

**TOWN OF SANDWICH  
SPECIAL TOWN MEETING  
March 21, 2005**

The Special Town Meeting was called to order by Moderator Garry Blank at 7:15 p.m. after ascertaining a quorum was present. The clerks checked in a total of 408 voters. Selectman Thomas F. Keyes led the Pledge of Allegiance. The invocation was given by Dr. Fields.

The Moderator swore in the following persons as tellers: John S. Jillson, Robert F. Thorpe, John B. Campanale, Jr., and Robert A. Sprague. Douglas A. Lapp, Assistant Town Administrator, was designated as timekeeper.

**ARTICLE 1**

To see if the Town will vote to adopt Section 298 of Chapter 149 of the Acts of 2004, as amended, allowing the Town to replace the Cape Cod Open Space Land Acquisition Program with the Community Preservation Act and to dedicate the three per cent property tax surcharge currently being assessed through fiscal year 2020, along with state matching funds that will be available to the Town under the Community Preservation Act, to a Community Preservation Fund that may be appropriated in accordance with the Community Preservation Act for certain open space, historic resources, and affordable housing purposes, effective for the fiscal year beginning July 1, 2005, or take any action relative thereto.

**And further,**

To see if the Town will vote to adopt a new bylaw, as printed below, creating a Community Preservation Committee, in accordance with §298 of Chapter 149 of the Acts of 2004, as amended, and G.L. c.44B, §5, or take any action relative thereto.

**Section 2.02 Community Preservation Committee Bylaw**

**Part 1: Establishment**

There is hereby established a permanent committee of the Town to be known as the Community Preservation Committee, consisting of nine (9) voting members, pursuant to §298 of Chapter 149 of the Acts of 2004, as amended, and G.L. c.44B §5. The composition of the committee, the appointing authority, and the term of office for the committee shall be as follows:

- (1) One member of the Conservation Commission as designated by the Commission;
- (2) One member of the Historical Commission as designated by the Commission;
- (3) One member of the Planning Board as designated by the Board;
- (4) One member of the Housing Authority as designated by the Authority;
- (5) One member of the Recreation Committee as designated by the Committee;
- (6) Four members as designated by the Board of Selectmen.

Each member of the committee shall serve for a term of three years or until the person no longer serves in the position or on the board or committee as set forth above, whichever is earlier; provided, however, that the initial terms shall be staggered as follows: the initial appointment of the designee from the Conservation Commission, the Historical Commission, and one of the designees of the Board of Selectmen shall be for a term of one year; and the initial appointment of the designee of the Planning Board, the Housing Authority, and the second designee of the Board of Selectmen shall be for a term of two years; and the initial

appointment of the designee from the Recreation Committee and the remaining two designees of the Board of Selectmen shall be for a term of three years.

Should any of the officers and commissions, boards, or committees who have appointing authority under this bylaw be no longer in existence for whatever reason, the Board of Selectmen shall appoint a suitable person to serve in their place.

Any member of the committee may be removed for cause by their representative appointing authority after hearing.

## **Part 2: Duties**

- (1) The community preservation committee shall study the needs, possibilities, and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the housing authority, the recreation committee, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one annual public informational hearing, or more at its discretion, on the needs, priorities, and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.
- (2) The community preservation committee shall make recommendations to the Town Meeting for the acquisition, creation, and preservation of open space; for the acquisition, preservation, restoration, and rehabilitation of historic resources; for the acquisition, creation, and preservation of land for recreational use; for the creation, preservation, and support of community housing; and for the rehabilitation or restoration of such open space, land and recreational use, and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites. Recommendations to the Town Meeting shall also include the committee's anticipated costs. The placement of any and all articles recommended by the committee on the Town Meeting warrant shall require the approval of the Board of Selectmen.
- (3) The community preservation committee may include in its recommendation to Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.
- (4) In every fiscal year, the community preservation committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10 per cent of the annual revenues in the Community Preservation Fund for open space (not including land for recreational use); not less than 10 per cent of the annual revenues in the Community Preservation Fund for historic resources; and not less than 10 per cent of the annual revenues in the Community Preservation Fund for community housing.

## **Part 3: Effective Date**

Provided that the Community Preservation Act is accepted by the voters at the 2005 Annual Town Election, this bylaw shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of G.L. c.40, §32 have been met. Each

appointing authority shall have thirty days after approval by the Attorney General to make their initial appointments.

**VOTED: That the Town adopt Section 298 of Chapter 149 of the Acts of 2004, as amended, allowing the Town to replace the Cape Cod Open Space Land Acquisition Program with the Community Preservation Act, and further, that the Town adopt a new Community Preservation Committee Bylaw as printed in the Warrant under Article 1. This was a voice vote and declared carried by the Moderator.**

**ARTICLE 2**

To see if the Town will vote to confirm the action of the 2004 Annual Town Meeting under Article 22 to accept the layouts of VanBuskirk Way, Nobby Way, and Fox Bottom Circle in accordance with G.L. c.80 relating to street betterments, and further, to see if the Town will vote to authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow not more than \$70,000.00, or any other amount, with said amount to be repaid through the betterment process as authorized by all of the abutters of the roads, or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town confirm the action of the 2004 Annual Town Meeting under Article 22 and to accept the layouts of VanBuskirk Way, Nobby Way, and Fox Bottom Circle as public ways and to authorize the Treasurer, with the approval of the Board of Selectmen, to appropriate and borrow the sum of \$70,000.00 with said amount to be repaid through the betterment process as authorized by a majority of the abutters of the roads.**

**ARTICLE 3**

To see if the Town will vote to transfer and appropriate from the Beach and Recreation Account the sum of \$136,500.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of providing public services and capital improvement projects in accordance with the following list, or take any action relative thereto.

FY'05 Workcamper Expenses – Ryder & Oakcrest Cove	\$10,000.00
Complete Workcamper Improvement Project – Ryder	95,000.00
Parking Lot Improvement Project – Oakcrest Cove	20,000.00
Communication Equipment	6,500.00
East Sandwich Beach Improvement Project	5,000.00

**UNANIMOUSLY VOTED: That the Town transfer and appropriate \$136,500.00 from the beach parking receipts reserved for appropriation account, to be expended under the direction of the Board of Selectmen, for the following:**

<b>FY'05 Workcamper Expenses</b>	<b>10,000.00</b>
<b>Complete Ryder Property Improvements</b>	<b>95,000.00</b>
<b>Oakcrest Cove Parking Lot Improvements</b>	<b>20,000.00</b>
<b>Communication Equipment</b>	<b>6,500.00</b>
<b>East Sandwich Beach Improvements</b>	<b>5,000.00</b>

**ARTICLE 4**

To see if the Town will vote to transfer and appropriate from the Stabilization Fund a sum of \$200,000.00 to be expended under the direction of the Board of Selectmen, for the purpose of constructing improvements and remodeling, reconstructing and making extraordinary repairs to Town buildings, and further, to see if the Town will vote to transfer and appropriate from the Stabilization Fund a sum of \$50,000.00 to be expended under the direction of the Board of Selectmen, for the purpose of the Old Harbor Inlet Stabilization and Beach Management Plan projects, 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 constructing improvements and remodeling, reconstructing and making extraordinary repairs to Town buildings, and further, that the Town transfer and appropriate \$50,000.00 from the Stabilization Fund, to be expended under the direction of the Board of Selectmen, for the Old Harbor Inlet Stabilization and Beach Management Plan project.**

**ARTICLE 5**

To see if the Town will vote to authorize the Board of Selectmen to file any home rule petition as may be deemed necessary with the General Court to address the payment of the outstanding FY'04 taxes and interest of Mirant Canal, LLC as a result of Mirant's bankruptcy filing and status, said home rule petition to include such terms and conditions as the Selectmen deem appropriate, or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town authorize the Board of Selectmen to file any home rule petition as may be deemed necessary with the General Court to address the payment of the outstanding FY'04 taxes and interest of Mirant Canal, LLC, said home rule petition to include such terms and conditions as the Selectmen deem appropriate, provided that the Legislature may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition.**

**ARTICLE 6**

To see if the Town will vote to authorize the Board of Selectmen to grant to the Department of the Army, and or any other such public entity associated with the Massachusetts Military Reservation, easements for access over any land owned by the Town for the purpose of installing and maintaining monitoring wells and associated structures and equipment, on such terms and conditions and for such consideration as the Selectmen may determine, which may be nominal consideration, or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town authorize the Board of Selectmen to grant to the Department of the Army and or any other such public entity associated with the Massachusetts Military Reservation easements for access over any land owned by the Town for the purpose of installing and maintaining monitoring wells and associated structures and equipment on such terms and conditions and for such consideration as the Selectmen may determine.**

**ARTICLE 7**

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws, Section 2600 Intensity of Use Schedule Note I. by changing the word "all" to the word "residential" as follows:

- I.) Minimum lot area requirements for all principal uses in ~~all~~ *residential* districts located within a Water Resource District, as described in Section 5000, shall be 87,120 square feet.

or take any action relative thereto.

**VOTED: That the Town amend the Sandwich Protective Zoning Bylaws Section 2600 Intensity of Use Schedule, Note I. as printed in the Warrant under Article 7. This was a voice vote and was declared carried by the required two-thirds majority by the Moderator.**

**ARTICLE 8**

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by adding the following new Section 4115 Accessory Apartment to Article IV Special Regulations:

**Section 4115. By-Right Accessory Apartment.** An accessory apartment is allowed as an accessory use to an owner occupied single-family dwelling in residential zoning districts in accordance with the following requirements. These requirements regulate the use and are not subject to relief through a variance.

- a. The accessory apartment shall contain a maximum floor area of 750 square feet and shall not contain more than one bedroom. Common entries and open decks shall not be included in the 750 SF calculation.
- b. Accessory apartments are permitted only on lots with an area 10,000 SF or more or on lots of any size created by a cluster special permit where the overall density of the cluster development is 10,000 SF or more per dwelling unit.
- c. In consideration of the overall density of development, accessory apartments are not allowed in single-family dwellings subject to a Comprehensive Permit, an Affordable Housing Conditional Density Special Permit or an Accessory Dwelling Unit Special Permit.
- d. A deed rider in a form acceptable to the Inspector of Buildings and Town Counsel limiting the accessory apartment to one-bedroom shall be recorded at the Barnstable County Registry of Deeds and proof of such recording provided to the Building Inspector before the Building Permit or Occupancy Permit is issued.
- e. The accessory apartment shall be within or attached to the single-family dwelling.
- f. Any structural addition made to the single-family dwelling to accommodate an accessory apartment must meet all applicable front, side and rear setbacks, height and lot coverage requirements.
- g. A minimum of one additional off-street parking space shall be provided, however, a separate driveway is prohibited.
- h. Only one accessory apartment shall be constructed in any single-family dwelling. Accessory apartments are prohibited on lots where there are more than one single-family, one or more two-family or one or more multi-family dwelling units.
- i. The owner of the single-family dwelling must occupy the single-family or the accessory apartment, except for bona fide temporary absences.

**And further,**

To see if the Town will amend Article II, Section 2320, Accessory Uses by listing, "Accessory Apartment (see Section 4115)" use as an allowed use by-right in the R-1, R-2, S, RD zoning districts and prohibited in all other districts.

or take any other action relative thereto.

**UNANIMOUSLY VOTED: That the Town amend the Sandwich Protective Zoning Bylaws, Section 4115, By-Right Accessory Apartment as printed in the Warrant under Article 8.**

**ARTICLE 9**

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by adding the following to the Definitions Sections:

**Recreation Facility** – Indoor and outdoor sports facilities, athletic clubs including playing fields, courts or other sports area, spectator facilities and other structures accessory to the recreation facility.

**And further,**

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by adding the following to Article II, Section 2300 Use Regulation Schedule under Section 2310 Principal Uses, Recreational Use:

**Recreation Facility** – To be allowed by special permit in the Industrial and Business Limited – 2 districts and prohibited in all other zoning districts.

or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town amend the Sandwich Protective Zoning Bylaws, Definitions, Recreation Facility and Article II, Section 2300, Use Regulation Schedule as printed in the Warrant under Article 9.**

**ARTICLE 10**

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by adding the following to the Definitions Section:

**Outdoor Recreation Facility** – Small-scale community recreation and sports fields or facilities allowed by special permit under Section 4150.

**And further,**

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by adding the following new Section 4150 Outdoor Recreation Facility to Article IV Special Regulations:

**Section 4150. Outdoor Recreation Facility.** Small-scale community recreation and sports fields or facilities may be allowed by special permit only if the following criteria are met. These requirements regulate the use and are not subject to relief through a variance.

