

**TOWN OF EASTHAM  
SPECIAL TOWN MEETING WARRANT**

**7:00 P.M.**

**SEPTEMBER 19, 2005**

**NAUSET REGIONAL HIGH SCHOOL GYMNASIUM**

**SPECIAL TOWN ELECTION**

**SEPTEMBER 20, 2005**

**POLLS OPEN 7:00 A.M. - 8:00 P.M.**

**EASTHAM TOWN HALL**

**2500 STATE HIGHWAY  
EASTHAM, MA**

**FOR COPIES OF THIS WARRANT IN LARGER PRINT  
OR ON TAPE, PLEASE CALL 240-5900**

**WARRANT AVAILABLE ON LINE AT [WWW.EASTHAM-MA.GOV](http://WWW.EASTHAM-MA.GOV)**

**Please bring this warrant to Town Meeting**

**Parking is limited, please car pool with a neighbor or friend.**

## **SHORT TITLE LIST OF ARTICLES**

1. CURRENT YEAR BUDGET ADDITIONS
2. NAUSET REGIONAL SCHOOL DISTRICT FUNDING FY07
3. EASTHAM ELEMENTARY SCHOOL BUILDING PROJECT
4. FENCE CONTROL BYLAW
5. CONSERVATION RESTRICTION - OCEAN BEACH
6. JUICE BAR FUNDING - petition

## **THE FINANCE COMMITTEE REPORT**

To the voters and citizens of the Town of Eastham:

According to the Massachusetts Finance Committee Handbook, "...the Committee is responsible for submitting recommendations on budget and other financial warrant articles to town meeting." In addition, Eastham Finance Committee's standard practice is to review and make recommendations on all articles. Your town's Finance Committee takes this responsibility very seriously and meets regularly throughout the year to fulfill this obligation.

The Eastham Finance Committee considers the fiscal implications of each article in regards to the financial health of the town. For articles that appear not to have any fiscal implication, the Committee considers the potential impact of the article on the character and future of the Town.

Specific comments and recommendations are attached to each article in the warrant under the title "Finance Committee Recommendation."

Respectfully,

Donna Cary  
Lisa Radke  
John Knight  
Russ French

David Schropfer  
Ruth Katzman  
Brian Eastman

**TOWN OF EASTHAM  
SPECIAL TOWN MEETING WARRANT**

Commonwealth of Massachusetts  
Barnstable, ss. ~

To: Either of the Constables of the Town of Eastham  
in the County of Barnstable

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of said Town qualified to vote in Elections and Town affairs to meet at the Nauset Regional High School Gymnasium Monday, the nineteenth day of September, Two Thousand and Five, at Seven o'clock in the evening, then and there to act on the following articles in this Warrant and to meet in the Eastham Town Hall at Seven o'clock in the morning Tuesday, the twentieth day of September next, then and there to act on the following question:

- Question 1. Shall the Town of Eastham be allowed to exempt from the provisions of proposition two and one half, so called, the amounts required to pay for the bonds to be issued in order to construct and originally equip and furnish additions and remodel, reconstruct, and make extraordinary repairs at the Eastham Elementary School?

**POLLS TO OPEN AT 7:00 A.M. AND CLOSE AT 8:00 P.M.**

## ARTICLE 1

To see if the Town will vote to transfer and appropriate **\$60,000** to various accounts for the purpose of supplementing expenses in Article 13 and Article 12, voted at the Annual Town Meeting May 2, 2005, Fiscal Year 2006; or take any action relative thereto.

By Board of Selectmen

### Summary:

This article is included in the warrant to replenish accounts which had major expenses and will very likely be in deficit before the end of the fiscal year. The municipal building maintenance accounts is depleted due to an emergency replacement of a large air conditioning unit at Town Hall. The replacement cost of **\$10,000**, was covered by the available funds but there are no funds available for the remainder of the year. The town has the opportunity to accept a Public Administration student intern for three hundred hours of work. While the school asks the training sites to consider providing a stipend, it is not required. However, it is expected that this person will learn and contribute and I am therefore requesting an amount of **\$2,500** to provide for a stipend and expenses. An additional amount of **\$6,500** is needed for audit assistance and to perform a school audit required by the Department of Education. We have received a waiver to that requirement for the past three years but will not receive a waiver this year. One Thousand dollars (**\$1,000**) is being added to central purchasing budget to pay for the production of the warrant and newspaper notices associated with this special town meeting. Finally, fuel prices are increasing. Last year we spent \$101,000 in all bulk fuel accounts. This was due in part to the gasoline/diesel fuel used during the winter storms. We anticipated a slight increase in price and a reduction in use as we moved from oil to gas for heating and budgeted accordingly. However, gasoline and diesel prices have increased more than \$.05 per gallon since July. We know that the budget amount is insufficient now and are seeking **\$40,000** to add to that line.

