargaining agreements entered into by the town;
- l) fix the compensation of all town employees and officers appointed by the Town Administrator within the limits established by appropriation and any applicable compensation plan and collective bargaining agreements;
- m) be responsible for the negotiation of all contracts with town employees regarding wages, and other terms and conditions of employment, except employees of the School Department. The Town Administrator may, subject to the approval of the Board of Selectmen, employ special counsel to assist in

the performance of these duties. Collective bargaining agreements shall be subject to the approval of the Board of Selectmen, and the provisions of Massachusetts General Law, Chapter 150E;

- n) prepare and submit an annual operating budget and capital improvement program as provided in Section 7.1 (b) of this Charter and be responsible for its administration after its adoption. The Town Administrator may transfer funds between individual line items within a department account;
- o) keep the Board of Selectmen and the Finance Committee fully informed as to the financial condition of the town and make recommendations to the Board of Selectmen;
- p) prepare and submit to the Board of Selectmen at the end of the fiscal year a comprehensive report on the finances and the activities and operations of all departments, boards and committees of the town;
- q) investigate or inquire into the affairs of any town department or office;
- r) delegate, authorize or direct any subordinate or employee in the town to exercise any power, duty, or responsibility which the office of Town Administrator is authorized to exercise, provided, that all acts performed under such delegation shall be deemed the acts of the Town Administrator; and
- s) perform such other duties as necessary or as may be assigned by this Charter, Town By-law, Town Meeting vote, or vote of the Board of Selectmen.

Section 5.1.5 ACTING TOWN ADMINISTRATOR

The Assistant Town Administrator shall perform the duties of the Town Administrator in his/her absence. In the event of long-term disability, resignation, termination, or vacancy of both the Town Administrator and the Assistant Town Administrator at the same time, the Board of Selectmen shall appoint an Acting Town Administrator for the duration of any such disability, or until appointment of a permanent Town Administrator or Assistant Town Administrator. No member of the Board of Selectmen shall serve as Acting Town Administrator.

Section 5.2 TOWN COUNSEL

The Board of Selectmen shall appoint a competent and duly qualified and licensed attorney practicing in the Commonwealth, who shall be the counsel for the town. He/she shall receive for his/her services such compensation as may be fixed by the Board of Selectmen and shall hold his/her office at the pleasure of the Board. The Town Counsel shall be the legal adviser of all of the offices and departments of the town, and he/she shall represent the town in all litigation and legal proceedings; provided, that the Board of Selectmen may retain special counsel at any time they deem appropriate and necessary. He/she shall review and concur or dissent upon all documents, contracts, and legal instruments in which the town may have an interest. The Town Counsel shall perform other duties prescribed by this Charter, Town By-law, or as directed by the Board of Selectmen.

Section 5.3 PUBLIC FACILITIES

The Town Administrator shall, under the provisions of Section 5.1.4 (a) of this Charter, appoint an individual as Director of Public Facilities. The Director shall, under the general supervision and direction of the Town Administrator, have general care of all town buildings and property, including but not limited to schools, fire, police, highway, cemetery, recreation and other municipal buildings and property. The Director shall in consultation with department heads, boards and the Capital Planning Committee develop and implement scheduled maintenance and repair of all public properties, excepting that daily maintenance and janitorial duties shall remain the responsibility of each department. The Director shall have overall supervision of all funds specifically appropriated for the purpose of extraordinary maintenance of town property.

ARTICLE VI PUBLIC RECORDS AND OPEN MEETINGS

All boards, committees, and commissions shall comply with Chapter 39, sections 23A, B and C of the General Laws of the Commonwealth, popularly known as the "Open Meeting Law", in the conduct of any town business.

ARTICLE VII FINANCIAL PROVISIONS AND ADMINISTRATION

Section 7.1 SUBMISSION OF BUDGET AND BUDGET MESSAGE

- a) Annually, prior to the first day of November, the Town Administrator shall establish and issue a budget schedule which shall set forth the calendar dates for developing the annual budget for the next fiscal year.
- b) On or before the first day of February, the Town Administrator shall submit to the Board of Selectmen and Finance Committee a proposed budget and accompanying message.

c) The Budget shall provide a complete financial plan of all town funds and activities, including details on debt and debt service, anticipated income, and proposed expenditures. The Budget shall include proposals for capital improvements for the next five (5) years. The budget message shall begin with a clear general summary of its content, and explain in both fiscal terms and work program objectives, proposed expenditures for each department, capital expenditures, and the projected tax rate.

d) The Board of Selectmen shall review the proposed Town Budget and refer it, including the School Department Budget and recommendations, to the Finance Committee, on or before the first day of March.

Section 7.2 FINANCE COMMITTEE

a) There shall be a permanent committee known as the Finance Committee, composed of nine (9) registered voters of the town appointed by the Moderator. They shall serve for three (3) year terms. Terms shall be staggered. Members shall serve without compensation and no member shall be an employee of the Town nor hold an elected or appointed town position during their term of office.

b) The Finance Committee shall submit a written budget report to the Annual Town Meeting and a written report to the Annual Town Meeting and any Special Town Meeting with its advisory recommendations on all financial warrant articles, and the projected tax impact consistent with its recommendations.

c) The Finance Committee may require that the Town Administrator, any town department, office, board, commission or committee furnish appropriate additional financial information, as needed.

Section 7.3 PUBLIC NOTICE AND PUBLIC HEARING

a) The Finance Committee shall within sixty (60) days following the submission of the draft budget by the Town Administrator, review the proposed budget, and shall return it to the Board of Selectmen with their recommendations.

b) The Board of Selectmen shall conduct at least one public hearing on the proposed budget, including the school budget, prior to the Town Meeting, and include the recommendations of the Finance Committee.

c) The Board of Selectmen shall post in the Town Hall and publish in a daily newspaper of general circulation, a summary of the proposed budget and notice stating:

1) the times and places where copies of the message and budget are available for inspection by the public, and

2) the date, time and place where the Board of Selectmen shall conduct the public hearing on the budget.

Section 7.4 BUDGET ADOPTION

Town Meeting shall adopt the annual operating budget, with or without amendments prior to the beginning of the fiscal year.

Section 7.5 ANNUAL AUDIT

At the close of each fiscal year, and at such times as it may be deemed necessary, the Board of Selectmen shall cause an independent audit to be made of all accounts of the Town by a certified public accountant. The certified public accountant so selected shall have no personal interest, directly or indirectly in the financial affairs of the Town or any of its offices. Upon completion of the audit, the results in a summary form shall be placed on file in the Town Clerk's office as a public record and in the Sandwich Public Library for public information.

Section 7.6 EMERGENCY APPROPRIATIONS, REDUCTIONS, and TRANSFERS

Any and all emergency appropriations, reductions, and transfers will be made in accordance with the provisions of the General Laws of the Commonwealth and the Town By-laws.

ARTICLE VIII RECALL

Section 8.1 RECALL

Any holder of an elected office in the Town of Sandwich may be recalled there from by the qualified voters of the Town as provided in Chapter 408 of the Acts of 1987 for reasons which include but are not limited to the following: embezzlement; influence peddling; refusal to abide by or not comply with the Conflict of Interest Law, Open Meeting Law, Public Records Law, rules and regulations thereto, and the By-laws of the Town of Sandwich which pertains to same; destruction or alteration of public records; nepotism; conviction for a felony; failure to perform the duties of the elected office; or other willful acts of omission or commission which betray the public trust.

Section 8.2 RECALL PETITION

A recall petition shall be initiated by request of ten (10) qualified voters. The recall petition shall be signed by twenty-five percent (25%) of the qualified voters and returned within twenty (20) days in accordance with the aforementioned Special Legislative Act.

**ARTICLE IX
CHARTER**

Section 9.1 SEVERABILITY

If any section, or part of a section of this Charter, shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter.

Section 9.2 CHARTER REVIEW COMMITTEE

At least every five (5) years the Selectmen shall appoint a Charter Review Committee to be composed of seven (7) members for a period not longer than six (6) months, who shall submit their recommendations to the Board of Selectmen and shall file proceedings of their deliberations.