**Section 4151. Special Permit Criteria:** A special permit may be granted only if the following criteria are met. These requirements are not subject to relief through a variance.

- a. No building or other structure related to the outdoor recreation facility shall be constructed or placed on a lot with an area less than 80,000 SF. Such structures shall be single story, shall be compatible with the surrounding neighborhood and shall not exceed 500 SF. In residential districts concession stands located in permanent structures are expressly prohibited.
- b. Lighting is prohibited for fields and parking areas related to outdoor recreation facilities located in residential districts. In commercial and industrial districts lighting is permitted only between dusk and 10 PM. Where permitted lighting structures shall not exceed the maximum height requirement for the district in which the lot is located as described in Section 2600 of this by-law.
- c. Lot coverage by buildings, structures, paving or other impervious surfaces or additions to any buildings, structures, paving or other impervious surfaces shall not exceed twenty per cent (20%).
- d. Buildings or structures, including any accessory buildings or structures, shall not be located within one hundred (100) feet of any property boundary line.
- e. Off street parking shall be provided and shall not be located within one hundred (100) feet of any property boundary line and shall be screened from any public way or private driveway.
- f. Spectator seats shall not exceed one hundred (100) in number.
- g. An outdoor recreation facility may be allowed as a second principal use of a nonresidential property at the discretion of the Special Permit Granting Authority

provided that the lot area exceeds by at least 80,000 SF by the SF amount of the current minimum lot area in the district within which the subject parcel is located.

**And further**

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by adding "Outdoor Recreation Facility (See Section 4150) to Article II, Section 2300 Use Regulation Schedule under Section 2310 Principal Uses, Recreational Use and specifying that such use shall be allowed by special permit in all zoning districts.

or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town amend the Sandwich Protective Zoning Bylaws, Definitions, Outdoor Recreation Facility, Section 4150, Outdoor Recreation Facility, and Article II, Section 2300, Use Regulation Schedule as printed in the Warrant under Article 10.**

**ARTICLE 11**

To see if the Town will vote to amend Article II, Use and Intensity Regulations, Section 2100 to add a new zoning district entitled "Ridge District – 2 (RD-2)" which district will be created within the existing Ridge District (RD) and to modify the map entitled "Zoning Map, Sandwich, Massachusetts dated April 24, 1978, as revised" by incorporating the new Ridge District – 2 (RD-2) as shown on a map on file with the Town of Sandwich Planning and Development Office, or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town amend the Sandwich Protective Zoning Bylaws, Article II, Section 2100, Ridge District – 2 as printed in the Warrant under Article 11.**

**ARTICLE 12**

To see if the Town will vote to amend Article II, Use and Intensity Regulations, Section 2310, by adding "the Ridge District – II (RD-II)" with the following principal uses:

Principal Uses	RD-2
Rehabilitation Hospital	Y
Medical Offices	Y
Continuing Care Retirement Community	S

All uses set forth on the Use Regulation Schedule, Section 2310, under the column "RD" designated as a permitted use ("Y") or a use authorized under special permit ("SA" or "S") shall be so denoted in the column entitled "RD-2." All other uses shall be prohibited ("N"). Section 2310 shall be further amended to provide that Continuing Care Retirement Community shall be a use authorized under special permit ("S") as provided for in Section 1320 of the Zoning Bylaw in all districts, with the exception of the Industrial (IND) and Marine (MAR) Districts in which it shall be prohibited.

**And further,**

To see if the Town will vote to amend the Use Regulation Schedule Notes to Section 2310 by adding note 14 as follows:

- 14. Any permitted use allowed as a matter of right ("Y") within the RD-2 District shall be subject to, at the discretion of the Building Inspector, Site Plan Review, which shall include a review by the appropriate town agencies and departments prior to the

issuance of a building permit, said review to be coordinated by the Town of Sandwich Office of Planning and Development.

or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town amend the Sandwich Protective Zoning Bylaws, Article II, Section 2310, Ridge District – 2 and note 14 as printed in the Warrant under Article 12.**

**ARTICLE 13**

To see if the Town will vote to amend the Zoning Bylaw by adding the following new definitions to the Definitions Section:

**CONTINUING CARE RETIREMENT COMMUNITY** – A Continuing Care Retirement Community (“CCRC”) is a facility or group of facilities which offers several levels of assistance, including independent living, assisted living, congregate care, and/or skilled nursing care.

**REHABILITATION HOSPITAL** – A hospital licensed pursuant to Massachusetts General Laws, Chapter 111, which provides hospital-level in-patient rehabilitation services, together with general and specialty out-patient rehabilitation services including but not limited to: aquatic therapy, cardiac rehabilitation, occupational therapy, physical therapy, speech and language pathology, women’s rehabilitative services, wellness, holistic medicine, sports medicine-adaptive sports, wound treatment, pain therapy, adult daycare, research and development related to rehabilitation, geriatric and elder care and day time veterinary rehabilitative services.

or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town amend the Sandwich Protective Zoning Bylaws, Definitions, Continuous Care Retirement Community and Rehabilitation Hospital as printed in the Warrant under Article 13.**

**ARTICLE 14**

To see if the Town will vote to amend Article II, Use and Intensity Regulations, Section 2600 by adding the following column:

Dimensional Requirements	RD – 2 Dimensions
Minimum Lot Size in Square Feet	60,000 sq. feet
Minimum Lot Frontage in Feet	200 feet
Minimum Front Yard In Feet	100 feet
Minimum Side Rear Yard in Feet	30 feet
Maximum Lot Coverage Percentage	25 feet
Maximum Building Height in Feet	35 feet
Maximum Shape Factor	22 feet

**And further,**

To see if the Town will vote to add the following note(s) under the Intensity of Use Schedule (Schedule 2600) Notes:

- n. Any use within the RD-2 Zoning District which entails medical office or medical services and technology use(s) shall be located on a parcel or lot of no less than five (5) acres and shall be accessory to a principal use as a Hospital, Continuing Care

Retirement Community (CCRC) or Rehabilitation Hospital on the same or a contiguous parcel.

- o. Within the RD-2 District, multiple principal non-residential buildings may be authorized under special permit as provided for in Section 1320. A special permit shall not be required for any Accessory Building or Use.

or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town amend the Sandwich Protective Zoning Bylaws, Article II, Section 2600 and Notes n and o as printed in the Warrant under Article 14 with the following changes:**

- 1) The minimum front yard setback should be changed from 100 to 50 feet;
- 2) The maximum shape factor should be changed from “22 feet” to “22”; and
- 3) Add a new footnote “p” to read as follows: “Except that the minimum front yard setback for Rehabilitation and Medical offices shall be 100 feet.”

Therefore, Article II, Use and Intensity Regulations, Section 2600 would be amended to include the following column:

<b>Dimensional Requirements</b>	<b>RD – 2 Dimensions</b>
<b>Minimum Lot Size in Square Feet</b>	<b>60,000 sq. feet</b>
<b>Minimum Lot Frontage in Feet</b>	<b>200 feet</b>
<b>Minimum Front Yard In Feet</b>	<b>50 feet</b>
<b>Minimum Side Rear Yard in Feet</b>	<b>30 feet</b>
<b>Maximum Lot Coverage Percentage</b>	<b>25 feet</b>
<b>Maximum Building Height in Feet</b>	<b>35 feet</b>
<b>Maximum Shape Factor</b>	<b>22</b>

And, add the following note(s) under the Intensity of Use Scheduled (Schedule 2600) Notes:

- n. Any use within the RD-2 Zoning District which entails medical office or medical services and technology use(s) shall be located on a parcel or lot of no less than five (5) acres and shall be accessory to a principal use as a Hospital, Continuing Care Retirement Community (CCRC) or Rehabilitation Hospital on the same or a contiguous parcel.
- o. Within the RD-2 District, multiple principal non-residential buildings may be authorized under special permit as provided for in Section 1320. A special permit shall not be required for any Accessory Building or Use.
- p. Except that the minimum front yard setback for Rehabilitation and Medical offices shall be 100 feet.

The meeting was adjourned at 8:50 p.m.

I certify that this is a true record of the Special Town Meeting held on March 21, 2005.

Barbara J. Walling  
Town Clerk

## TOWN OF SANDWICH

### 2005 ANNUAL TOWN MEETING

May 2, 2005

The Annual Town Meeting was called to order in the Sandwich High School auditorium by Moderator Garry Blank at 7:40 p.m. after ascertaining a quorum was present. The Moderator appointed Jan Levin Teehan as Assistant Moderator and she presided over the voters sent to the gymnasium when the auditorium had reached its capacity. The clerks checked in a total of 1143 voters.

The Moderator swore in the following persons as Assistant Moderators, Time Keepers, and Counters: Jan Levin Teehan, Kevin M. Kirrane, Dean M. Coe, Elizabeth F. DeSaulniers, John R. Edmonston, Laurie Jean Goddard, Todd Andrew Gattoni, John S. Jillson, Robert S. Jones, Nicole Jane Mark, Frederic Sabetta, Jr., John S. Recker, Leo J. Wise, and Kevin Sullivan. Thomas E. Keyes, Chairman of the Board of Selectmen, led the Pledge of Allegiance. The Reverend Bruce R. Bardon, pastor of Covenant Baptist Church, gave the invocation.

#### 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 Report of all Town Officers and Committees as printed in the 2004 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 2006, 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 2006.**

A motion was made to move **Article 29** to be considered before **Article 3** of the Warrant, since the Moderator ruled it was germane to **Article 3**. The motion **carried unanimously**. The Moderator and Assistant Moderator both stepped down for this article, since they might be considered to have a vested interest in the article. Kevin M. Kirrane was appointed Moderator in the auditorium and Dean M. Coe was appointed Moderator in the gymnasium while this article was considered.

#### ARTICLE 29

To see if the Town will petition the General Court of the Commonwealth of Massachusetts to pass the following Act affecting part-time elected officials' health and life insurance benefits (the position of Town Clerk and Treasurer/Collector are full time and are not included in this petition), said Act to be inserted in the Revised General Bylaws of the Town of Sandwich, and to read as follows:

"Be it enacted as follows:

Notwithstanding the provisions of Massachusetts General Laws chapter 32B, part-time elected officials of the Town of Sandwich who receive a salary or a stipend shall not be eligible for participation in the town's contributory health and life insurance plan, except that those part-time officials who were elected prior to April, 2005 and currently participate in said plan shall be eligible to continue to so participate until the end of their current term. Part-time elected officials who receive a salary or a stipend who elect to pay one hundred per cent of the cost of the Town's health and life insurance benefit plan, plus any administrative costs that may be assessed by the Board of Selectmen, may be deemed eligible to so participate."

**VOTED: That the Town petition the General Court of the Commonwealth of Massachusetts to pass the following Act affecting part-time officials' health and life insurance benefits (the position of Town Clerk and Treasurer/Collector are full time and are not included in this petition), said Act to be inserted in the Revised General Bylaws of the Town of Sandwich, and to read as follows:**

**"Be it enacted as follows:**

**Notwithstanding the provisions of Massachusetts General Laws chapter 32B, part-time elected officials of the Town of Sandwich who receive a salary or a stipend shall not be eligible for participation in the town's contributory health and life insurance plan, except that those part-time officials who were elected prior to April, 2005 and currently participate in said plan shall be eligible to continue to so participate until the end of their current term. Part-time elected officials who receive a salary or a stipend who elect to pay one hundred per cent of the cost of the Town's health and life insurance benefit plan, plus any administrative costs that may be assessed by the Board of Selectmen, may be deemed eligible to so participate."**

**This was a voice vote and declared carried by the Moderator.**

**ARTICLE 3**

To see if the Town will vote to fix the salaries of all Elected Officers for Fiscal Year 2006 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	51,372.00
Town Clerk	51,372.00

**UNANIMOUSLY VOTED: That the Town fix the salaries of all elected officers for Fiscal Year 2006 according to the following:**

<b>Moderator</b>	<b>450.00</b>
<b>Selectmen (4)</b>	<b>1,500.00 each</b>
<b>Chairman – Selectmen</b>	<b>2,000.00</b>
<b>Assessors (2)</b>	<b>1,000.00 each</b>
<b>Chairman Assessors</b>	<b>1,500.00</b>
<b>Tax Collector</b>	<b>51,372.00</b>
<b>Town Clerk</b>	<b>51,372.00</b>

**ARTICLE 4**

To see if the Town will hear the report of the Finance Committee and to see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$39,194,272.00, or any other amount, to defray Town expenses for the Fiscal Year July 1, 2005 to June 30, 2006 as itemized below in the third column entitled FY'06 Override contingent upon a favorable vote on May 5, 2005 to override Proposition Two and One-half, so-called, pursuant to M.G.L. c.59, §21C(g) and (m), and, in the event that the Proposition Two and One-half question is not approved at the May 5, 2005 election, to see if the Town will raise and appropriate or transfer from available funds the sum of \$35,770,711.00, or any other amount, as itemized below in the fourth column entitled FY'06 No-Override, or take any action relative thereto.

Linda Calmes Jones, Chair of the Finance Committee, gave the following report: Last year's report of the Finance Committee concluded with the following statement: "In 2006, the Town will face a very difficult question, which is, do we raise taxes (by a proposition 2½ override, if so how much) or do we cut services? Which services, to what level, and when? The Finance Committee feels that, for FY '06, there is financially no way that the Town will be able to maintain the level of services we enjoy today without new major revenue sources."

We wish we had been wrong, but here we are today presented with those very questions in Article 4, which contains two budgets for our consideration tonight. The process of presenting them both in a single article insures that a balanced budget will be in place after the town meeting, regardless of the outcome with the ballot box override question. The town will be able to continue its business beginning July 1<sup>st</sup>. What the scope of that business will be is directly related to your vote today *and* at the ballot box on Thursday.

The Finance Committee has spent considerable time reviewing and discussing the contents of the budgets being presented tonight. We have found that the figures are credible and the impact on the Town accurate. It is important that we take a minute now and review them together.

Please look at Article 4 in your Warrant. You will see 6 columns. The last 2 are the ones we will focus on tonight. The last column on the right is called the "FY '06 No-Override Budget". If the override question on the ballot Thursday does not pass, this is the budget the Town will operate under beginning July 1, 2005. This budget calls for the following changes in addition to many others:

**General Government:**

**Police:** Dropping from 3 to 2 sector cars per shift and the elimination of all 3 School Resource Officers, non-compliance with the mandated 40 hours annual in-service training requirement.

**Fire:** Elimination of 2 firefighter positions. Closure of the Forestdale Fire station 40-50% of the time.

**Public Works:** No Summer Seasonal assistance, which we used in prior years to maintain roadsides, islands and town property. Reduction of public road repairs and improvements, and Parks Division Services.

**Library:** Library will close on Sunday, plus 9 additional hours each week; 5 year-round part-time positions eliminated.

**Council on Aging:** Elimination of Assistant Director.

**Health Department:** Elimination of the Assistant Health Agent.

**Town Clerk's Office:** Elimination of the Principal Clerk

**School Department:** Elimination of 58 full time and 1032 part time staff, which include 37½ professional teachers and 18½ ESP's; the reduction in class day for elementary school students; elimination of athletics, after-school and co-curricular activities; no longer offering art, music, physical education in K-8 and foreign language classes for grades 7 & 8; the introduction of bus fees; and charging the Community School for maintenance.

This will be the Town's budget beginning July 1, 2005 if the override ballot question does not pass. Additionally, if this is the budget implemented for FY2006, careful watch must be paid in the preparation of the 2007 budget to insure the Town meets the State mandated minimum school spending requirement. If the override is not passed on Thursday, and should funds have to be added to the School Budget in FY '07 to meet the mandated minimum spending requirement, the only solution will be further cuts to the General Government budget.

Now let's look at the column labeled FY'06 Override budget. This budget includes the funds that would be raised if the override ballot question passes on Thursday, as well as some of the funds from the Mirant payment the town recently received. This budget restores all of the items to the General Government except DPW and Fire Department Call Program funds, and modest adjustments to Police and Fire Overtime accounts. The School Department will receive funding for all the items they defined in their "needs budget" with one exception—extracurricular fees will not be eliminated as requested, but would continue as currently assessed. In addition, it provides for payment of this year's snow and ice deficit from the Mirant funds.

Approval of this override and budget will help insure that with strong financial oversight, and the use of the remaining Mirant funds, the Town can support these service levels for 3 years.

Last year the Finance Committee spoke of a financial model that had major flaws. History shows us that the model is actually broken. The town's revenue comes from three limited sources:

- **Taxes** which are capped by the total levy limit made up of the legal maximum 2½% increase by which the Town can raise taxes each year plus allowed new growth.
- **Local receipts, which include items such as**, excise taxes, fees, permits, etc.
- And **State Aid, which is money the State**, sends to us in the form of School aid, highway aid, lottery aid, payment in lieu of taxes (PILOT) and direct aid to the Town.

In FY 2006, the revenue is forecasted to increase only \$1,450,000 from these sources.

The Town's and fixed and contracted expenses are expected to increase approximately \$2,550,000. Some of the major contributors are:

- Contracted salary increases are about 4% annually.
- Group Health insurance increases about 12% annually.
- County Retirement Assessment increases about 9% annually.
- Property and Liability Insurance increases around 15% annually.
- Upper Cape Regional Technical School increases 14% annually.

This gap between the limited additional revenue the Town can raise and the fixed and contracted expenses is about 3% annually—or about a \$1,100,000 shortfall every year. So, every year we must reduce expenses, which usually translates to services, by \$1,100,000 to balance the budget.

Many towns in Massachusetts, not only Cape Cod, are being forced to re-think the current financial model. Political pressure is being imposed by many communities to bring about budgetary change. However, political change is a long and difficult process.

Over 4 years ago it was recognized the model didn't work. Finance Committee members and Selectmen then started a process to develop a Long Range Plan for the Town which would serve as a roadmap for the future and would be a first step in identifying potential solutions. The Selectmen have recently presented the town with their initial product. Congratulations to them for bringing forth this important first step, and to their commitment to continue to develop and improve this important roadmap.

The Finance Committee is actively addressing ways to develop alternative financial solutions for the future. All options for increasing revenue or reducing expenses are being considered. No idea is "too far outside the box" for review. As we examine the Town's expenses, it becomes obvious that the vast majority of our money is spent on people and the associated expenses—salaries, insurance, retirement, etc. Creative approaches to managing our "people costs overall" will be critical as we move forward. So you will hear discussions addressing these issues tonight and in the future.

Today you will hear the Finance Committee take positions on warrant articles that they may not have commented on in the past. The Finance Committee's primary statutory responsibility is to advise and make recommendations to town meeting on the budget and other financial matters. In our ongoing discussions of financial remedies for the Town, we have come to realize that financial impact comes from other sources than what have been traditionally the Financial Warrant articles. This includes items, which might be in conflict with the Town's charter. We believe that those actions which might have a long-term financial impact on the town be considered diligently and completely, and as required by the Town charter, be decided by town meeting.

The Finance Committee recommends Article 4 as it is presented so that a balanced budget will be in place after town meeting. And, we recommend that you support the budget, which requires funding through a \$3.1 million dollar override with a majority "Yes" vote at the polls on Thursday. It is an important step in maintaining the town's financial stability so the important work of "fixing the broken model" can take place without distraction.

Town of Sandwich Finance Committee; Linda Calmes Jones, Chair; Lisa Kirkwood, Vice Chair; Michael Baker, Clive Beasley, John Feeney, Jean Hood, and Donald Leighton.

#### FY '06 BUDGET TOTALS

No.	Department	FY '04 Approp.	FY '05 Approp.	FY '06 Override	FY '06 No-Override
114	Moderator	450	450	450	450
123	Selectmen/Administrator	257,840	289,936	290,033	288,418
	Personnel Expenses	46,978	3,776	100,000	100,000
131	Finance Committee	2,200	2,200	2,200	2,200
135	Accounting	165,962	130,509	127,273	138,791
141	Assessing	269,163	287,855	289,662	284,662
145	Treasurer	148,141	153,246	161,864	161,864
146	Tax Collector	178,477	187,884	196,994	196,994
147	Tax Title	30,000	30,000	30,000	30,000
151	Legal	175,000	175,000	175,000	175,000
152	Human Resources	88,379	97,413	97,457	95,857
152	Town Clerk	113,658	120,389	127,562	97,142
162	Elections & Registrations	48,300	58,300	38,900	38,900
171	Natural Resources	101,006	105,651	107,930	107,430
175	Planning & Development	114,740	118,402	122,475	116,375
188	Recreation Center	3,500	3,500	0	0
189	JSD Building	12,400	12,400	0	0
190	Facilities Management	189,409	263,675	371,641	371,641
193	Town Hall	9,540.	9,540	0	0
194	Town Hall Annex	10,040	10,040	0	0
195	Town Reports	15,000	15,000	15,000	12,500
196	Bind Town Records	1,500	1,500	1,500	0
197	Data Processing	228,653	254,500	279,500	254,500
	<b>Total 100s</b>	<b>2,170,904</b>	<b>2,328,050</b>	<b>2,546,959</b>	<b>2,472,724</b>
210	Police Department	2,455,768	2,731,813	2,89,387	2,512,387
220	Fire Department	2,768,572	3,001,319	3,089,197	2,823,694
241	Inspections	181,430	189,381	190,992	190,992
244	Weights & Measures	2,000	2,000	1,200	500
291	Emergency Management	480	480	480	480
294	Forest Warden	1,200	1,200	1,200	1,200
297	Bourne Shellfish	4,000	4,000	4,000	4,000
299	Greenhead Fly	1,500	1,500	1,500	1,500
	<b>Total 200s</b>	<b>5,414,950</b>	<b>5,931,693</b>	<b>6,077,956</b>	<b>5,534,753</b>
300	School Department	24,454,602	25,179,724	26,070,445	23,613,371
313	UCCRTS	801,483	920,548	1,057,273	1,057,273
	<b>Total 300s</b>	<b>25,256,085</b>	<b>26,100,272</b>	<b>27,127,718</b>	<b>24,670,644</b>
410	DPW – Engineering	116,293	120,753	120,771	120,771
420	DPW – Highways	1,096,598	1,414,563	1,093,554	946,385
421	Snow & Ice	250,002	250,003	250,004	250,004
424	Streetlights	26,000	26,000	23,500	21,000
435	DPW – Sanitation	721,288	721,288	748,716	748,716
	<b>Total 400s</b>	<b>2,210,181</b>	<b>2,259,607</b>	<b>2,236,545</b>	<b>2,086,876</b>
510	Health Department	136,959	142,995	144,749	105,071
522	Nursing Department	82,179	90,593	91,915	91,915
541	Council on Aging	104,105	115,527	116,617	77,915
543	Veterans Services	30,806	30,806	30,806	30,806

544	Human Services Building	11,040	11,040	0	0
547	Disabilities Commission	500	500	500	0
	<b>Total 500s</b>	<b>365,5897</b>	<b>391,461</b>	<b>384,587</b>	<b>305,707</b>
610	Library	620,399	682,104	730,602	630,602
629	Youth Task Force	500	500	500	0
630	Recreation Department	53,314	54,742	54,455	54,455
650	DPW – Parks	20,425	20,425	20,250	250
670	Archives	2,500	2,500	2,500	2,500
671	Hoxie House/Grist Mill	0	0	0	0
693	Memorial Day	1,200	1,200	1,200	1,200
694	Historic District	10,650	11,000	11,000	11,000
	<b>Total 600s</b>	<b>708,988</b>	<b>772,471</b>	<b>820,507</b>	<b>700,007</b>
	<b>TOTAL TOWN BUDGET</b>	<b>36,126,697</b>	<b>37,784,544</b>	<b>39,194,272</b>	<b>35,770,711</b>

Robert J. George of 401 Service Road made a motion to amend the budget by reducing item 151, Legal Fees, by the amount of \$500 and transferring the \$500 to line item 629, Youth task Force, in the No Override Column. It was seconded and **declared carried**.

**UNANIMOUSLY VOTED: That the Town hear the report of the Finance Committee and raise and appropriate the sum of \$39,019,272.00 and transfer and appropriate \$175,000 from Surplus Revenue to defray Town expenses for the Fiscal Year 2006 as itemized in the third column entitled FY' 06 Override, contingent upon a favorable vote on May 5, 2005 to override Proposition Two and One-half, so called, pursuant to M.G.L. c.59, §21C (g) and (m), and, in the event that the override vote fails, to raise and appropriate the sum of \$35,770,712.00 as itemized in the fourth column entitled FY' 06 No-Override, as amended.**

At 9:50 p.m. the meeting was temporarily recessed and the Special Town Meeting was convened by the Moderator.

**SPECIAL TOWN MEETING, MAY 2, 2005**

**ARTICLE 1**

To see if the Town will vote to transfer and appropriate a sum of money, said funds to be expended under the direction of the Board of Selectmen, for the purpose of reducing a projected FY '05 deficit in the Snow and Ice Account, or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town transfer and appropriate \$450,000.00 from Surplus Revenue for funding the Fiscal Year 2005 Snow and Ice deficit.**

The Moderator then adjourned the Special Town Meeting and reconvened the Annual Town Meeting.