Section 9.3 AMENDMENT TO CHARTER

a) Notwithstanding and in addition to the provisions of this section, this Charter may be amended or revised by special act of the General Court, upon the recommendation of Town Meeting, and/or pursuant to the provisions of General Laws Chapter 43B.

b) This Charter may be amended pursuant to an initiative petition filed in accordance with this section. To commence the initiative petition process, any ten (10) registered town voters may file an affidavit with the Town Clerk, containing the substance of the proposed charter amendment. The Town Clerk shall thereupon deliver to the voters filing the affidavit a sufficient number of initiative petition blanks, which shall be stamped with the date of issuance and contain the signature and official seal of the Town Clerk.

c) The petitioners shall print the text of the proposed charter amendment on the petition blanks or affix the text firmly thereto. The petition shall identify by section or subsection, where applicable, that provision(s) proposed for amendment, or shall state that the proposed amendment is a new provision. Signed petition forms must be filed with the Town Clerk's office by 4:30 PM on the twentieth (20th) day after issuance.

d) Initiative petition forms must be signed by no less than ten percent (10%) of the registered voters as appears on the registered voter list at the most recent annual town election. Any petition forms received after the twentieth (20th) day shall be rejected by the Town Clerk. Upon receipt of the petitions, the Town Clerk shall transmit said petitions to the Board of Voter Registrars, who shall within five (5) days certify those signatures that are names of registered voters of the Town. In the event that the number of certified signatures is less than ten percent (10%) of the registered voters, the Board of Voter Registrars shall so notify the Board of Selectmen and the voters who filed the affidavit, and such petitions shall be void and shall not count towards any other petition. If the petitions do contain a sufficient number of signatures, the Board of Registrars shall submit the petitions with the Town Clerk's certificate to the Board of Selectmen.

e) The Board of Selectmen shall provide a copy of the certified initiative petition to Town Counsel to conduct a review of the proposed charter amendment for consistency with the Constitution and the General Laws of the Commonwealth. If the opinion of Town Counsel is that the initiative petition is consistent with the Constitution and the General Laws of the Commonwealth, the Board of Selectmen shall thereafter declare that the proposed charter amendment shall appear as a ballot question at the next subsequent annual Town election ballot, provided that the Board of Selectmen receives the certified petitions no later than thirty-five (35) days before the election. If the opinion of Town Counsel is that the initiative petition is not consistent with the Constitution and the General Laws of the Commonwealth, the Board of Selectmen shall so notify the voters who filed the affidavit and the initiative petition shall not be placed on the annual Town election ballot.

f) The ballot question shall be worded substantially as follows: "Shall the town approve an amendment to the Town Charter, as proposed by initiative petition of the Town's registered voters, summarized below?" Town Counsel shall prepare a summary description of the proposed amendment.

g) If the ballot question receives a favorable majority vote, the proposed charter amendment shall take effect thirty (30) days after such election results are certified by the Town Clerk, provided that at least thirty-five percent (35%) of the registered voters cast ballots at the election. If the ballot question does not receive a favorable majority vote, or if less than thirty-five percent (35%) of the registered voters cast ballots at the elections, the proposed amendment shall not take effect.

Mrs. Durland moved to amend Article III and Article I, Section 1.2 as follows:

Amendment is substitution of entire Article III in bold

**ARTICLE III
LEGISLATIVE BRANCH**

Section 3.1 COMPOSITION

- a) **The legislative body of the town shall be a Representative Town Meeting. The members shall be elected to meet, deliberate, act and vote in the exercise of the corporate powers of the town.**
- b) **There shall be twenty-one (21) Town Meeting Members from each Precinct in the town. They shall be so elected that the term of office of one-third of the members shall expire each year.**

Section 3.2 ESTABLISHMENT OF PRECINCTS

The Board of Selectmen shall divide the town into a number of voting precincts in accordance with the provisions of the General Laws of the Commonwealth.

Section 3.3 TOWN MEETING MEMBERSHIP

- a) **Eligibility - any registered voter shall be eligible to be a candidate, to be elected, and to serve as a Town Meeting Member.**
- b) **Nomination Procedures - nomination of candidates for Town Meeting Member shall be made by nomination papers signed by not less than ten (10) voters of the precinct in which the candidate resides and from which he seeks election. The nomination papers shall be filed with the Town Clerk at least forty-nine (49) days preceding the date of the town election.**

Section 3.4 ELECTION AND TERMS

- a) **The voters in every precinct shall, at the first annual town election held following any precinct revision that affects them, elect by ballot the number of voters of the precinct prescribed in this article to be Town Meeting Members. The first third in order of votes received shall serve for three years; the second third in such order shall serve for two years; and the remaining third in such order shall serve for one year from the date of the annual town election. In case of a tie vote affecting the division into thirds, the members elected from the precinct shall determine the same by ballot. Thereafter, except as otherwise provided herein, at each annual election the voters of each precinct shall, in like manner, elect for three-year (3) terms one-third (1/3) of the number of Town Meeting Members to which that precinct is entitled, and shall fill for the unexpired terms any vacancies then existing.**
- b) **In the event of a tie vote for the office of Town Meeting Member the Town Clerk shall, within seven (7) days following the election, call all of the Town Meeting Members of that precinct together at a convenient place. Under the supervision of the Town Clerk, any such tie shall then and there be broken by ballots cast by the elected Town Meeting Members present.**

Section 3.5 VACANCIES

- a) **Resignation - a Town Meeting Member may resign by filing a written resignation with the Town Clerk, such resignation taking effect upon the date of such filing unless a later date certain is specified therein when it shall take effect.**
- b) **Removal from Town or Precinct - a Town Meeting Member who changes legal residence from the town shall forthwith cease to be a Town Meeting Member. A town Meeting Member who removes from one precinct to another, or who is so removed by a revision of precinct lines, may continue to serve as a Town Meeting Member from the precinct from which he was elected until the next annual town election at which the remainder of his term, if any, shall be filled by ballot. Any person so removed from office may be elected at the same election as a Town Meeting Member from the precinct in which he resides.**
- c) **Filling of Vacancies - any vacancy in the full number of Town Meeting Members from any precinct shall be filled until the next annual town election by the remaining Town Meeting Members from the precinct, from among the voters thereof. The balance of the un-expired term, if any, shall be filled at such annual town election.**

Section 3.6 COMPENSATION

Town Meeting Members shall serve without salary.

Section 3.7 PRESIDING OFFICER

A Moderator, chosen in accordance with the provisions of Section 4.4 shall preside at all sessions of the town meeting

Section 3.8 CLERK OF THE MEETING

The Town Clerk shall serve as the clerk of the town meeting. In the event that the Town Clerk is absent, the Assistant Town Clerk will serve.

Section 3.9 GENERAL POWERS AND DUTIES

All legislative powers of the town shall be vested in the Representative Town Meeting, except as otherwise provided by the General Laws of the Commonwealth or this Charter.

Section 3.10 PARTICIPATION BY NON-TOWN MEETING MEMBERS

- a) All appointed town officers, the Town Administrator, department heads, Chairpersons of multimember bodies or their designated representatives shall attend Town Meeting sessions when the warrant includes articles relating to their office or function.
- b) Registered voters, residents and taxpayers of the town may speak on any article in the warrant in accordance with such provisions or procedures adopted by the Town Meeting. Persons who are not voters, residents or taxpayers of the town may address the Meeting only with the consent of a majority of the Town Meeting Members present.

Section 3.11 ESTABLISHMENT OF STANDING COMMITTEES

The Town Meeting may from time to time, by By-law, establish standing committees to which shall be referred warrant articles for study, review and report in advance of the sessions of the Town Meeting.

Section 3.12 WARRANT ARTICLES

- a) Initiation - except for procedural matters, all subjects to be acted upon by the Town Meeting shall be placed on warrants issued by the Board of Selectmen.
- b) Publication - forthwith, following receipt by the Board of Selectmen of any subject for a Town Meeting warrant article, initiated by petition or by a majority of the Board of Selectmen, a copy of such subject shall be posted on the town bulletin board and otherwise distributed as may be provided by By-law. Additional copies shall be kept available for distribution by the Town Clerk.
- c) Any warrant article that seeks to raise, transfer, appropriate or expend any funds shall show comparative figures including actual figures for the preceding year, appropriations for the current year, requests for the next fiscal year and amounts recommended by the Finance Committee.

Section 3.13 PROCEDURES

- a) Time of Meeting - the Town Meeting shall meet at least twice in each calendar year. The first such meeting shall be held during the first six (6) calendar months, at a time fixed by By-law, and shall be primarily concerned with the determination of matters that have a fiscal effect on the town, including but not limited to the adoption of an annual operating budget for all town agencies. The second such meeting, the powers of which shall be deemed those of an annual town meeting, shall be held during the last four (4) calendar months, at a time fixed by By-law. In addition to the two (2) meetings required by this section the Board of Selectmen may, in any manner provided under the General Laws of the Commonwealth or this Charter, for the purpose of acting upon the legislative business of the town in an orderly and expeditious manner, call the Town Meeting into session at other times by the issuance of warrants therefore.
- b) Quorum - Seventy-five (75) Town Meeting Members shall constitute a quorum.