**ARTICLE 5**

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 and Interest on Loans, or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town raise and appropriate \$5,430,535.00, and transfer and appropriate \$225,000.00 from the golf course income account for the payment of principal and interest on loans for Fiscal Year 2006.**

**ARTICLE 6**

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 and Interest on Loans from the Cape Cod Land Bank account as authorized by Chapter 293 of the Acts of 1998, as amended, and to raise and appropriate or transfer from available funds the sum of \$20,000.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of paying any incidental expenses related to the Cape Cod Land Bank account, or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town transfer and appropriate \$1,042,526.00 for the payment of principal and interest on loans from the Cape Cod Land Bank account as authorized by Chapter 293 of the Acts of 1998 and to transfer and appropriate \$20,000.00 from the Land Bank Account, to be expended under the direction of the Board of Selectmen, for paying any incidental expenses related to the Cape Cod Land Bank Account for Fiscal Year 2006.**

**ARTICLE 7**

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 '06, or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town appropriate 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 Fiscal Year 2006.**

**ARTICLE 8**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$8,782,607.00, or any other amount, to pay employee benefit and other estimated assessments as listed below, with any unexpended balance for each item identified below able to be expended on other items identified below under the direction of the Board of Selectmen, or take any action relative thereto.

Group Health Insurance	5,940,000.00
County Retirement Assessment	1,721,875.00
Property & Liability Insurance	722,416.00
Medicare/FICA	348,316.00
Unemployment Account	50,000.00

**UNANIMOUSLY VOTED: That the Town raise and appropriate \$7,832,607.00, transfer and appropriate \$700,000.00 from the ambulance receipts reserved for appropriation account, and transfer and appropriate \$250,000.00 from the overlay surplus, for a total of \$8,782,607.00, to pay assessments for Group Health Insurance, County Retirement, Property & Liability Insurance, Medicare/FICA, and Unemployment.**

**ARTICLE 9**

To see if the Town will vote to transfer and appropriate the sum of \$22,000.00, or any other amount, from the Cemetery Trust Fund Account to the FY '06 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 Cemetery Trust Fund account to the Fiscal Year 2006 Parks, Buildings and Grounds Division of the Department of Public Works, to be expended under the direction of the Board of Selectmen for maintaining the Town's cemeteries and grounds.**

**ARTICLE 10**

To see if the Town will vote to transfer and appropriate money received or to be received from State Aid to Libraries Account to the FY '06 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 \$21,389.00 from the money received, or to be received, from the State Aid to Libraries Account to the Fiscal Year 2006 Library operating budget, said funds to be expended under the direction of the Board of Selectmen.**

**ARTICLE 11**

To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of \$250,000.00, or any other amount, to establish the Reserve Account for FY'06, or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town raise and appropriate \$250,000.00 to establish a Reserve Account for Fiscal Year 2006.**

**ARTICLE 12**

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 \$400,000.00, or any other amount, 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, with any unexpended balance for each item identified below to be placed in the Building Repairs/Capital Purchases account to be expended under the direction of the Board of Selectmen:

Police Department Radio Console	200,000.00
Fire Engine Replacement (Lease/Purchase)	25,000.00
Library Flooring & Carpet	85,000.00
Wing School HVAC Replacement	55,000.00
Conservation Land Maps	4,000.00
Natural Resources Work Skiff	4,000.00
DPW Recycling Container	5,000.00
Nursing Department Refrigerator	1,700.00
Building Repairs/Capital Purchases	20,300.00

**And further,**

To see if the Town will vote to transfer and appropriate the sum of \$175,000.00, or any other amount, to be expended under the direction of the Board of Selectmen, from the Ambulance Fund for the purpose of lease purchasing and/or outright purchasing a fire engine.

**And further,**

To see if the Town will vote to transfer the sum of \$8,000.00 from the FY'96 capital budget appropriation originally appropriated for the purpose of completing window repairs at the Hoxie House as authorized at the 1995 Annual Town Meeting under Article 20 to be used for the purpose of completing extraordinary repairs and improvements to the Hoxie House, said funds to be expended under the direction on the Board of Selectmen.

or take any action relative thereto.

George H. Dunham, Town Administrator, read the following Capital Budget Report: The Capital Improvement Planning Committee has asked that I speak on their behalf for this article. All of the items listed in this article have been supported unanimously by the CIPC, Finance Committee, and Board of Selectmen.

The first part of the article lists the items approved for purchase as part of the usual \$400,000 capital budget appropriation. They include the replacement of the antiquated Police Department base radio, the lease/purchase of a Fire Engine, Library flooring improvements and HVAC replacements at the Wing School.

The second part appropriates \$175,000 that has been set aside for the last several years for the emergency replacement of an ambulance. Since any scenario we could come up with would likely be covered by insurance or need a Town Meeting appropriation, the CIPC supports using these funds to supplement the \$25,000 listed in the first part of this article for a fire engine. The total \$200,000 will be used as a down-payment on a lease purchase agreement. Fire Chief Newman has also submitted a federal grant request to potentially provide additional funding for this purpose. The results of this application won't be known until the end of this calendar year.

The third part of this article reappropriates \$8,000 previously budgeted for Hoxie House window repairs in FY'96 and changes the use for general repairs and improvements at the Hoxie House. The Town plans to address some structural issues with these funds.

Steven C. Grundman offered an amendment to delete the words "lease purchasing and/or outright purchasing a fire engine" from the motion. **Town Counsel ruled that the amendment was outside the article.**

**VOTED: That the Town hear the report of the Capital Improvement Planning Committee and raise and appropriate \$400,000.00, to be expended under the direction of the Board of Selectmen, for purchasing and repairing equipment, vehicles and buildings, and providing related services in accordance with the list printed in the Warrant under Article 12, and further, transfer and appropriate \$175,000.00 from the Ambulance Reserve Fund for the lease and/or purchase of a fire engine to be spent under the direction of the Board of Selectmen, and further, to transfer and appropriate \$8,000.00 from the FY'96 Hoxie House window repair budget approved under Article 20 at the 1995 Annual Town Meeting for the purpose of completing extraordinary repairs and improvements to the Hoxie House, 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 13**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$50,000.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of providing professional valuation services related to the Mirant Canal, LLC facility, or take any action relative thereto.

**VOTED: That the Town transfer and appropriate \$50,000.00 from Surplus Revenue for professional valuation services related to the Mirant Canal, LLC facility, 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 14**

To see if the Town will vote to transfer and appropriate the balance of Town's free cash certification, also known as surplus revenue, to the Stabilization Fund, or take any action relative thereto.

Mr. Grundman offered the following amendment to the article: To see if the Town will vote to transfer and appropriate the balance of Town's free cash certification, also known as surplus revenue, to the Stabilization Fund, or take any action relative thereto, provided that \$98,000 of that amount be transferred and appropriated to line item 300 to reduce the fees students pay to participate in extracurricular activities, and that \$98,000 of that amount be transferred and appropriated to line

items 210 and 220 to reduce response time and increase patrols. **Town Counsel ruled that the amendment was outside the article.**

**VOTED: That the Town transfer and appropriate \$828,556.00 from Surplus Revenue to the Stabilization Fund as printed in the Warrant under Article 14. This was a hand count, 369 Yes, 85 No. The Moderator declared the Article carried by the two-thirds requirement.**

**ARTICLE 15**

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$21,200.00, or any other amount, 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.

Big Brothers/Big Sisters	500.00
Independence House	6,600.00
Legal Services of Cape Cod	2,000.00
Nauset Workshop	500.00
Elder Services	1,000.00
Gosnold/Children's Services	6,000.00
Cape Cod Child Development	1,250.00
Upper Cape AIDS Council	500.00
Sight Loss Services	600.00
Falmouth Free Clinic	2,250.00

**UNANIMOUSLY VOTED: That the Town raise and appropriate \$21,200.00 to fund various Social Service programs for services to be performed for and on behalf of Sandwich residents during Fiscal Year 2006 as printed in the Warrant under Article 15, to be expended under the direction of the Board of Selectmen.**

**ARTICLE 16**

To see if the Town will vote to transfer and appropriate the FY'05 income from the Hoxie House and Grist Mill for the FY'05 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 \$38,750.00 from the FY 2005 income from the Hoxie House and Grist Mill for the Fiscal Year 2006 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 17**

To see if the Town will vote to transfer and appropriate the sum of \$158,800.00, or any other amount, to be expended under the direction of the Board of Selectmen, from the Beach and Recreation Account for the purpose of providing FY'06 Recreation Department, Natural Resources Department, and Facilities Management Department services, and for beach privileges at Sandy Neck Beach in accordance with the following list, or take any action relative thereto.

Recreation Department	61,300.00
Natural Resources Department	24,000.00
Facilities Management Department	38,500.00
Sandy Neck Beach Privileges	35,000.00

**UNANIMOUSLY VOTED: That the Town transfer and appropriate \$158,800.00 from the beach parking receipts reserved for appropriation account, to be expended under the direction of the Board of Selectmen, for the following:**

<b>Recreation Department</b>	<b>61,300.00</b>
<b>Natural Resources Department</b>	<b>24,000.00</b>
<b>Facilities Management Department</b>	<b>38,500.00</b>
<b>Sandy Neck Beach Privileges</b>	<b>35,000.00</b>

**ARTICLE 18**

To see if the Town will vote in accordance with the provisions of the 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'06 operating budget for Sandwich Hollows Golf Club, or take any action relative thereto.

**VOTED: That the Town transfer and appropriate \$1,093,907.00 to be expended under the direction of the Board of Selectmen for establishing the FY 2006 operating budget for Sandwich Hollows Golf Club. This was a voice vote and declared carried by the Moderator.**

**ARTICLE 19**

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$30,983.50, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of funding the FY'06 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 \$30,983.50 from the Sandwich Promotions Fund, to be expended under the direction of the Board of Selectmen, for funding the FY 2005 Sandwich Promotions Fund as established under Chapter 227 of the Acts of 1997.**

**ARTICLE 20**

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for a special act, as set forth below, amending the Town Charter to change the office of Tax Collector from an elected office to an appointed office; provided that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court; and provided further that the Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of the petition.

An Act Relative to the Charter of the Town of Sandwich

Section 1. The charter of the town of Sandwich, which is on file in the office of the archivist of the commonwealth as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out, in Article IV, Section 4.1, the following:- a Tax Collector;

Section 2. Article IV of said charter is hereby further amended by deleting Section 4.6, "Tax Collector", in its entirety and renumbering the remaining section of Article IV accordingly.

Section 3. The elected tax collector holding office as of the effective date of this act shall continue in office until the expiration of her elected term or sooner resignation.

Section 4. This act shall take effect upon passage.

or take any action relative thereto.

**VOTED: That the Town authorize the Board of Selectmen to petition the General Court for a special act amending the Town Charter to change the office of Tax Collector from an elected office to an appointed office as printed in the Warrant under Article 20. This was a voice vote and declared carried by the Moderator.**

**ARTICLE 21**

To see if the Town will vote in accordance with M.G.L. c.59, §5, clause 41A to increase the maximum qualifying annual gross receipts amount for individuals sixty-five years of age or over who qualify for the so-called senior tax deferral and recovery program from the current \$20,000.00 to \$30,000.00, said increase to become effective with the FY'06 tax billing, or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town increase the maximum qualifying annual gross receipts amount for individual sixty-five years of age or over who qualify for the so-called senior tax deferral and recovery program under M.G.L. c.59, §5, clause 41A from \$20,000.00 to \$30,000.00.**

**ARTICLE 22**

To see if the Town will vote to accept the proposal of the Upper Cape Cod Regional Technical School District to amend the Regional School District Agreement for the Towns of Bourne, Falmouth, Sandwich, Wareham, and Marion, effective July 1, 2005, said amendment to provide that commencing in calendar year 2006, at the biennial state election, members of the regional school district committee shall be chosen by the voters in said district in district-wide elections with residency requirements as set forth in General Laws, Chapter 71, Section 14E, as amended by Chapter 10 of the Acts of 1988. Each committee member shall serve for a term of four (4) years, said terms will be staggered so that four (4) members will be elected at the biennial election in 2006 and five (5) members will be elected at the biennial election in 2008 and in the same order at each biennial election thereafter.

Those members elected in the Spring of 2004 shall serve until their successors are duly elected and qualified in 2008 in accordance with the provisions of Massachusetts General Laws and this agreement.

Those members elected in the Spring of 2005 shall serve until their successors are duly elected and qualified in 2008 in accordance with the provisions of Massachusetts General Laws and this agreement.

There shall not be an election for members in the Spring of 2006. Those members who would have been elected in the Spring of 2006 will be subject to the biennial election of 2006.

All other requirements of Chapter 10 of the Acts of 1988 with respect to the appointment of a regional district clerk, filing of nomination papers, etc., shall be as required for district-wide elections with residency requirements. The School Committee shall remain with nine (9) members, two (2) each from Bourne, Falmouth, Sandwich and Wareham, and one (1) from Marion.

The term of office of any elected member of the Upper Cape Cod Regional Technical School District shall commence at the next regularly scheduled School Committee meeting in December following the date of his/her election. The incumbent members shall serve until their respective successors are duly elected and qualified in accordance with the provisions of Massachusetts Law and this agreement.

Promptly upon appointment and qualifications of the members of the School Committee, the Committee shall, at the first regularly scheduled committee meeting in each calendar year thereafter, organize and choose by ballot a Chairman, a Vice Chairman, a Treasurer, and Secretary from among its own membership. The Committee shall then fix the time and place for its regular meetings, provide for the calling of special meetings and specify the notice required for each of said meetings.

or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town accept the proposal of the Upper Cape Cod Regional Technical School District to amend the Regional School District Agreement for the Towns of Bourne, Falmouth, Sandwich, Wareham, and Marion, effective July 1, 2005 to provide that commencing in calendar year 2006, at the biennial state election, members of the regional school district committee shall be chosen by the voters in said district in district-wide elections with residency requirements as set forth in General Laws, Chapter 71, Section 14E, as amended by Chapter 10 of the Acts of 1988 as printed in the Warrant under Article 22.**

#### **ARTICLE 23**

To see if the Town will vote to transfer the care, custody, control and management from the Conservation Commission for conservation purposes to the Conservation Commission for conservation purposes and also for the purpose of conveyance of easements for water protection and water supply purposes and will authorize the Board of Selectmen and Conservation Commission, on such terms and conditions as the Board of Selectmen and Conservation Commission may determine, to convey necessary easements to the Sandwich Water District for water protection and supply purposes on the Murkwood Conservation Area, as shown on Assessors Map 52, Lot 29, Map 53, Lot 1, and Map 62, Lot 12 consisting of approximately 77.48 acres, or on any real and personal property now held for conservation purposes that the Conservation Commission determines is no longer needed solely for conservation purposes, and further, authorize the Board of Selectmen to petition the General Court for special legislation authorizing this transfer and the conveyance of said easements pursuant to Article 97 of the Massachusetts Constitution, or take any action relative thereto.

**UNANIMOUSLY VOTED: To indefinitely postpone Article 23.**

#### **ARTICLE 24**

To see if the Town will vote to transfer the care, custody, control, and management of the following parcel of land from the Board of Selectmen for active recreation purposes, namely a municipal golf course, and for the purpose of conveyance of easements to the Sandwich Water District for water protection purposes and water supply purposes to the Board of Selectmen for the purpose of conveyance and to authorize the Board of Selectmen to convey all or a portion of the parcel identified as Parcel B on a plan titled "Town of Sandwich Acquisition of Verbon Trust Property," dated March 1, 1999, prepared by Outback Engineering, a copy of which is on file with the Town Clerk, consisting of approximately 253 acres off Service Road and commonly known as Sandwich Hollows Golf Club, said property to be conveyed on such terms and conditions as the Selectmen deem to be in the best interests of the Town, the proceeds of which shall first be used to pay off the bonds issued to acquire the parcel pursuant to the requirements of General Laws C. 44, section 63, and it being the intention of the Town that any and all remaining proceeds from such conveyance are to be transferred by vote of a subsequent town meeting to the Stabilization Fund in accordance with M.G.L. c.40, §5B.

#### **And further,**

That the Town transfer from the Board of Selectmen for the purposes set out in Section 3 of Chapter 293 of the Acts of 1993, and for the purpose of conveyance of easements to the Sandwich Water District for water protection purposes and water supply purposes to the Board of Selectmen for such purposes and also for the purpose of conveyance of access and utility easements to be appurtenant to such portions of Parcel B referenced above as are conveyed, usable for all purposes for which Parcel B may be used, and authorize the Board of Selectmen to convey such easements and to authorize the Open Space Committee or, if the Open Space Committee is no longer in existence, the Board of Selectmen, to release the restrictions held by the Town with respect to such easements on all or portions of the parcels identified as Parcel A on a plan titled "Town of Sandwich Acquisition of Verbon Trust Property," dated March 1, 1999, prepared by Outback Engineering, a copy of which is filed with the Town Clerk consisting of approximately 218 acres off Service Road, said easements to be conveyed on such terms and conditions as the Selectmen deem to be in the best interests of the

Town, it being the intention of the Town that any and all proceeds from such conveyance are to be transferred by vote of a subsequent town meeting to the Stabilization Fund in accordance with M.G.L. c.40, §5B.

**And further,**

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation authorizing these transfers and the conveyance of land and easements and the release of restrictions pursuant to Article 97 of the Massachusetts Constitution, and notwithstanding any provisions of, Chapter 293 of the Acts of 1998, the Cape Cod Land Bank Act to the contrary.

The real property and easements authorized for conveyance by this Article are some or all of the premises shown on Assessors Maps of the Town as follows: Map 24, Lots 200, 202, 202-001; Map 29, Lots 021-001, 022, 023, 025, 029, 030-001, 031, 203; Map 34, Lots 084, 085, 108. The real property is described in a deed identified in Land Court Certificate 154145 and dated July 28, 1999.

or take any action relative thereto.

S. Michael Baker of the Finance Committee gave the following report: The Finance Committee does not support this article. We are not necessarily opposed to the sale of the golf course property. Indeed, we feel it is an option the Town ought to explore as part of a strategy to address our financial difficulties. However, we cannot support this particular article for the following reasons:

1. There is no assurance that the proceeds from the sale of the property will be sufficient to pay off the bonds issued to acquire the parcel. This article establishes no minimum sales price.
2. We feel that it is essential that the way in which the property is ultimately developed should be consistent with the best interests of the Town. The best way to ensure this is done is with deed restrictions recorded at the Registry of Deeds. We feel that a public discussion of the potential uses of the property, and the specific deed restrictions that will limit development to those uses, should precede the passage of an article authorizing its sale.
3. The Town now owns a number of attractive parcels which are available for our own use or for development. We suggest that a comprehensive analysis of the best way to utilize these assets should precede any article authorizing their sale.

For all of the reasons just stated, the Finance Committee recommends, by a unanimous vote, that this article not be approved.

Allen Peterson moved for Indefinite Postponement. This was a voice vote and **declared not carried**.

**VOTED: This was a voice vote on Article 24 and declared not carried by the Moderator.**

At 11:40 p.m. in accordance with Section 1.15 of the Town Bylaws, the Moderator asked for a vote of the Town Meeting to continue to finish the Warrant articles. This was a voice vote and **declared carried by the required two-thirds vote**.

**ARTICLE 25**

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by changing the location of the boundary between the Industrial Limited District and Ridge District-2 as shown on the map entitled "Proposed Change to the Sandwich Industrial Park Zoning District Boundaries" created by the Cape Cod Commission, dated January 12, 2004 and on file with the Town of Sandwich Planning Department, and to amend the present Zoning Map and all references thereto in the Protective Zoning By-laws accordingly, or take any other action relative thereto.

**UNANIMOUSLY VOTED: That the Town amend the Sandwich Protective Zoning By-laws by changing the location of the boundary between the Industrial Limited District and Ridge District-2 as shown on the map entitled "Proposed Change to the Sandwich Industrial Zoning District Boundaries" dated January 12, 2004 as printed in the Warrant under Article 25.**

**ARTICLE 26**

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws, Section 4700, Conversion of Seasonal or Intermittent-Use Structures, by changing Section 4710, Cottage Colonies as follows:

The Board of Appeals may grant a special permit to allow a cottage colony, in existence at the time of the passage of this by-law and where all structures are located on a single lot, to be converted to year round single-family dwelling use under separate ownership provided the following criteria are met:

- a. The applicant shall demonstrate to the satisfaction of the Board of Appeals that the cottage colony use was lawfully established. The number of bedrooms in each structure shall not increase from what exists at the time the Special Permit application is made. Demonstration as to the applicable number of bedrooms shall be made to the satisfaction of the Board of Appeals. The number of bedrooms shall be documented by floor plans bearing a professional stamp. A deed restriction detailing

the number of bedrooms for each structure shall be submitted in a form approved by the Board of Appeals and Town Counsel.

- b. The floor area of each structure shall not increase over what exists at the time of the issuance of the special permit. Floor area shall be documented by plans bearing a professional stamp.
- c. Structures shall meet current front, side and rear yard setback dimensions from all lot lines. Where this is not possible due to existing conditions, the Board of Appeals may set a lesser dimensional requirement that shall then apply to all future land use on the lot. The application shall demonstrate to Board's satisfaction that this lesser setback is not detrimental to the neighborhood.
- d. Adequate access exists for the proposed single-family dwelling uses and emergency vehicles. Adequate access shall mean that access meeting the criteria of the Subdivision Rules & Regulations Section 5.S is provided. The Board of Appeals shall make this determination only after an inspection report is received from the Town Engineer.
- e. Any lot subject to a special permit granted under this provision of the zoning by-law shall not be further divided or further subdivided pursuant to any provision of the Subdivision Control Law.

**And further,**

To see if the Town will vote to amend Section 4740, Procedures to read as follows:

Insert the words "other than a cottage colony" as shown:

The conversion of any structure **other than a cottage colony** provided herein shall be governed by the procedures contained in Section 4431 through 4437; and, in addition, the Planning Board shall thereafter submit its recommendations to the Board of Appeals within thirty (30) days after receipt of reports from the Board of Health and/or Conservation Commission, or within seventy-five (75) days of the date of pre-application review, whichever is sooner. The Board of Appeals shall act upon said application as an application for special permit as set forth in Section 1330 through 1360 and, where applicable, Section 2400.

or to take any other active relative thereto.

**VOTED: This was a voice vote on Article 26 and declared not carried by the Moderator.**

**ARTICLE 27**

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws, Article II, Section 2300, Use Regulation Schedule, Section 2310, Principal Uses, Commercial Use to allow Medical Services and Technology use by special permit in the Residential-1 (R-1) and Residential-2 (R-2) Zoning District by changing the "N" symbol to the "S" symbol in the R-1 and R-2 columns for the Medical Services and Technology use, by deleting footnote (6) in its entirety, and by adding a new footnote (6) to the Medical Services and Technology entry to read as follows:

"May be allowed in the R-1 and R-2 Districts only on lots having both a minimum of 200 feet of frontage on Route 130 and a minimum of two acres in lot area. In the R-1 and R-2 Districts, all buildings, structures and parking areas for this use shall have a minimum side and rear setback of 50 feet."

or take any other action relative thereto.

**VOTED UNANIMOUSLY: That the Town amend the Sandwich Protective Zoning By-laws, Article II, Section 2300, Use Regulation Schedule, Section 2310 as printed in the Warrant under Article 27.**

**ARTICLE 28**

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws, Article II, Section 2300 Use Regulation Schedule, Section 2310 Principal Uses, Recreational Use to allow Recreation Facility use in the Ridge District-2 (RD-2) by changing the "N" symbol to the "S" symbol in the RD-2 column for Recreational Facility use, and by adding a new footnote (4) to the Recreation Facility entry, to read as follows:

"In the RD-2 District this use may be allowed only on a lot or lots having both a minimum of 600 feet of frontage on the Service Road and a minimum lot area of 100 acres. This use may be allowed as a second principal use in the RD-2 District provided the existing principal use is located on a lot or lots totaling at least 50 acres."

or take any other action relative thereto.

**UNANIMOUSLY VOTED: To indefinitely postpone Article 28.**

**ARTICLE 29 (see beginning of Town Meeting after Article 2)**

**ARTICLE 30**

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$39,778,079, or any other amount, to defray Town expenses for the Fiscal Year July 1, 2005 to June 30, 2006 as itemized below in the column entitled FY'06 Total, or take any action relative thereto.

Nos.	Department(s)	Appropriation FY'04 Total	Appropriation FY '05 Total	Recommended FH '06 Total
100s, 200s, 400s, 500s, 600s	General Government	10,870,612	11,684,282	12,200,068
300	School Department	24,454,602	25,179,724	26,520,738
313	YCCRVTS	801,482	920,548	1,057,273
	Total Town Budget	36,126,697	37,784,554	39,778,079

It is the intent of this Article to allow for a single motion that would give Town Meeting the opportunity to appropriate the full amount of operating budgets recommended by the Town Administrator and Superintendents of schools. It is understood that these appropriations would be contingent upon voters' approval of an increase to the levy limit. (Submitted By Petition)

**There being no second to this motion, no action was taken.**

At 12 midnight, the Moderator adjourned the meeting to the election to be held on Thursday, May 5, 2005.