Section 3.14 REFERENDUM PROCEDURES

- a) Effective Date of Final Votes - no final affirmative vote of a Town Meeting on any warrant article, except a vote to adjourn or dissolve, or votes appropriating money for the payment of notes or bonds of the town and interest thereon becoming due with the then current fiscal year, or votes for the temporary borrowing of money in anticipation of revenue, or a vote declared by preamble by a two-thirds (2/3) vote of the Town Meeting to be an emergency measure necessary for the immediate preservation of the peace, health, safety or convenience of the town, shall be operative until after the expiration of five (5) days from the dissolution of the Town Meeting. If a referendum petition, as defined in (c) of this section, is not filed within the said five (5) days, the votes of the Town Meeting shall then become operative.
- b) Votes Not Subject to Referendum - No article which was defeated or otherwise failed to receive the necessary quantum of vote for approval shall be subject to a referendum petition pursuant to subsection (c) below. Any article disposed of by a vote to lay on the table, to

postpone indefinitely or similar vote, shall be deemed to have been defeated for purposes of Section 3.14.

c) **Referendum Petition to Rescind** - if, within said five (5) days, a petition signed by not less than three percent (3%) of the voters containing their names and addresses, is filed with the Board of Selectmen requesting that any question, not yet operative as defined in (a) above, be submitted to the voters, then the operation of such vote shall be further suspended pending its determination as provided below. The Board of Selectmen shall, within ten (10) days after the filing of such petition, call a special election that shall be held within thirty-five (35) days after issuing the call, for the purpose of presenting to the voters any such question. If, however, a regular or special town election is to be held not more than sixty (60) days following the date the petition is filed, the Board of Selectmen may provide that any such question be presented to the voters at that same election.

d) **Referendum Election to Rescind** - all votes upon any question so submitted shall be taken by ballot, and the conduct of such election shall be in accordance with the provisions of law relating to elections, unless otherwise provided in this section. Any questions so submitted shall be determined by a majority vote of the voters voting thereon, but no action of the Town Meeting shall be rescinded unless at least twenty percent (20%) of the registered voters vote on the question.

e) **Format of Questions** - any question so submitted shall be stated on the ballot in substantially the same language and form in which it was stated when presented by the Moderator to the Town Meeting, as appears in the records of the clerk of the meeting.

Amendment in bold underline

Section 1.2 FORM OF GOVERNMENT

The municipal form of government provided by this Charter shall consist of **a Representative Town Meeting, members elected by the people**; a Board of Selectmen, elected by the people and accountable to the people; and a Town Administrator, appointed by and accountable to the Board of Selectmen for proper administration of the affairs of the town.

After several speakers, Charles W. Kleekamp moved the question. The hand vote was Yes 173, No 130. Since the motion to move the question required a two-thirds vote, the motion DID NOT CARRY.

Following further discussion, the entire amendment was declared NOT CARRIED by the Moderator after a voice vote.

Mr. Kleekamp proposed the following amendment: Delete Section 3.5 QUORUM of charter Article III, (page 3 of the Warrant) currently worded as: The quorum for both the Annual Town Meeting and any Special Town Meeting shall be set by ByLaw and to the extent practicable shall reflect a reasonable representation of the town registered voters. In no event, however, shall this number be less than two hundred fifty (250) registered voters.

Replace Section 3.5 QUORUM of Charter Article III, to be worded as follows: The quorum for both the Annual Town Meeting and any Special Town Meeting shall be set by ByLaw.

A voice vote was taken and the amendment was declared CARRIED by the Moderator.

Richard J. Bradley moved the Section 5.2 be amended as follows: The Board of Selectmen shall appoint a competent and duly qualified and licensed attorney residing in and practicing with an office in the Town of Sandwich, who shall be counsel for the Town. He/she shall receive for his/her services such compensation as may be fixed by the Board of Selectmen and shall hold his/her office at the pleasure of the Board. The Town Counsel shall be the legal adviser of all of the offices and departments of the Town, and he/she shall represent the Town in all litigation and legal proceedings; provided that, the Board of Selectmen may retain special counsel at any time they deem appropriate and necessary. He/she shall review and concur or dissent upon all documents, contracts, and legal instruments in which the Town may have an interest. The Town Counsel shall perform other duties prescribed by this Charter, Town ByLaw, or as directed by the Board of Selectmen.

A voice vote was taken and the amendment was declared NOT CARRIED by the Moderator.

Robert A. Burgmann moved that Section 9.3g be amended as follows: Strike the remainder of the paragraph after Town Clerk. The paragraph would then read: If the ballot question receives a favorable majority vote, the proposed charter amendment shall take effect thirty (30) days after such election results are certified by the Town Clerk.

The hand vote was 176 Yes, 87 No and the amendment was declared CARRIED by the Moderator.

Robert L. Deroeck proposed that in Section 9.3d, the per cent be changed from 10 per cent to 5 per cent of the registered voters and change the number of days from twentieth (20th) day to sixtieth (60th) day.

The paragraph would then read: d) Initiative petition forms must be signed by no less than five percent (5%) of the registered voters as appears on the registered voter list at the most recent annual town election. Any petition forms received after the sixtieth (60th) day shall be rejected by the Town Clerk. Upon receipt of the petitions, the Town Clerk shall transmit said petitions to the Board of Voter Registrars, who shall within five (5) days certify those signatures that are names of registered voters of the Town. In the event that the number of certified signatures is less than ten percent (10%) of the registered voters, the Board of Voter Registrars shall so notify the Board of Selectmen and the voters who filed the affidavit, and such petitions shall be void and shall not count towards any other petition. If the petitions do contain a sufficient number of signatures, the Board of Registrars shall submit the petitions with the Town Clerk's certificate to the Board of Selectmen.

The hand vote was 164 Yes, 98 No and the amendment was declared **CARRIED** by the Moderator.

Mr. Deroeck also proposed that in Section 9.3c, the number of days be changed from twentieth (20th) day to sixtieth (60th) day.

The paragraph would then read: The petitioners shall print the text of the proposed charter amendment on the petition blanks or affix the text firmly thereto. The petition shall identify by section or subsection, where applicable, that provision(s) proposed for amendment, or shall state that the proposed amendment is a new provision. Signed petition forms must be filed with the Town Clerk's office by 4:30 PM on the sixtieth (60th) day after issuance.

A voice vote was taken on this amendment and declared **CARRIED** by the Moderator.

A voice vote was then taken on Article 2 as amended above and in the warrant.

VOTED: That the Town adopt a Charter for the Town of Sandwich and authorize the Board of Selectmen to petition the General Court that Legislation be adopted in accordance with the Special Act Charter process, and as printed in the warrant under Article 2 with the following amendment: Under Section 7.2, Finance Committee add the phrase "excluding ex-officio positions." at the end of paragraph (a). The hand ballot vote was 169 Yes, 77 No, and declared **CARRIED** by the Moderator. The amended Article will now read as follows:

CHARTER TOWN OF SANDWICH

PREAMBLE

Good government can only be defined as that which is wholly and justly participated in by the people who are under its jurisdiction. For that purpose the citizens of Sandwich, in exercising their rights of self-government, do ordain the provisions set forth in the ensuing Charter of this town.

ARTICLE I INCORPORATION, FORM OF GOVERNMENT

Section 1.1 INCORPORATION

The inhabitants of the Town of Sandwich, Barnstable County, Massachusetts, residing within its corporate boundaries as heretofore established, are hereby constituted and shall continue to be a body politic and corporate in perpetuity under the name of "The Town of Sandwich."

Section 1.2 FORM OF GOVERNMENT

The municipal form of government provided by this Charter shall consist of a Town Meeting open to all voters; a Board of Selectmen, elected by the people and accountable to the people; and a Town Administrator, appointed by and accountable to the Board of Selectmen for proper administration of the affairs of the town.

ARTICLE II POWERS OF THE TOWN

a) The town shall have all the powers granted to towns by the Constitution and General Laws of the Commonwealth of Massachusetts together with all of the implied powers necessary to execute such granted powers.

b) The powers of the town under the Charter shall be construed and interpreted liberally in favor of the town, and the specific mention of any particular power is not intended to limit in any way the general powers.

c) The town may enter into agreements with any other agency of municipal government, agency of the Commonwealth, other states, or the United States government to perform jointly, by contract, or otherwise, any of its powers or functions and may participate in the financing thereof.

ARTICLE III
LEGISLATIVE BRANCH

Section 3.1 OPEN TOWN MEETING

The legislative powers of the town shall be exercised by a Town Meeting open to all voters.

Section 3.2 PRESIDING OFFICER

All sessions of the Town Meeting shall be presided over by a Moderator, elected as provided in Section 4.4 of the Charter. The Moderator shall regulate the proceedings, decide questions of order, and make public declarations of all votes. The Moderator shall have all of the powers and duties given to Moderators under the Constitution and the General Laws of the Commonwealth, and such additional powers and duties as may be authorized by the Charter, by By-law or by other Town Meeting vote.

Section 3.3 ANNUAL TOWN MEEETING

The Annual Town Meeting shall be held on such date or dates as may be fixed by the Board of Selectmen as provided in Section 4.2.5.e of the Charter.

Section 3.4 SPECIAL TOWN MEETINGS

Special Town Meetings shall be held at the call of the Board of Selectmen at such times, as it may deem appropriate and whenever a special meeting is requested by the voters in accordance with procedures made available by the General Laws of the Commonwealth.

Section 3.5 QUORUM

The quorum for both the Annual Town Meeting and any Special Town Meeting shall be set by By-law.

Section 3.6 CLERK OF THE MEETING

The Town Clerk shall serve as the clerk to the Town Meeting. In the event that the Town Clerk is absent, the Assistant Town Clerk will serve.

Section 3.7 WARRANT ARTICLES

- a) Except for procedural matters all subjects to be acted on by Town Meeting shall be placed on warrants issued by the Board of Selectmen.

- b) The Board of Selectmen shall receive all petitions addressed to it which require the submission of particular subject matter to the Town Meeting in accordance with the General Laws of the Commonwealth. Petitioner's warrant articles shall be submitted to the Selectmen in written form. Ten (10) signatures shall be required on a petition to have an article inserted in the warrant for an Annual Town Meeting, and one hundred (100) signatures shall be required on a petition to have an article inserted in a warrant for a Special Town Meeting.

- c) Any warrant article that seeks to raise, transfer, appropriate or expend any funds shall show comparative figures including actual figures for the preceding year, appropriations for the current year, requests for the next fiscal year and amounts recommended by the Finance Committee.

Section 3.8 PUBLICATION AND DISTRIBUTION OF THE WARRANT

In addition to any notice required by the General Laws of the Commonwealth, the Board of Selectmen shall cause the Annual Town Meeting warrant to be posted on the town bulletin board and otherwise distributed as provided by Section 4.2.5.e of the Charter. Additional copies shall be kept available for distribution by the Town Clerk.

ARTICLE IV
ELECTED TOWN OFFICES

Section 4.1 ELECTED TOWN OFFICES, IN GENERAL

The offices to be filled by the voters shall be: a Board of Selectmen, five (5) members; a School Committee, seven (7) members; a Moderator; a Town Clerk; a Tax Collector; a Board of Assessors, three (3) members; a Board of Health, three (3) members; a Planning Board, seven (7) members; Trustees of the Sandwich Library, nine (9) members; Trustees of the Weston Memorial Fund, three (3) members; Sandwich Historic District, five (5) members; Housing Authority, 5 members, 4 elected 1 appointed by the Governor; and such other regional authorities, districts, or committees as may be required by the General Laws of the Commonwealth or inter-local agreement. All elected or appointed multiple member boards shall be arranged so that as nearly an equal number of terms as possible shall expire each year. Notwithstanding any other provision of the Charter, all elected officials and officers shall have the powers and duties as prescribed by the General Laws of the Commonwealth.

Section 4.2 BOARD OF SELECTMEN

The Board of Selectmen shall be composed of five (5) members. Each member shall be elected from the town at-large to a three (3) year term.

Section 4.2.1 QUALIFICATIONS

In addition to any other qualifications prescribed by law, each Selectman shall be a qualified voter of the town, and shall reside within the town while in office.

Section 4.2.2 COMPENSATION

Selectmen shall receive such compensation as may be specified in the annual budget, provided, however, that they shall be entitled to all necessary expenses incurred in the performance of their official duties upon approval by the Board of Selectmen.

Section 4.2.3 CHAIRMAN AND VICE CHAIRMAN

c) A chairman shall be elected by the Board of Selectmen at the first meeting following each regular town election. The chairman shall preside at all meetings of the Board. The chairman shall perform such other duties consistent with this Charter, or as may be imposed on him by the Board.

b) A vice chairman shall be elected by the Board of Selectmen at the first meeting following each regular town election. The vice chairman shall act as chairman during the disability or absence of the chairman, and in this capacity shall have the rights and duties conferred upon the chairman.

Section 4.2.4 VACANCIES

Vacancies in the office of Selectman shall be filled by special election if there is more than six (6) months remaining for the term of that position. The Board of Selectmen shall, within ten (10) days after the occurrence of a vacancy, call a special election that shall be held not less than sixty-five (65) days nor more than ninety (90) days after issuing the call.

Section 4.2.5 GENERAL POWERS AND DUTIES

a) Except as otherwise provided by the General Laws of the Commonwealth or this Charter, all executive powers of the Town shall be vested in the Board of Selectmen. The Board of Selectmen shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the Town by law.

b) At least a majority of the Board of Selectmen shall sign all official documents, and approve the financial warrants.

c) The Board of Selectmen shall serve as the Board of Directors and policy making body of the Town. They shall appoint a Town Administrator to carry out the day-to-day operations of the Town within the policies set by the Board of Selectmen. The Board of Selectmen shall appoint members of committees.

d) No member of the Board of Selectmen may serve in any other elected and/or appointed Town office or committee during his or her term as Selectman, excluding ex-officio positions. Service as a representative from the Town to another body other than the Town shall not be prohibited by this provision.

e) The Board of Selectmen shall set guidelines for the preparation of the annual budget and present the budget to the Town Meeting. The Board of Selectmen shall set the date and Warrant Articles for the Town Meeting and any Special Town Meeting. The Board of Selectmen shall make available sufficient copies of the warrant for the Town Meeting for all registered voters. The Board of Selectmen shall either provide direct mailings to households, or publish notice of the availability of said warrants at town facilities and other common locations throughout the town at least two (2) weeks prior to the Town Meeting.

f) The Board of Selectmen shall be a licensing board for the Town and shall have the power to issue licenses as authorized by law, to make all necessary rules and regulations regarding the issuance of such licenses, and to impose restrictions on any such license as it deems to be in the public interest, and to enforce all laws, rules, regulations, and restrictions relating to all such businesses for which it issues licenses.

h) The Board shall require bonds for all municipal officers and employees who receive or pay out any moneys of the town. The amount of such bonds shall be determined by the Board and the cost thereof shall be borne by the town.

h) The Board of Selectmen shall be authorized to institute, prosecute, compromise or defend any claim, action, suit or other proceeding in the name of the Town and to settle any claim, action, suit or other proceeding brought by or on behalf or against the Town. In the event that a settlement requires the

issuance of a permit or license or the transfer of property, and such matter is not within the Board of Selectmen's jurisdiction, the Town board or officer with legal jurisdiction over the matter shall retain sole authority to act on behalf of the Town.

i) The Board of Selectmen shall exercise any other responsibilities as set forth in the General Laws of the Commonwealth.

Section 4.2.6 MEETINGS OF THE BOARD

a) The Board of Selectmen shall hold at least two regular meetings each month. The board shall fix, by resolution, the days, times and location of its regular meetings.

b) The Board of Selectmen may hold such special meetings as it deems necessary and appropriate, which may be called for by three members of the Board. In no event shall a regular or special meeting be held in any facility or at any locations which are not readily accessible to the public.

Section 4.2.7 RULES OF PROCEDURE

a) The Board of Selectmen shall by resolution, determine its own rules and order of business; however, the rules shall provide that citizens of the town shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration.

d) Voting except on procedural motions, shall be by roll call if requested by a Selectman, and the ayes and nays shall be recorded in the minutes.

c) Three Selectmen shall constitute a quorum for the purposes of transaction of business.

d) No action of the Board of Selectmen shall be valid or binding unless adopted by the affirmative vote of three or more members of the Board.