**ARTICLE 31**

To elect the following Officers:

**BOARD OF SELECTMEN, For Three Years**

Vote for not more than two

	P1	P2	P3	P4	P5	P6	P7	TOTALS
Thomas Francis Keyes	626	578	566	420	415	398	343	3346
Frank Pannorfi	530	516	470	310	376	365	279	2846
Adam George Chaprales	368	367	393	492	466	419	405	2910
Kathryn R. Heras	254	261	363	260	296	308	175	1917
James Michael Schneider	167	157	171	190	185	173	254	1297
All others	4	3	2	2	0	1	1	13
Blanks	335	286	323	302	250	204	241	1941
Total	2284	2168	2288	1976	1988	1868	1698	14270

**BOARD OF ASSESSORS, For Three Years**

Vote for not more than one

	P1	P2	P3	P4	P5	P6	P7	TOTALS
Madlon Jenkins	743	678	750	675	669	647	575	4737
All Others	9	3	9	6	8	12	10	57
Blanks	390	403	385	307	317	275	264	2341
Total	1142	1084	1144	988	994	934	849	7135

**CONSTABLE, For Three Years**

Vote for not more than one

	P1	P2	P3	P4	P5	P6	P7	TOTALS
Clyde S. Gill	612	610	602	422	477	475	408	3606
James Joseph Sullivan	303	280	307	354	316	282	270	2112
All Others	3	2	3	4	3	2	2	19
Blanks	224	192	232	208	198	175	169	1398
Total	1142	1084	1144	988	994	934	849	7135

**SCHOOL COMMITTEE, For Three Years**

Vote for not more than two

	P1	P2	P3	P4	P5	P6	P7	TOTALS
Sharon L. Marshall	480	415	524	438	474	456	375	3162
Dana Patrick Barrette	710	646	702	606	588	581	497	4330
Linus T. Hart	447	478	376	372	362	362	317	2714
All Others	6	2	5	7	3	7	11	41
Blanks	641	627	681	553	561	462	498	4023
Total	2284	2168	2288	1976	1988	1868	1698	14270

**BOARD OF HEALTH, For Three Years**

Vote for not more than one

	P1	P2	P3	P4	P5	P6	P7	TOTALS
Sean Patrick Grady	11	16	53	22	33	30	20	185

Steven J. Chapman	1		7	1	4		3	16
Rory Ann Martin	4		1	1		1	2	9
James M. Schneider	2							2
Rebecca L. Scott	2	1					1	4
David Sullivan	1	2						3
Susan W. McKenna	1							1
Thomas Johnson	1							1
Heather Levy	1							1
Robert Ahonen	1							1
Patricia Ann Tyo	2							2
James H. Sibson	1							1
Shawn P. Murray	1		1					2
Fred E. Straut	1							1
R. Patrick Ellis	1							1
Alvin W. Gibbs	2							2
Dennis B. Cook	1							1
Clyde S. Gill	1							1
David B. Mason	1					1		2
Robert M. Cotter	1							1
Shaun P. Cahill	1							1
Arthur J. Lucas		1						1
Robert S. Nesom		1						1
Emily B. Foster		1						1
William J. Penswick		1						1
Ronald I. Meyer		1						1
Douglas S. Dexter		1						1
Linell M. Grundman		1						1
Peter Watts		1						1
Virginia S. Horvath		1						1
George Wood		1						1
Scott P. Barker		1						1
G. Jeffrey Pola		1						1
Katherine Norton		1						1
Rose T. Wilbur		1						1
Francis M. Deveney		1						1
James W. Carroll		1						1
Colleen M. Mason		1						1
Paula N. Chambers		1						1
Thomas LaRochelle, Jr.			1					1
Ramon Espinosa			1					1
Richard H. Sherman			1					1
Mark Bridges			1					1
Brian Flynn			1					1
T. Lawrence Gasse			1					1
Joseph P. Carlson			1					1
G. E. MacDonald			1					1
Christine V. McGowan			1					1
Joseph V. Maruca			1					1
Martin F. Toczykowski			1					1
Robert J. O'Reilly			1					1
Kevin M. Kirrane			1					1
Stacy L. Berry			1					1
William A. Mills			1					1
Jean M. Hood			1					1
Pat Grady				1				1
Bertrand S. Duncan				1				1
Christine R. Couture				1				1
Daniel Linnell				1				1
Margaret C. Connolly				1				1
Nicholas A. Pastore				1		1		2
Thomas J. Driscoll				1				1
Daniel N. DiGiandomenico				1				1
Michael B. Simmons				1				1
Brian A. Bondarek				1				1
John Welch					1			1
Frank Sullivan					1			1
Richard A. Atwood					1			1
Glenda M. Eastman					1			1
Susan R. James					1			1
Jeffrey A. Stanford					1			1
Susan V. Walker					1			1

David L. Laird					1			1
Eileen C. Burnett					1			1
David W. Tavares					1			1
Elizabeth M. West					1			1
Justin B. Kelley					1			1
Wilton P. Marshall					2			2
Leo F. Perry					1			1
Robert Simmons					1	1	1	3
Andrea M. Killion					1			1
Robert A. Cyrklis					1			1
Sandra L. Tompkins					1			1
Matthew J. Dignan					1			1
Bruce A. Lloyd						2		2
Bradley K. Lima						1		1
Jeffrey L. Herndon						1		1
Hope S. Henderson						1		1
Dominc G. Crupi, Jr.						1		1
Paula M. Johnson						1		1
Victoria L. Waterhouse						1		1
Edwin C. Gibbs						2		2
Susan McCabe						1		1
Peter Holmes						1		1
David F. Tibbetts						1		1
Robert A. Drake							1	1
Robert M. Hilton							1	1
Celine M. Hardy							1	1
Peter J. Golas							1	1
George E. Elvander							1	1
Donald E. Drew							1	1
John B. Champagne							1	1
Brenda M. Douglas							1	1
Merrill L. Thompson							1	1
Steven C. Grundman							3	3
Joseph S. Donnelly							1	1
Larry J. Ruth							1	1
Richard J. England							1	1
Maureen C. Whittles							1	1
Barry A. Wood							1	1
Joan S. Long							1	1
Kim C. Manasian							1	1
Lisa V. Cabral							1	1
David J. Soby							1	1
All others	2	4	1	4	3	2	3	18
Blanks	1102	1043	1065	950	934	885	798	6777
Total	1142	1084	1144	988	994	934	849	7135

TRUSTEE, SANDWICH PUBLIC LIBRARY, For Three Years  
Vote for not more than three

	P1	P2	P3	P4	P5	P6	P7	TOTALS
Joan S. Martinelli	627	569	654	499	576	555	474	3954
Jeanie M. Vander Pyl	667	610	643	487	540	539	447	3933
Kelly K. Depin	315	404	424	365	347	325	294	2474
Susan W. McKenna	626	511	508	496	470	508	415	3534
All Others	7	4	7	3	2	1	4	28
Blanks	1184	1154	1196	1114	1047	874	913	7482
Total	3426	3252	3432	2964	2982	2802	2547	21405

TRUSTEE, WESTON MEMORIAL FUND, For Three Years  
Vote for not more than 1

	P1	P2	P3	P4	P5	P6	P7	TOTALS
Peter N. Conathan	783	745	783	666	655	653	557	4842
All Others	9	2	5	2	5	5	5	33
Blanks	350	337	356	320	334	276	287	2260
Total	1142	1084	1144	988	994	934	849	7135

PLANNING BOARD, For Three Years  
Vote for not more than 2

	P1	P2	P3	P4	P5	P6	P7	TOTALS
Lawrence S. Spiegel	485	444	532	371	403	422	315	2972
Taylor D. White	618	568	547	447	490	503	400	3573
John B. Campanale, Jr.	485	522	507	482	441	458	407	3302
Julie C. Molloy	610	597	609	542	549	529	463	3899

All Others	8	7	7	6	2	4	5	39
Blanks	1220	1114	1230	1116	1097	886	957	7620
Total	3426	3252	3432	2964	2982	2802	2547	21405

SANDWICH HOUSING AUTHORITY, For Five Years  
Vote for not more than 1

	P1	P2	P3	P4	P5	P6	P7	TOTALS
Robert F. Simmons, Jr.	8		11	19	13	13	22	86
Daniel N. DiGiandomenico	3	9	6	8	11	5	1	43
Lydia Peters Jacinto	2	1			1	3		7
David Leonardi		1		1		1		3
David Sullivan	1							1
Thomas Johnson	1							1
Melissa G. Solomon	1							1
Fred E. Straut	1							1
Walter L.Tyo	2							2
Dennis B. Cook	1							1
Joseph S. Donnelly	1						1	2
Arthur J. Lucas		1						1
William D. Penswick		1			1			2
Douglas Dexter		1						1
Susan V. Walker		1						1
William E. Whalley		1						1
John H. Thomas		1						1
Scott P. Barker		1						1
Scott C. Brower		1						1
Michael A. Bell		1						1
Andrew Jones		1				1		2
Kathryn R. Heras		1						1
Rose T. Wilbur		1						1
Gerald V. Chambers		1						1
Stephen C. May		1						1
Robert Sullivan		1						1
Sean P. Grady			1		1		1	3
Richard H. Sherman			1					1
John Kamb			1					1
Joseph M. Cotter			1					1
Bradley J. Harring			2					2
Martin F. Toczylowski			1					1
Janet E. Merlet			1					1
John T. McInnis			1					1
Steven J. Chapman			2					2
Jennifer N. Rudy				1				1
Michael B. Simmons				1				1
Brian A. Bondarek				1				1
Jay W. Briggs				1				1
Ronald J. Laurino					1			1
Francis A. Gilleo					1			1
Frank Sullivan					2			2
Jessica D'Ambrosio					1			1
Elaine Davis					1			1
Jeffrey A. Stanford					1			1
David J. Boles					1			1
Justin Kelley					1			1
Wilton Marshall					1			1
Robert Cyrklis					1			1
Matthew Dignan					1			1
William McGee					1			1
Paul M. Whelan					1			1
Rory Ann Martin						1		1
Brian Joseph						1		1
Edwin Gibbs						2		2
Kevin Sullivan						1		1
Patricia Cundiff						1		1
John W. DeNaples						1		1
Carol Taylor						1		1
Glen Watson						1		1
Jon Blake						1		1
David Tibbetts						1		1
Thomas Sullivan							1	1
Patrick McBride							1	1
Chris Long							1	1

Richard England							1	1
Darlene Andreotti							1	1
Maureen Whittles							1	1
Bob Glidden							1	1
Peter Amaral							1	1
Robert C. Reilly							1	1
Theodore Collings							1	1
Richard Elliot							1	1
Kathleen Thompson							1	1
Frank McDonald							1	1
Lisa Cabral							1	1
All Others	1	1	6	3	1	1	3	16
Blanks	1020	1057	1110	953	965	899	807	6811
Total	1142	1084	1144	988	994	934	849	7135

**BALLOT QUESTION No. 1**

Shall the Town of Sandwich be allowed to assess an additional \$3,100,000 in real estate and personal property taxes for the purposes of providing school and general government services for the fiscal year beginning July first two thousand and five?

Ballot Question No. 1	P1	P2	P3	P4	P5	P6	P7	TOTALS
Yes	562	444	677	508	534	516	456	3697
No	557	643	459	474	456	414	390	3384
Blanks	23	6	8	6	4	4	3	54
Total	1142	1084	1144	988	994	934	849	7135

**BALLOT QUESTION No. 2**

Shall the Town of Sandwich adopt section 298 of Chapter 149 of the Acts of 2004, as approved by the March 21, 2005 Special Town Meeting, a summary of which appears below?

Acceptance of section 298 of Chapter 149 of the Acts of 2004 means the Community Preservation Act shall effectively replace the Cape Cod Open Space Land Acquisition Program. There shall be no additional excise on real property levied, other than the current 3 per cent levied for the provisions of the Cape Cod Open Space Land Acquisition Program. Acceptance of this section shall allow the community to access state matching funds of up to 100 per cent of the excise on real property currently levied, which was previously unavailable to the town.

Ballot Question No. 2	P1	P2	P3	P4	P5	P6	P7	TOTALS
Yes	860	787	881	726	740	709	617	5320
No	194	236	171	202	184	171	164	1322
Blanks	88	61	92	60	70	54	68	493
Total	1142	1084	1144	988	994	934	849	7135

The Polls were closed at 8:00 p.m. The total vote cast was 7,135, which is 48.2 per cent of the voters. The total number of voters at the close of registration prior to the election was 14,804. The voting lists of Ballot Clerks and Checkers were checked and found in order and agreed with Ballot Box totals.