Section 4.2.8 PROHIBITIONS

a) Except where authorized by law, no Selectman shall hold any other town office or town employment during his term as Selectman, nor any former Selectman shall hold any compensated appointed town office or town employment until one year after the expiration of his term as Selectman.

c) The Selectmen shall not in any manner dictate the appointment or removal of any town administrative officers or employees whom the Town Administrator or any of his subordinates are empowered to appoint. The Board of Selectmen may express its views and fully and freely discuss with the Town Administrator anything pertaining to appointments and removal of such officers and employees.

c) Except for the purpose of inquiries and investigations, the Board of Selectmen and its members shall deal with town officers and employees who are subject to the direction and supervision of the Town Administrator, solely through the Town Administrator, and neither the Board of Selectmen nor any of its members shall give orders to any such officer or employee, either publicly or privately.

Section 4.3 SCHOOL COMMITTEE

The School Committee shall be composed of seven (7) members. Each member shall be elected from the town at-large to a three (3) year term. The three (3) year terms of office for school committee shall be staggered.

Section 4.3.1 GENERAL POWERS AND DUTIES

The School Committee shall have all the powers and duties given to school committees by the General Laws of the Commonwealth. The School Committee shall have the power to select, oversee, and to terminate the Superintendent of Schools, establish educational goals and policies for the schools consistent with requirements of the General Laws of the Commonwealth and standards established by the Commonwealth.

Section 4.3.2 VACANCIES

Vacancies in the School Committee shall be filled by special election if there is more than six (6) months remaining for the term of that position. The Board of Selectmen shall, within ten (10) days after the occurrence of a vacancy, call a special election that shall be held not less than sixty-five (65) days nor more than ninety (90) days after issuing the call.

Section 4.4 MODERATOR

A Moderator shall be elected by the voters for a term of three years. In the event of absence of the Moderator the Town Meeting may elect a temporary Moderator, for the purpose of presiding over the Town Meeting.

Section 4.4.1 POWERS AND DUTIES

(c) The Moderator shall have the powers and duties provided by the General Laws of the Commonwealth, by this Charter, by By-law or by any other Town Meeting vote.

(d) The Moderator shall appoint members of the Finance Committee which shall consist of nine (9) members. Should the Moderator fail to fill a vacancy on the Finance Committee within forty-five (45) days of having been notified in writing by the Town Clerk of said vacancy a majority of the remaining members of the Finance Committee may nominate a person for each such vacancy. Should the Moderator fail to take action on said nomination within 21 days, the nominee shall become a member of the Finance Committee.

(c) The Moderator shall appoint members to other committees as directed by Town Meeting.

Section 4.5 TOWN CLERK

A Town Clerk shall be elected by the voters at the annual town election, for a term of three years.

Section 4.6 TAX COLLECTOR

A Tax Collector shall be elected by the voters at the annual town election, for a term of three years.

Section 4.7 BOARDS, COMMITTEES AND OFFICERS

a) Each Board or Committee will be organized and charged with the powers and duties specified in the General Laws and Special Acts of the Commonwealth, Town By-law or elsewhere in this Charter. The Board of Selectmen may also, from time to time, establish boards or committees to address specific needs or issues. Each board or committee shall, at its annual organization meeting, elect a presiding officer and shall cause the Board of Selectmen and the Town Clerk to be notified of its selection. Such boards and committees shall make a written annual report of its activities to the Board of Selectmen.

b) Members of permanent committees shall be elected for a staggered term of three years unless otherwise provided for by the General Laws of the Commonwealth or this Charter. Appointees to temporary and special committees shall be appointed by the Board of Selectmen for the duration of the charge of the board or committee. Boards, committees or officers specifically provided for by the General Laws of the Commonwealth or this Charter may be continued or terminated only by the Board of Selectmen.

ARTICLE V ADMINISTRATIVE SERVICES

Section 5.1 TOWN ADMINISTRATOR

Section 5.1.1 APPOINTMENT AND QUALIFICATIONS

The Board of Selectmen by majority vote of the entire Board shall appoint a Town Administrator. The method of selection shall be left to the discretion of the Board of Selectmen so long as the method of selection insures orderly, nonpartisan action toward securing a competent and qualified person to fill the position. The Town Administrator shall be chosen solely upon the basis of his/her executive and administrative training, experience and ability and need not, when appointed, be a resident of the Town of Sandwich; however, during the tenure of his/her office he/she shall reside within the town. The Town Administrator shall be bonded at town expense.

Section 5.1.2 COMPENSATION

The Town Administrator shall receive compensation as may be fixed by the Board of Selectmen according to his/her expertise, education and training. Any contract between the Board of Selectmen and the Town Administrator shall be made pursuant to Massachusetts General Law, Chapter 41, Sec. 108N.

Section 5.1.3 TERM AND REMOVAL

The Town Administrator 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 Administrator 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 Administrator shall be responsible to the Board of Selectmen for the proper administration of all the affairs of the town consistent with the General Laws of the Commonwealth and this Charter, and shall:

b) 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 Administrator;

- b) supervise and direct all appointed Department Heads;
- c) administer and enforce all provisions of General Laws of the Commonwealth 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 Administrator which are related to the warrant articles and to matters under the general supervision of the Town Administrator;
- 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 them or by the town as the Town Administrator 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 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. Any contract over \$500,000 will require approval by the Board of Selectmen;
- j) develop and maintain a formal and complete inventory of all town owned real and personal property and equipment;
- k) administer personnel policies, practices, rules and regulations, any compensation plan and any related matters for all municipal employees and to administer all collective bargaining agreements entered into by the town;
- l) fix the compensation of all town employees and officers appointed by the Town Administrator within the limits established by appropriation and any applicable compensation plan and collective bargaining agreements;
- m) be responsible for the negotiation of all contracts with town employees regarding wages, and other terms and conditions of employment, except employees of the School Department. The Town Administrator may, subject to the approval of the Board of Selectmen, employ special counsel to assist in the performance of these duties. Collective bargaining agreements shall be subject to the approval of the Board of Selectmen, and the provisions of Massachusetts General Law, Chapter 150E;
- n) prepare and submit an annual operating budget and capital improvement program as provided in Section 7.1 (b) of this Charter and be responsible for its administration after its adoption. The Town Administrator may transfer funds between individual line items within a department account;
- o) keep the Board of Selectmen and the Finance Committee fully informed as to the financial condition of the town and make recommendations to the Board of Selectmen;
- q) prepare and submit to the Board of Selectmen at the end of the fiscal year a comprehensive report on the finances and the activities and operations of all departments, boards and committees of the town;
- q) investigate or inquire into the affairs of any town department or office;
- r) delegate, authorize or direct any subordinate or employee in the town to exercise any power, duty, or responsibility which the office of Town Administrator is authorized to exercise, provided, that all acts performed under such delegation shall be deemed the acts of the Town Administrator; and
- s) perform such other duties as necessary or as may be assigned by this Charter, Town By-law, Town Meeting vote, or vote of the Board of Selectmen.

Section 5.1.5 ACTING TOWN ADMINISTRATOR

The Assistant Town Administrator shall perform the duties of the Town Administrator in his/her absence. In the event of long-term disability, resignation, termination, or vacancy of both the Town Administrator and the Assistant Town Administrator at the same time, the Board of Selectmen shall appoint an Acting Town Administrator for the duration of any such disability, or until appointment of a permanent Town Administrator or Assistant Town Administrator. No member of the Board of Selectmen shall serve as Acting Town Administrator.

Section 5.2 TOWN COUNSEL

The Board of Selectmen shall appoint a competent and duly qualified and licensed attorney practicing in the Commonwealth, who shall be the counsel for the town. He/she shall receive for his/her services such compensation as may be fixed by the Board of Selectmen and shall hold his/her office at the pleasure of the Board. The Town Counsel shall be the legal adviser of all of the offices and departments of the town, and he/she shall represent the town in all litigation and legal proceedings; provided, that the Board of Selectmen may retain special counsel at any time they deem appropriate and necessary. He/she shall review and concur or dissent upon all documents, contracts, and legal instruments in which the town may have an interest. The Town Counsel shall perform other duties prescribed by this Charter, Town By-law, or as directed by the Board of Selectmen.

Section 5.3 PUBLIC FACILITIES

The Town Administrator shall, under the provisions of Section 5.1.4 (a) of this Charter, appoint an individual as Director of Public Facilities. The Director shall, under the general supervision and direction of the Town Administrator, have general care of all town buildings and property, including but not limited to schools, fire, police, highway, cemetery, recreation and other municipal buildings and property. The Director shall in consultation with department heads, boards and the Capital Planning Committee develop and implement scheduled maintenance and repair of all public properties, excepting that daily maintenance and janitorial duties shall remain the responsibility of each department. The Director shall have overall supervision of all funds specifically appropriated for the purpose of extraordinary maintenance of town property.

**ARTICLE VI
PUBLIC RECORDS AND OPEN MEETINGS**

All boards, committees, and commissions shall comply with Chapter 39, sections 23A, B and C of the General Laws of the Commonwealth, popularly known as the "Open Meeting Law", in the conduct of any town business.

**ARTICLE VII
FINANCIAL PROVISIONS AND ADMINISTRATION**

Section 7.1 SUBMISSION OF BUDGET AND BUDGET MESSAGE

- b) Annually, prior to the first day of November, the Town Administrator shall establish and issue a budget schedule which shall set forth the calendar dates for developing the annual budget for the next fiscal year.
- b) On or before the first day of February, the Town Administrator shall submit to the Board of Selectmen and Finance Committee a proposed budget and accompanying message.
- c) The Budget shall provide a complete financial plan of all town funds and activities, including details on debt and debt service, anticipated income, and proposed expenditures. The Budget shall include proposals for capital improvements for the next five (5) years. The budget message shall begin with a clear general summary of its content, and explain in both fiscal terms and work program objectives, proposed expenditures for each department, capital expenditures, and the projected tax rate.
- d) The Board of Selectmen shall review the proposed Town Budget and refer it, including the School Department Budget and recommendations, to the Finance Committee, on or before the first day of March.

Section 7.2 FINANCE COMMITTEE

- a) There shall be a permanent committee known as the Finance Committee, composed of nine (9) registered voters of the town appointed by the Moderator. They shall serve for three (3) year terms. Terms shall be staggered. Members shall serve without compensation and no member shall be an employee of the Town nor hold an elected or appointed town position during their term of office, excluding ex-officio positions.
- b) The Finance Committee shall submit a written budget report to the Annual Town Meeting and a written report to the Annual Town Meeting and any Special Town Meeting with its advisory recommendations on all financial warrant articles, and the projected tax impact consistent with its recommendations.
- c) The Finance Committee may require that the Town Administrator, any town department, office, board, commission or committee furnish appropriate additional financial information, as needed.

Section 7.3 PUBLIC NOTICE AND PUBLIC HEARING

- a) The Finance Committee shall within sixty (60) days following the submission of the draft budget by the Town Administrator, review the proposed budget, and shall return it to the Board of Selectmen with their recommendations.
- b) The Board of Selectmen shall conduct at least one public hearing on the proposed budget, including the school budget, prior to the Town Meeting, and include the recommendations of the Finance Committee.

c) The Board of Selectmen shall post in the Town Hall and publish in a daily newspaper of general circulation, a summary of the proposed budget and notice stating:

1) the times and places where copies of the message and budget are available for inspection by the public, and

2) the date, time and place where the Board of Selectmen shall conduct the public hearing on the budget.

Section 7.4 BUDGET ADOPTION

Town Meeting shall adopt the annual operating budget, with or without amendments prior to the beginning of the fiscal year.

Section 7.5 ANNUAL AUDIT

At the close of each fiscal year, and at such times as it may be deemed necessary, the Board of Selectmen shall cause an independent audit to be made of all accounts of the Town by a certified public accountant. The certified public accountant so selected shall have no personal interest, directly or indirectly in the financial affairs of the Town or any of its offices. Upon completion of the audit, the results in a summary form shall be placed on file in the Town Clerk's office as a public record and in the Sandwich Public Library for public information.

Section 7.6 EMERGENCY APPROPRIATIONS, REDUCTIONS, and TRANSFERS

Any and all emergency appropriations, reductions, and transfers will be made in accordance with the provisions of the General Laws of the Commonwealth and the Town By-laws.

**ARTICLE VIII
RECALL**

Section 8.1 RECALL

Any holder of an elected office in the Town of Sandwich may be recalled there from by the qualified voters of the Town as provided in Chapter 408 of the Acts of 1987 for reasons which include but are not limited to the following: embezzlement; influence peddling; refusal to abide by or not comply with the Conflict of Interest Law, Open Meeting Law, Public Records Law, rules and regulations thereto, and the By-laws of the Town of Sandwich which pertains to same; destruction or alteration of public records; nepotism; conviction for a felony; failure to perform the duties of the elected office; or other willful acts of omission or commission which betray the public trust.

Section 8.2 RECALL PETITION

A recall petition shall be initiated by request of ten (10) qualified voters. The recall petition shall be signed by twenty-five percent (25%) of the qualified voters and returned within twenty (20) days in accordance with the aforementioned Special Legislative Act.

**ARTICLE IX
CHARTER**

Section 9.1 SEVERABILITY

If any section, or part of a section of this Charter, shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter.

Section 9.2 CHARTER REVIEW COMMITTEE

At least every five (5) years the Selectmen shall appoint a Charter Review Committee to be composed of seven (7) members for a period not longer than six (6) months, who shall submit their recommendations to the Board of Selectmen and shall file proceedings of their deliberations.

Section 9.3 AMENDMENT TO CHARTER

a) Notwithstanding and in addition to the provisions of this section, this Charter may be amended or revised by special act of the General Court, upon the recommendation of Town Meeting, and/or pursuant to the provisions of General Laws Chapter 43B.

b) This Charter may be amended pursuant to an initiative petition filed in accordance with this section. To commence the initiative petition process, any ten (10) registered town voters may file an affidavit with the Town Clerk, containing the substance of the proposed charter amendment. The Town Clerk shall thereupon deliver to the voters filing the affidavit a sufficient number of initiative petition blanks, which shall be stamped with the date of issuance and contain the signature and official seal of the Town Clerk.

c) The petitioners shall print the text of the proposed charter amendment on the petition blanks or affix the text firmly thereto. The petition shall identify by section or subsection, where applicable, that provision(s) proposed for amendment, or shall state that the proposed amendment is a new provision. Signed petition forms must be filed with the Town Clerk's office by 4:30 PM on the sixtieth (60th) day after issuance.

d) Initiative petition forms must be signed by no less than five percent (5%) of the registered voters as appears on the registered voter list at the most recent annual town election. Any petition forms received after the sixtieth (60th) day shall be rejected by the Town Clerk. Upon receipt of the petitions, the Town Clerk shall transmit said petitions to the Board of Voter Registrars, who shall within five (5) days certify those signatures that are names of registered voters of the Town. In the event that the number of certified signatures is less than five percent (5%) of the registered voters, the Board of Voter Registrars shall so notify the Board of Selectmen and the voters who filed the affidavit, and such petitions shall be void and shall not count towards any other petition. If the petitions do contain a sufficient number of signatures, the Board of Registrars shall submit the petitions with the Town Clerk's certificate to the Board of Selectmen.

e) The Board of Selectmen shall provide a copy of the certified initiative petition to Town Counsel to conduct a review of the proposed charter amendment for consistency with the Constitution and the General Laws of the Commonwealth. If the opinion of Town Counsel is that the initiative petition is consistent with the Constitution and the General Laws of the Commonwealth, the Board of Selectmen shall thereafter declare that the proposed charter amendment shall appear as a ballot question at the next subsequent annual Town election ballot, provided that the Board of Selectmen receives the certified petitions no later than thirty-five (35) days before the election. If the opinion of Town Counsel is that the initiative petition is not consistent with the Constitution and the General Laws of the Commonwealth, the Board of Selectmen shall so notify the voters who filed the affidavit and the initiative petition shall not be placed on the annual Town election ballot.

f) The ballot question shall be worded substantially as follows: "Shall the town approve an amendment to the Town Charter, as proposed by initiative petition of the Town's registered voters, summarized below?" Town Counsel shall prepare a summary description of the proposed amendment.

g) If the ballot question receives a favorable majority vote, the proposed charter amendment shall take effect thirty (30) days after such election results are certified by the Town Clerk.

ARTICLE 4

To see if the Town will vote to authorize the Board of Selectmen, in accordance with Chapter 80 of the General Laws relating street betterments, to assess a betterment charge to the abutters of the streets listed below as taken at the 2000 Annual Town Meeting under Articles 38, 39, and 40, provided that a majority of the abutters of said streets have agreed to assume a combined betterment assessment of not more than \$107,000.00 in accordance with the following list, and further, to authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow said amount to be repaid through the betterment process, or take any action relative thereto.