The number of absentee ballots cast was 287, which included P1 – 68, P2 – 55, P3 – 52, P4 – 25, P5 – 42, P6 – 27, P7 – 18.

I certify that this is a true record of the Annual Town Meeting and Election held on May 2 and May 5, 2005.

Barbara J. Walling  
Town Clerk

**TOWN OF SANDWICH  
SPECIAL TOWN MEETING  
November 14, 2005**

The Special Town Meeting was called to order by Moderator Garry Blank at 7:10 p.m. after ascertaining a quorum was present. The clerks checked in a total of 333 voters. Selectman William Diederich led the Pledge of Allegiance.

The Moderator swore in the following persons as tellers: Pamela A. Terry, Gary D. Powers, Paul C. Kilty, and Robert A. Sprague. Douglas A. Lapp, Assistant Town Administrator, was designated as timekeeper.

**ARTICLE 1**

To see if the Town will vote in accordance with the regulations issued by the Department of Revenue in the Informational Guideline Release No. 98-403 to accept the terms and conditions of the tax valuation agreement from Fiscal Year 2006 through Fiscal Year 2013 between the Town of Sandwich and Mirant Canal, LLC dated October 14, 2005 and entitled "Tax Valuation Agreement", a copy of which is attached to the warrant as Addendum A, or take any action relative thereto.

**ADDENDUM A**

**TAX VALUATION AGREEMENT**

THIS TAX VALUATION AGREEMENT (THE "agreement") is made and entered into as of this 14<sup>th</sup> day of October, 2005, by and between the Town of Sandwich, a municipal corporation and body politic of the Commonwealth of Massachusetts (the "Town") having its offices at 130 Main Street, Sandwich, Massachusetts 02563, and Mirant Canal, LLC, ("Mirant") a Delaware limited liability company having its principal place of business at 9 Freezer Road, Sandwich, Massachusetts 02563. The Town and Mirant may be collectively referred to hereafter as the "Parties."

RECITALS

WHEREAS, Mirant owns a steam electric generating facility (the "Facility") which is located on certain land owned by Mirant in the Town:

WHEREAS, Mirant is subject to certain local taxes in connection with its ownership of real and personal property;

WHEREAS, valuation of electric power generation plants for local tax purposes poses unique difficulties and involves complex procedures that must be implemented by the Town on annual basis; and

WHEREAS, the Parties now wish to set forth their understanding regarding valuation of the Facility and other Mirant property for local tax purposes.

NOW THEREFORE, in consideration of the mutual promises and covenants of each to the other contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby covenant and agree as follows:

1. *Recitals.* The Parties ratify, confirm and incorporate herein the above Recitals.
2. *Property to be Taxed.* The property owned by Mirant which shall be taxed subject to the terms of this Agreement is described in Exhibit A attached hereto (the "Subject Property"). The Subject Property shall also include any material additions, improvements or other changes to the Subject Property which occur after the execution of this Agreement. This Agreement covers all real and personal property taxation and Community Preservation Act charges.
3. *Term.* This Agreement shall govern the taxation of the Subject Property for fiscal year 2006 through, and including, fiscal year 2013, unless otherwise provided herein. This Agreement may sooner terminate (i) pursuant to Sections 7 or 8 herein, or (ii) by written notice from Mirant to the Town in the event the Facility is temporarily or permanently retired and is no longer used by Mirant for production of electricity.
4. *Assessed Valuation of Subject Property.* The Parties agree that the full and fair cash valuation of the Subject Property shall be the amounts listed below for each of the fiscal years included in the term of this Agreement. The following valuation schedule shall become effective at the beginning of the fiscal year immediately following the execution of this Agreement. For the purposes of this Agreement, each fiscal year shall begin on July 1 and shall end on June 30 the following calendar year.

VALUATION AND ESTIMATED TAX SCHEDULE

Fiscal Year	Fair Cash Value	Estimated Aggregate Tax Due
FY 2006	\$254,000,000	\$2,660,192
FY 2007	\$254,000,000	\$2,466,822
FY 2008	\$254,000,000	\$2,401,570
FY 2009 – Valuation Stabilizer	\$254,000,000	\$2,396,490
FY 2010	\$254,000,000	\$2,367,940
FY 2011	\$254,000,000	\$2,344,547
FY 2012	\$254,000,000	\$2,310,765
FY 2013 – Valuation Stabilizer	\$254,000,000	\$2,279,599
FY 2006 – FY 2013 Est.-Average Aggregate Tax =		\$2,403,490

The valuations set forth in the above table are based on the Town's current appraised value of \$254,000,000 net of all pollution control exemptions.

The sole purpose of the valuation stabilizer in FY 2009 and FY 2013 is to permit the Town to adjust the fair cash valuation of the Subject Property for the remainder of the term of this Agreement in order to account for changes in the Town's real estate tax base. In the event the Town determines that an adjustment of the fair cash valuation of the Subject Property in FY 2009 or FY 2013 is appropriate, the Parties agree that they will re-open negotiations in order to determine the proper fair cash valuation of the Subject Property, provided, however, that the Parties agree that the valuation of the Subject Property shall not be adjusted up or down by more than 10 percent of the values specified in the above table. In the event that the Parties cannot agree on the proper fair cash valuation of the Subject Property, the dispute resolution procedures set forth in Section 16 shall not apply. Instead, after thirty (30) days of informal negotiations, the Town, in its sole discretion, may adjust the valuation of the Subject Property by no more than 10 percent of the values specified in the table above. Once any adjustments have been made pursuant to this Section 4, the result must yield an estimated average annual aggregate tax from FY 2006 – FY 2013 equal to \$2,403,490.

5. *Annual Certifications.* In each year after the base year of the valuation schedule set forth in Section 4, Mirant shall submit to the Town no later than March 1, an annual certification which describes any material additions, improvements or retirements that have occurred since submission of the revised description of the Subject Property or its last annual certification. In each annual certification, Mirant shall designate a representative who is available to answer any questions that the Town may have regarding the information that was provided or omitted on such annual certification.
  
6. *Valuation Adjustments and Audit Rights.* Additional material additions or improvements to the Subject Property (excluding any normal repair and maintenance expenditures and installation of any pollution control equipment) shall trigger an upward adjustment of the valuation figures listed in Section 4 above. Substantial equipment retirements shall trigger a downward adjustment of the valuation figures listed in Section 4. Within thirty (30) days of receipt of each annual certification, the Town's Principal Assessor shall send Mirant a notice as to whether an adjustment in the valuation figures set forth in Section 4 is warranted, the reasons for the adjustment, and a revised future valuation schedule for the Subject Property. The revised valuation schedule shall take effect for the subsequent fiscal year unless within ninety (90) days of receipt of the revised valuation schedule Mirant sends the Town's Principal Assessor notice that it objects to such valuation schedule. If the Parties cannot agree as to the adjusted valuation amount, the Parties shall resolve the dispute in accordance with Section 16 below. In the event that the dispute resolution process set forth in Section 16 is initiated, the Town shall have a limited right to audit and inspect Mirant's records during the informal negotiation stage of the process. The scope of such audits shall be limited to reviewing information that is reasonably necessary to ascertain the accuracy of the information provided or omitted on Mirant's most recent annual certification. Such examinations shall be made upon not less than seven (7) days' prior notice during normal business hours at the Facility and in such manner as to not unreasonably interfere with Mirant's normal business activities. If such records are not kept at the Facility, Mirant shall deliver (at its sole expense) copies of such records to the office of the Town's Principal Assessor. Any information provided to the Town as part of an audit shall be treated as confidential. In the event the Town requests documents or information that Mirant determines is proprietary, upon request by Mirant, the Parties will enter into a commercially reasonable confidentiality agreement in order to limit disclosure of such information. Mirant shall have no obligation to provide the Town with any document that is privileged under applicable law.
  
7. *Amount and Timing of Payments; Failure to Make Timely Payments; Right to Cure.* Subject to the provisions of Section 4 hereof, the total amount of taxes to be paid by

Mirant in any fiscal year shall equal the valuation for said fiscal year multiplied by the unified tax classification rate currently in effect in the Town. Payments due under this Agreement shall be billed in accordance with G.L. c 60, § 3. Mirant shall make payment no later than five (5) days in advance of the due date of the relevant Town quarterly real and/or personal property commitment; provided, however, that the Town must issue each quarterly commitment to Mirant in a manner consistent with the Town's issuance of quarterly commitments to other taxpayers. If the due date for any payment is not a Business Day (a day in which major banks in Boston, Massachusetts are open for business, excluding any Saturday and Sunday), the due date for payment shall be the following Business Day. Payments must be made by wire transfer if the Town provides Mirant with wire account information with the tax commitment. Mirant's failure to make any payment required under this Agreement by the applicable due date shall not constitute a breach of the Agreement, provided such failure is (i) remedied within five (5) Business Days after Mirant's receipt of written notice from the Town, or (ii) the subject of a good faith dispute. Except as provided for in this Paragraph 7, the Town, based on Mirant's breach of the Agreement by its failure to make payment, can immediately terminate this Agreement upon written notice to Mirant. In addition, in the event of a uncured payment default that is not the subject of a good faith dispute, Mirant shall pay a late fee of one thousand dollars (\$1,000) per day for each day that any payment under this Agreement is due, provided, however, that no more than twenty-five thousand dollars (\$25,000) shall be due and owing for each instance of late payment or nonpayment. Interest shall also accrue on all late payments in accordance with G. L., c 59, § 57.

8. *Change in Tax Classification System.* In the event the Town modifies its tax classification rate by adopting more than one use classification, except as provided below, the Parties agree that Section 4 of this Agreement shall be null and void. In such event, this Agreement shall be treated as a payments made in lieu of taxes agreement and Mirant shall pay the Town the amount of estimated aggregate tax due as set forth in the tax schedule in Section 4.
9. *Representations and Warranties of Mirant.* Mirant hereby makes the following representations and warranties to the Town:
  - (a) Mirant is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and has the full limited liability company power and authority to carry on its business as it is now being conducted.
  - (b) Mirant has taken all necessary limited liability company action to authorize and approve the execution and delivery of this Agreement.
  - (c) To the best of Mirant's knowledge, none of the documents or information furnished by or on behalf of Mirant to the Town in connection with negotiation and execution of this Agreement contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading.
  - (d) The person executing this Agreement on behalf of Mirant has the full power and authority to bind it to each and every provision of this Agreement.
  - (e) In the event of a dispute over any term or provision of this Agreement, Mirant waives any defense or claim that this Agreement is unenforceable as a matter of law.
10. *Representations and Warranties of the Town.* The Town hereby makes the following representations and warranties to Mirant:
  - (a) The Town is a municipal corporation and body politic of the Commonwealth of Massachusetts.
  - (b) The Town has taken all necessary action to authorize and approve the execution and delivery of this Agreement.
  - (c) The person or persons executing this Agreement on behalf of the Town have the full power and authority to bind it to each and every provision of this Agreement.
  - (d) In the event of a dispute over any term or provision of this Agreement, the Town waives any defense or claim that this Agreement is unenforceable as a matter of law.

11. *Abatements.* For so long as this Agreement remains in effect, Mirant agrees that it will not seek an abatement or reduction of the amounts due to the Town hereunder and waives all such rights to the fullest extent permitted by law. Nothing in this Agreement shall be construed as limiting Mirant's right to challenge valuation adjustments made pursuant to Section 6 of this Agreement.

12. *Notices.* All notices and consents required or permitted by this Agreement shall be in writing and, if mailed, shall be deemed to have been given when dispatched by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to the Town:

Town Administrator  
Sandwich Town Hall  
130 Main Street  
Sandwich, MA 02563

with a copy to:

Jeffrey M. Bernstein, Esq.  
BERNSTEIN, CUSHNER & KIMMELL, P.C.  
585 Boylston Street, Suite 400  
Boston, MA 02116

If to Mirant:

Mirant Canal, LLC  
9 Freezer Road  
Sandwich, Massachusetts 02563  
Attn: Plant Manager

with a copy to:

ATTN: General Counsel  
Mirant Corporation  
1155 Perimeter Center West  
Atlanta, Georgia 30338

and a copy to:

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.  
One Financial Center  
Boston, MA 02111  
Attn: Ralph A. Child, Esq.

Changes in the respective addresses to which such notices shall be sent may be made from time to time by either Party by notice to the other Party. Notice given otherwise than by mailing shall be effective when received.