Vineyard Circle	\$12,000.00	Article 38, 2000 ATM
Overlook Drive Telegraph Hill Road	\$50,000.00	Article 39, 2000 ATM
Evsun Drive Short Way	\$45,000.00	Article 40, 2000 ATM

UNANIMOUSLY VOTED: That the Town authorize the Board of Selectmen to assess a betterment charge of \$107,000.00 to the abutters of Vineyard Circle, Overlook Drive, Telegraph Hill Road, Evsun Drive and Short Way as printed in the Warrant under Article 4, and further, to authorize the Town Treasurer with the approval of the Board of Selectmen, to borrow said amount to be repaid through the betterment process.

ARTICLE 5

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money, to be expended under the direction of the Board of Selectmen, for the purpose of increasing the FY'02 Town Insurance account, or take any action relative thereto.

UNANIMOUSLY VOTED: That the Town raise and appropriate \$100,000.00, to be expended under the direction of the Board of Selectmen, for the Fiscal Year 2002 Town Insurance Account.

ARTICLE 6

To see if the Town will vote to transfer the sum of \$52,000.00 from the FY'02 capital budget appropriation originally appropriated for the purpose of purchasing an aerial lift and a mower and trailer for the Department of Public Works as authorized at the 2001 Annual Town Meeting under Article 6 to be used for the purpose of building and capital purchases for the FY'02 capital budget, said funds to be expended under the direction of the Board of Selectmen, or take any action relative thereto.

VOTED: That the Town transfer and appropriate \$52,000.00 from the Fiscal Year 2002 Capital Budget appropriation originally appropriated for the purchase of an aerial lift and a mower and trailer for the Department of Public Works to be reappropriated for building and capital purchases, said funds to be expended under the direction of the Board of Selectmen. This was a voice vote and declared carried by the Moderator.

ARTICLE 7

To see if the Town will vote to hear the report of the Capital Improvement Planning Committee, or take any action relative thereto.

VOTED: That the Town hear the Report of the Capital Improvement Planning Committee. This was a voice vote and declared carried by the Moderator.

The report of the Sandwich Capital Improvement Planning Committee given by Susan James is as follows:

Mr. Moderator, Members of the Board of Selectmen and people of Sandwich, my name is Susan James, and I am the Chairman of the Sandwich Capital Improvement Planning Committee. All of you will remember that my Committee presented a request at the May Annual Town Meeting for a Proposition 2½ override to fund what we believed was a carefully considered and reasonable plan with two major goals: to correct building problems caused by deferred maintenance and to begin to save for future large repairs. After a detailed presentation that summarized findings from an engineering report submitted by Vincent Corsano, the article requesting the funding for the plan passed at Town Meeting, but the authorization for the override failed at the subsequent election.

It is without question that most, if not all, of the plan presented to Town Meeting in May is desperately needed. Because voting is a confidential democratic process, the Committee was not able to definitely determine what factors led to the defeat of the override request. From various comments made to Committee members, three issues emerged as possibly affecting the outcome:

- The requested amount was too high for Townspeople to afford.
- There was no guarantee, despite explanations to the contrary, that the money would always be used for capital expenditures.
- Some people expressed concerns because the repair and renovations to the second floor of Town Hall were included in the plan.

The Committee members take their job very seriously and were unwilling to give up on the process. After much discussion among Committee members, Town administrators and officials, and department heads, we are here tonight to present an alternative approach to accomplishing the goal of beginning a badly-needed maintenance and repair program.

I would like to briefly summarize how the buildings have come to be in their present condition and what the Committee would like to immediately address. The passage of Proposition 2½ in the early 1980s, along with the recession in the late 1980s and 1990s and the unprecedented growth in Sandwich at the same time, placed tremendous strain on the Town budget. Money was extremely tight and priority was given to expenditures related to operating the Town and the schools as the Town population increase required. Very little money was available even for routine maintenance and repair of buildings or other infrastructure. From 1995 to 1999, an average of \$70,000 was spent annually on large building maintenance and repair projects (not including the major expenditure associated with the High School renovation and addition or expenditures on roads). The total value of Town buildings is over \$80 million; the annual maintenance expenditure represents .08% of total value. This would be the equivalent of a homeowner of a \$200,000 home spending only \$160 per year to maintain the structural integrity and cosmetic appearance of the home. The major consequence of this lack of commitment has been that what began as minor, reparable problems, have become major issues.

Both the police building and the central fire station, for example, have structural and energy problems. The concrete and masonry in the police station has sustained major cracks, effectively causing one half of the building to be lower than the other; in turn, this has put additional structural stress on other portions of the building. The heating and air conditioning system is old and insufficient to properly heat and air condition all parts of the building. In some cases, a heating zone on one end of the building is wired to an area on the opposite end, causing overheating in some areas and not enough heat in others. Windows are old, and unusable in some cases; it is necessary to close some of the windows from the outside of the building. The proposed repairs include replacing windows, repairing masonry, removing and replacing fan convection units, installing a roof-mounted gas heater, replacing the boiler, and various wiring and woodwork projects.

The central fire station also has some masonry and exterior wood problems. Pieces of wood siding are lifting away from the underlay, wood areas around windows are rotting, and the garage doors need replacing. Also, there are cracks in the walls and floors that need to be addressed. Proposed repairs include fixing the exterior masonry and trim, replacing windows and garage doors, installing vinyl siding and upgrading the wiring. Several small projects are recommended for the satellite stations as well.

The Town Hall has evidence of water problems in the basement that may be beginning to undermine the structural integrity of the building. Windows are not energy efficient and need repairs in some instances.

Proposed maintenance to the Town Hall include repairing windows, installing a drainage system, replacing the boiler, upgrading the plumbing, refinishing the exterior siding and trim, and repairing damage to support columns.

Projects at the Oak Ridge and Forestdale Schools will address roof fireproofing, insulation, and repairing/replacing exterior doors. The Wing School needs to have repairs to mortar joints, roof flashing, and window storm sashes. Windows need replacing and some lead paint must be removed.

Other buildings included in the proposed plan include the following:

- DPW Facilities – repairs to exterior walls and trim.
- Human Services Building – roof replacement to prevent additional leaking and repair to concrete walks and platforms.
- Library – roof repair, upgrade electrical system and replace oil tanks.
- Annex – address water problem through pump and discharge pipe installation; replace boiler; upgrade plumbing; replace windows and refinish exterior trim and mortar; upgrade electrical system; replace flooring.
- Jan Sebastian Way Office – replace windows and address ADA compliance issues.

You will notice that my description, and the list you received with your warrants, excludes several buildings. The Committee made a decision to address only principal Town buildings and only projects that address structural integrity, energy efficiency, or safety issues. It is important to note that the original request is what the Committee really believes is needed, and even if this plan is funded, it will be necessary to come back to the Town at a future date to continue with the plan. This plan differs in several respects:

- The request is for \$1.225 million, approximately half of the previous request.
- The funding mechanism will be by debt exclusion instead of an override. The repayment will be over a term of five years and will add approximately \$.14 to the tax rate the first year. On a \$200,000 home, the additional cost to the taxpayer would be \$28. Because the funding is by debt exclusion, by law, the money can only be used for the purpose for which it is borrowed.
- The second floor renovations to the Town Hall are not included in this plan.

The Capital Improvement Planning Committee hopes that you will approve this request this evening and demonstrate your support of the maintenance and repair program by voting for the debt exclusion later this week.

Articles 7 & 8: For informational purposes the Capital Improvement Planning Committee has prepared the following list of proposed municipal building repairs as part of the Committee’s report to Town Meeting under Article 7 and the corresponding debt exclusion proposed under Article 8. The actual repairs that will be completed if the debt exclusion is approved may differ from this list depending on the prioritized needs identified as work is undertaken.

PROPOSED BUILDING MAINTENANCE DEBT EXCLUSION

DPW Facilities:

Repair or replace exterior walls & trim	Seal openings as required
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Fire Department Facilities:

Repair exterior masonry and trim	Install vinyl siding and refinish gables
Replace windows	Replace garage doors
Upgrade wiring	Various repairs at F'dale & E. Sandwich

Forestdale and Oak Ridge Schools:

Fireproof roof	Insulate to improve energy efficiency
Seal walls and caulk seams	Repair or replace exterior doors

Wing School:

Replace windows	Remove lead paint and refinish
Upgrade electrical system	Install window storm sash
Repair mortar joints	Paint exterior trim
Repair roof flashing	Remove UST in boiler room

Human Services Building:

Replace roof	Repair concrete walks and platforms
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Police Station:

Replace wood gutters and trim	Repair masonry
Replace windows & garage doors	Refinish exterior woodwork
Install wire communication trays	Remove/replace fan convection units
Repair boiler	Install roof-mounted gas heater

Public Library:

Repair roof	Replace oil tanks
Upgrade electrical system	

Town Hall:	Repair windows	Replace boiler
	Upgrade electrical system & plumbing	Repair damage to support columns
	Install drainage	Refinish exterior siding and trim
Town Hall Annex:	Install pump and discharge pipe	Refinish exterior trim
	Replace windows & boiler	Repoint mortar
	Upgrade electrical system & plumbing	Replace flooring
Town Office Building (Jan Sebastian Drive):	Replace windows	Address ADA compliance issues

ARTICLE 8

To see if the Town will vote to raise and appropriate, transfer from available funds or borrow a sum of money for the purpose of constructing improvements and remodeling, reconstructing and making extraordinary repairs to Town buildings, including design, site improvements, equipment, furnishings and costs incidental thereto, and to authorize the Treasurer, with the approval of the Board of Selectmen, to issue any bonds or notes that may be necessary for such purpose pursuant to M.G.L. c.44, §7(3a), or any other general or special law, and further to authorize the Board of Selectmen to enter into any and all contracts necessary to carry out such project; provided that said appropriation shall be contingent upon the passage of a so-called Proposition Two and One-half debt exclusion referendum in accordance with M.G.L. c.59, §21C(k) on September 27, 2001, or take any action relative thereto.

VOTED: That the Town hereby appropriates the sum of \$1,255,000.00 for the purpose of constructing improvements and remodeling, reconstructing and making extraordinary repairs to Town buildings, including design, site improvements, equipment, furnishings and all other costs incidental and related thereto, and that to meet this appropriation, the Treasurer, with the approval of the Board of Selectmen, is hereby authorized to borrow said amount pursuant to Chapter 44, Section 7(3A) of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefore, and further that the Board of Selectmen is hereby authorized to enter into any and all contracts necessary to carry out such project; provided that no funds shall be borrowed or expended hereunder unless and until the Town shall have voted to exclude the amounts needed to repay any bonds or notes issued hereunder from the limitations imposed by Chapter 59, Section 21C or the General Laws (Proposition 2½). The vote was a paper ballot, Yes 245, No 14, and declared carried by the Moderator.

ARTICLE 9

To see if the Town will vote to ratify, approve and confirm the vote of the Town taken under Article 1 of the Warrant at the Special Town Meeting held on March 19, 2001, which vote authorized the borrowing of \$2,500,000.00 for the purpose of land acquisition, or take any action relative thereto.

VOTED: That the Town hereby ratifies, approves and confirms the vote of the Town taken under Article 1 of the Warrant at the Special Town Meeting held on March 19, 2001, which vote authorized the borrowing of \$2,500,000.00 for the purpose of land acquisition. The vote was a paper ballot, Yes 203, No 23, and declared carried by the Moderator.

At 11:02 P.M., in accordance with the Town ByLaw, the Moderator asked permission to continue the meeting. This was a voice vote and he declared it carried by the necessary two-thirds vote.

ARTICLE 10

To see if the town will vote to amend the Sandwich Protective Zoning By-laws, Article II by deleting Sections 2550 and 2555 and replacing them with new Section 2550 and Section 2560, or take any action relative thereto:

Section 2550. Non - Conforming Vacant Lots

Any lot that does not qualify under the following provisions shall be governed by MGL Chapter 40A, Section 6.

Any increase in area, width, depth, frontage, yard or coverage requirements of this by-law shall not apply to construction of a single-family home together with all lawful accessory structures on a vacant lot in a residential district provided that the lot meets one of the following requirements or obtains a special permit as follows:

a.) The lot was legally created and has not less than 5,000 SF of area and not less than 50 feet of frontage on a street.

b.) The lot was created on a plan endorsed or approved by the Planning Board prior to 1980 and has not less than 10 feet of frontage on a street.

c.) If the lot has no frontage on a street and has a minimum of 40,000 SF of area as shown on a plan recorded at the Registry of Deeds the owner may apply for a special permit for the purpose of constructing one single family dwelling together with all lawful accessory structures. For the purpose of Section 2550c, inheritance shall not constitute a change in ownership. The Planning Board shall be the Special Permit Granting Authority for Section 2550c.

All of the following criteria shall be demonstrated and submitted prior to any action on the special permit request.

1. To qualify for a special permit under this section the lot:
 - a.) Shall not be less than 40,000 SF in area, and
 - b.) Shall have been owned by the applicant since 1990 or before.
2. The lot must be shown on a plan recorded at the Registry of Deeds and not otherwise noted as "not buildable". A copy of the recorded plan shall be submitted with the application materials.
3. A deed restriction running in favor of the Town of Sandwich, in a form acceptable to the SPGA, limiting construction on the subject lot to one single-family dwelling and any accessory structures allowed in the zoning district for the subject lot, shall be submitted. The deed restriction shall be recorded simultaneously with the special permit. An attested copy of each recorded document shall be submitted as part of the building permit application.
4. An easement narrative and easement plan, in a form acceptable to the SPGA, demonstrating the right to pass and re-pass for the purpose of accessing one single-family dwelling including all necessary vehicular access. The length of this easement shall not exceed 1000 feet in length from the subject lot property line to a street. The easement shall be not less than 10 feet wide and shall not exceed 50 feet in width.

Setbacks for non-conforming lots as described in subsections a, b & c above shall be as follows:

1. For lots having frontage of 100 feet or more, the side and rear yard setbacks shall not be less than 20 feet. The front yard setback shall not be less than 30 feet
2. For lots having frontage of less than 100 feet, the side yard shall not be less than 6 feet on one side and 8 feet on the other side, the front and rear yard setbacks shall be not less than 20 feet.

Non-conforming vacant lots may be changed in size or shape or may recombine the land area of vacant lots provided that the change in size or shape does not increase the actual or potential number of buildable lots.

Section 2560. Non - Conforming Lots with Structures

Any increase in lot area, width, depth, frontage, yard, or coverage requirements of this by-law shall not apply to the extension, alteration, or moving of a structure on a legally created lot not meeting current dimensional requirements provided that:

1. For lots having frontage of 100 feet or more, the side and rear yard shall not be less than 20 feet and the front yard shall be not less than 30 feet.
2. For lots having frontage of less than 100 feet, the side yard shall not be less than 6 feet on one side and 8 feet on the other side, the front and rear yard setbacks shall be not less than 20 feet.

Non-conforming lots with structures may be changed in size or shape or may recombine the land area of the lots provided that the change in size or shape does not increase the actual or potential number of buildable lots.

It was moved that the article be indefinitely postponed. A voice vote was taken and the motion was not carried.

VOTED: That the Town amend the Sandwich Protective Zoning ByLaws by deleting Section 2550 and 2555 and replacing them with new Section 2550 and Section 2560 as printed in the warrant under Article 10. It was a hand vote and was **not carried** by a vote of 79 Yes and 118 No.

ARTICLE 11

To see if the town will vote to amend the Sandwich protective zoning bylaws by adding assessors map #6 parcel #296 to the wireless telecommunications overlay district or take any action relative thereto.
(By Petition)

During the discussion, Robert A. Burgmann questioned the quorum. Since a count of voters totaled 189 and a quorum is 200, the Town Meeting was adjourned at 11:35 p.m. to the Special Election to be held on Thursday, September 27, 2001 from 7 a.m. to 8 p.m.

The polls for the election were open at 7:00 A.M. on THURSDAY, THE TWENTY-SEVENTH DAY OF SEPTEMBER, 2001.

The results of this election are as follows:

BALLOT QUESTION #1

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

	P1	P2	P3	P4	P5	P6	P7	TOTAL
Yes	94	98	63	42	113	56	50	516
No	36	57	28	27	44	47	30	269
Blanks	0	1	0	0	0	0	0	1
Total	130	156	91	69	157	103	80	786

The Polls were closed at 8:00 P.M. The total vote cast was 786. The total number of voters at the close of registration prior to the election was 13,181. The voting lists of Checkers and Ballot Clerks were checked and found in order and agreed with Ballot Box totals.

The total number of absentee ballots cast was 35, which included P1 – 9, P2 – 10, P3 – 4, P4 – 0, P5 – 6, P6 – 4, P7 – 2.

I certify that this is a true record of the Special Town Meeting and Election held on September 24 and September 27, 2001.

Barbara J. Walling
Town Clerk