13. *Entire Agreement; Construction with Other Agreements.* Except as expressly provided herein, this Agreement, along with the Exhibits attached hereto, constitute the entire and complete agreement of the Parties with respect to the taxation by the Town of the Subject Property, exclusive of all prior understandings, arrangements and commitments, all of which, whether oral or written, having been merged herein, except for contemporaneous or subsequent written understandings, arrangements, or commitments signed by the Parties intended to be bound thereby.

14. *Binding Effect.* This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any successor or assignee acquiring an interest hereunder, provided however, that in the event Mirant sells or conveys a portion of the Site (as such term is defined in Exhibit A attached hereto) that is not used in connection with the generation of electric power at the Facility, such portion of the Site shall be released from the terms of this Agreement and the value of Subject Property shall be adjusted as provided in Section 6 hereof.

15. *Applicable Law.* The laws of the Commonwealth of Massachusetts shall govern the validity, interpretation, construction and performance of this Agreement.

16. *Dispute Resolution.* Unless otherwise expressly provided for in this Agreement (including, but not limited to, Section 4), the dispute resolution procedures of this Section 16 shall be the exclusive mechanism to resolve disputes arising under this Agreement. The Parties agree to use commercially reasonable efforts to resolve any

dispute(s) that may arise regarding this Agreement. Any dispute that arises under or with respect to this Agreement that cannot be resolved shall in the first instance be the subject of informal negotiations between the Parties. The dispute shall be considered to have arisen when one Party sends the other Party a written notice of dispute. The period for informal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time period is modified by written agreement of the Parties involved in the dispute. After one Party sends the other Party a written notice of dispute, the Parties shall enter into an agreement tolling any applicable statute of limitations or repose for a mutually agreeable period of time, which at a minimum will allow the Parties sufficient time to complete the dispute resolution process established in this paragraph. In the event that the Parties cannot resolve a dispute by informal negotiations, the Parties involved in the dispute agree to submit the dispute to mediation. Within fourteen (14) days following the expiration of the time period for informal negotiations, the Parties involved in the dispute shall propose and agree upon a neutral and otherwise qualified mediator. In the event that the Parties fail to agree upon a mediator, the Parties shall request that the American Arbitration Association, Boston, Massachusetts, appoint a mediator. In the event that despite the good faith efforts of both Parties, the Parties are unable to appoint a mediator to commence the mediation within thirty (30) days of the expiration of the time period for informal negotiations, the aggrieved Party may commence judicial action as set forth below. The period for mediation shall commence upon the appointment of the mediator and shall not exceed thirty (30) days, unless such time period is modified by written agreement of the Parties involved in the dispute. The decision to continue mediation shall be in the sole discretion of each Party involved in the dispute. The Parties will bear their own costs of the mediation. In the event that the Parties cannot resolve a dispute by informal negotiations or mediation, or seek injunctive or equitable relief as set forth below, venue for any judicial proceeding shall be any state or federal court in Massachusetts of competent jurisdiction. Notwithstanding the foregoing, injunctive or equitable relief may be sought without resorting to dispute resolution to prevent irreparable harm that would be caused by a breach of this Agreement. In any judicial action, the Parties waive their rights to a jury trial and the "Prevailing Party" shall be entitled to payment from the opposing Party of its reasonable costs and fees, including, but not limited to, attorneys' fees arising from the civil action. As used herein, the phrase "Prevailing Party" shall mean the party who, in the reasonable discretion of the finder of fact, most substantially prevails in its claims or defenses in the civil action. The Parties shall continue to perform their obligations under this Agreement while any alternative dispute resolution proceeding is pending.

17. *Amendments.* No amendment to this Agreement shall be effective until reduced to writing and executed and delivered by both Parties.
18. *Severability; Reformation.* In case any one or more of the provisions (or parts of a provision) contained in this Agreement shall, for any reason, be held by any governmental authority, agency or court of competent jurisdiction, to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision (or part of a provision) of this Agreement; and this Agreement shall, to the fullest extent lawful, be reformed and construed as if such invalid, illegal or unenforceable provision (or part of a provision) had never been contained herein, and such provision (or part) reformed so that it will be valid, legal and enforceable to the maximum extent possible. In the event that any governmental authority, agency or court of competent jurisdiction invalidates any key provision(s) in this Agreement, the Parties agree to use commercially reasonable efforts to negotiate in good faith a new tax valuation agreement which shall attempt to the maximum extent possible to achieve the intent and the objectives of the Parties as set forth in this Agreement.
19. *Headings.* The descriptive headings of the sections in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.
20. *Counterparts.* This Agreement may be executed in counterparts by the Parties hereto and will become binding upon the Parties at such time as the signatories hereto have signed each counterpart of this Agreement. All counterparts executed shall constitute one Agreement binding all Parties hereto, notwithstanding that all Parties are not signatories to the original or same counterpart.
21. *Waiver.* No waiver by either Party hereto of any one or more defaults by the other Party in the performance of any provision of this Agreement shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of either Party hereto to complain of any action or non-action on the part of the other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party so failing. A waiver of any

of the provisions of this Agreement shall only be effective if made in writing and signed by the Party who is making such waiver.

22. *Joint Work Product.* This Agreement shall be considered the work product of both Parties, and, therefore, no rule of strict construction shall be applied against the other Party hereto.

23. *Bankruptcy Court Approval.* The Parties acknowledge and agree that this Agreement is subject to approval by the United States Bankruptcy Court for the Northern District of Texas ("Bankruptcy Court"). To obtain said approval, Mirant must file a motion with the Bankruptcy Court under the Federal Rules of Bankruptcy Procedure seeking approval of this Agreement (the "Motion"). A copy of this Agreement shall be attached as an exhibit to the Motion. As such, the Parties acknowledge and agree that this Agreement shall not remain confidential. This Agreement shall be binding on Mirant and the Town as of the date hereof, subject to the entry of the Approval Order. For purposes of this Settlement Agreement, the "Approval Order" shall mean an order, mutually agreed to by Mirant and the Town, that has been entered by the Bankruptcy Court, after notice and hearing, approving this Agreement. Mirant shall use commercially reasonable efforts to obtain the entry of the Approval Order, and the Town shall use commercially reasonable efforts to cooperate with and support Mirant's efforts to obtain entry of the Approval Order. In the event the Approval Order is not entered by the Bankruptcy Court by October 26, 2005, or by such later date that the Parties agree to in writing, the Parties agree to use commercially reasonable efforts to negotiate in good faith a new tax valuation agreement which shall attempt to meet with the requirements of the Bankruptcy Court and, to the maximum extent possible, achieve the intent and the objectives of the Parties as set forth in this Agreement.

**EXHIBIT A**

Description of Subject Property

As herein, the term "Subject Property" shall include all of the following real and personal property, whether currently existing or acquired during the term of this Agreement, owned by Mirant or any affiliate thereof located on the Site (defined below):

- 1.1 approximately 136 acres of land located in Sandwich, Massachusetts, as more particularly described on Exhibit B attached hereto (the "Site");
- 1.2 any and all structures and buildings constructed or to be constructed on the Site, including but not limited to, the existing buildings and structures located on the Site;
- 1.3 any and all equipment, machinery or facilities used in or related to the production of electricity, and ancillary and appurtenant facilities, fixtures, and personal property related thereto, located at the Site or used in connection with the generation or transmission of electric power from the Site, including but not limited to, oil storage, docking facilities, natural gas and electric lines;
- 1.4 any and all fuel, supplies, inventories, materials, spare parts and other consumable property located at the Site used in or related to the production of electricity; and
- 1.5 any and all other personal property located at the Site and owned by Mirant, including but not limited to, vehicles, office furniture and equipment.

The "Subject Property" shall not include any real or personal property not owned by Mirant or an affiliate thereof, including, without limitation, the so-called "Switchyard" and transmission and distribution facilities at or near the Site owned by third parties. The Parties acknowledge that the definition of Subject Property does not include any pollution control equipment, which is exempt from local property taxation; provided that in the event such pollution control equipment is in the future subject to local taxation, it shall be deemed to be part of the Subject Property.

**EXHIBIT B**

Description of Land

<b>ASSESSOR MAP-PARCEL</b>	<b>LOCATION</b>	<b>OWNER</b>
86-013	1 ROUTE 6A	MIRANT CANAL LLC
86-014	1 TUPPER ROAD	MIRANT CANAL LLC
86-015	0 ROUTE 6A	MIRANT CANAL LLC
86-016	0 TUPPER ROAD	MIRANT CANAL LLC
86-018	0 TUPPER ROAD	MIRANT CANAL LLC
86-019	0 TUPPER ROAD	MIRANT CANAL LLC

87-012	51 TUPPER ROAD	MIRANT CANAL LLC
91-001	0 FREEZER ROAD	MIRANT CANAL LLC
91-002	0 TUPPER ROAD	MIRANT CANAL LLC
91-003	0 TUPPER ROAD	MIRANT CANAL LLC
92-002	9 FREEZER ROAD	MIRANT CANAL LLC
93-008	2 COAST GUARD ROAD	MIRANT CANAL LLC
93-009	0 TOWN NECK ROAD	MIRANT CANAL LLC
93-011-001	0 TOWN NECK ROAD	MIRANT CANAL LLC
93-158	0 COAST GUARD ROAD	MIRANT CANAL LLC

**UNANIMOUSLY VOTED: That the Town accept the terms and conditions of the agreement between the Town of Sandwich and Mirant Canal, LLC dated October 14, 2005 and entitled "Tax Valuation Agreement", a copy of which is attached to the warrant as Addendum A.**

**ARTICLE 2**

To see if the Town will vote pursuant to M.G.L c. 40, §4A to authorize the Board of Selectmen to enter into an intermunicipal agreement with the Town of Mashpee and Town of Mashpee Water District for the purpose of installing and maintaining public water supply lines and associated structures and equipment to service Town of Sandwich residents and properties, on such terms and conditions as the Board of Selectmen deems to be in the best interests of the Town, or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town authorize the Board of Selectmen in accordance with M.G.L. c.40, §4A to enter into an intermunicipal agreement with the Town of Mashpee and Town of Mashpee Water District for the purpose of installing and maintaining public water supply lines and associated structures and equipment to service Town of Sandwich residents and properties on such terms and conditions as the Selectmen deem to be in the best interests of the Town.**

**ARTICLE 3**

To see if the Town will vote to authorize the Board of Selectmen and Conservation Commission to grant to the Department of the Army, and or any other such public entity associated with the Massachusetts Military Reservation, easements for access over any land owned by the Town known as the so-called Snake Pond and Lombard Park properties, and more specifically known as Assessors Map 6, Lots 158-001, 159 and 160, for the purpose of installing and maintaining monitoring wells and associated structures and equipment, on such terms and conditions and for such consideration as the Board of Selectmen and Conservation Commission may determine, which may be nominal consideration;

**And further,**

Authorize the Board of Selectmen to petition the General Court for a special act authorizing the granting of easements pursuant to Article 97 of the Massachusetts Constitution;

Or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town authorize the Board of Selectmen and Conservation Commission to grant to the Department of the Army and or any other such public entity associated with the Massachusetts Military Reservation easements for access over any land owned by the Town known as the so-called Snake Pond and Lombard Park properties, and more specifically known as Assessors Map 6, Lots 158-001, 159 and 160, for the purpose of installing and maintaining monitoring wells and associated structures and equipment on such terms and conditions and for such consideration as the Board of Selectmen and Conservation Commission may determine, and further, authorize the Board of Selectmen to petition the General Court for special legislation authorize the granting of said easements pursuant to Article 97 of the Massachusetts Constitution.**

**ARTICLE 4**

To see if the Town will vote to appropriate or reserve the sum of \$30,000.00, or any other amount, from the Community Preservation Fund, to be expended under the direction of the Board of Selectmen, for the purpose of paying administrative and incidental expenses related to the administration of the Community Preservation Act as authorized by Section 298 of Chapter 149 of the Acts of 2004, or take any action relative thereto.

**UNANIMOUSLY VOTED: That the Town appropriate and reserve \$30,000.00 from the Community Preservation Fund, to be expended under the direction of the Board of Selectmen, for the purpose of paying administrative and incidental**

**expenses related to the administration of the Community Preservation Act during  
Fiscal Year 2006 as authorized by Section 298 of Chapter 149 of the Acts of 2004.**

Door prizes consisting of beach and landfill stickers were awarded to Michael V. Harrington, Sarah B. Salois, and Mary R. Kelly. Carbon monoxide detectors were awarded to Donald T. Munsey, Jr. and Janet M. Horton.

The meeting was adjourned at 7:40 p.m.

I certify that this is a true record of the Special Town Meeting held on November 14, 2005.

Barbara J. Walling  
Town Clerk