BOARD OF SELECTMEN: 4-0

FINANCE COMMITTEE: 7-0

*(majority vote required)*

## **ARTICLE 2**

To see if the Town will vote to accept the provisions of Massachusetts General Laws, Chapter 71, Section 16B, which would reallocate the sum of member towns' FY07 contributions to the Nauset Regional School District in accordance with the Regional Agreement rather than the Education Reform Formula, so-called; or take any action relative thereto.

By Nauset Regional School Committee

Summary:

This annual request would apportion the operating budget of the Nauset Regional School District, on a per pupil basis, rather than as determined by the State's Education Reform Formula for FY07.

BOARD OF SELECTMEN: 5-0

FINANCE COMMITTEE: 7-0

*(majority vote required)*

## **ARTICLE 3**

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money in addition to the \$8,400,000 previously authorized, for the purposes of preparing plans, bidding documents, constructing and originally equipping and furnishing additions and remodeling, reconstructing, and make extraordinary repairs at the Eastham Elementary School; to determine whether the Treasurer with the approval of the Selectmen shall be authorized to borrow **\$2,950,000** under General Law, Chapter 44, Section 7 or General Law Chapter 70B; to determine whether the vote shall only take effect when the Town votes to exempt from the limitation on total taxes imposed by General Laws, Chapter 59, Section 21C (Proposition 2 ½ so called) amounts required to pay the principal of and interest on the borrowing authorized by the vote; or take any action relative thereto.

By Eastham Elementary School Committee

Summary:

(See proposed debt schedule on next page.)

BOARD OF SELECTMEN: 4-0-1

FINANCE COMMITTEE: 5-0-2

*(2/3 vote required)*

**SUPPLEMENTAL ELEMENTARY SCHOOL BUILDING PROJECT DEBT SCHEDULE**  
(TWENTY YEAR BORROWING)

| <b>YEAR</b>              | <b>PRINCIPAL</b> | <b>INTEREST</b> | <b>GROSS</b>          | <b>TAX<br/>IMPACT PER *<br/>\$1,000</b> | <b>COST<br/>HOUSE<br/>\$450,000</b> |
|--------------------------|------------------|-----------------|-----------------------|---|-------------------------------------|
| <b>1</b>                 | \$147,500.00     | \$132,750.00    | \$280,250.00          | \$0.10                                  | \$43.62                             |
| <b>2</b>                 | \$147,500.00     | \$126,112.50    | \$273,612.50          | \$0.09                                  | \$42.33                             |
| <b>3</b>                 | \$147,500.00     | \$119,475.00    | \$266,975.00          | \$0.09                                  | \$41.06                             |
| <b>4</b>                 | \$147,500.00     | \$112,837.50    | \$260,337.50          | \$0.09                                  | \$39.80                             |
| <b>5</b>                 | \$147,500.00     | \$106,200.00    | \$253,700.00          | \$0.09                                  | \$38.55                             |
| <b>6</b>                 | \$147,500.00     | \$99,562.50     | \$247,062.50          | \$0.08                                  | \$37.32                             |
| <b>7</b>                 | \$147,500.00     | \$92,925.00     | \$240,425.00          | \$0.08                                  | \$36.10                             |
| <b>8</b>                 | \$147,500.00     | \$86,287.50     | \$233,787.50          | \$0.08                                  | \$34.90                             |
| <b>9</b>                 | \$147,500.00     | \$79,650.00     | \$227,150.00          | \$0.07                                  | \$33.70                             |
| <b>10</b>                | \$147,500.00     | \$73,012.50     | \$220,512.50          | \$0.07                                  | \$32.52                             |
| <b>11</b>                | \$147,500.00     | \$66,375.00     | \$213,875.00          | \$0.07                                  | \$31.36                             |
| <b>12</b>                | \$147,500.00     | \$59,737.50     | \$207,237.50          | \$0.07                                  | \$30.20                             |
| <b>13</b>                | \$147,500.00     | \$53,100.00     | \$200,600.00          | \$0.06                                  | \$29.06                             |
| <b>14</b>                | \$147,500.00     | \$46,462.50     | \$193,962.50          | \$0.06                                  | \$27.93                             |
| <b>15</b>                | \$147,500.00     | \$39,825.00     | \$187,325.00          | \$0.06                                  | \$26.81                             |
| <b>16</b>                | \$147,500.00     | \$33,187.50     | \$180,687.50          | \$0.06                                  | \$25.71                             |
| <b>17</b>                | \$147,500.00     | \$26,550.00     | \$174,050.00          | \$0.05                                  | \$24.62                             |
| <b>18</b>                | \$147,500.00     | \$19,912.50     | \$167,412.50          | \$0.05                                  | \$23.54                             |
| <b>19</b>                | \$147,500.00     | \$13,275.00     | \$160,775.00          | \$0.05                                  | \$22.47                             |
| <b>20</b>                | \$147,500.00     | \$6,637.50      | \$154,137.50          | \$0.05                                  | \$21.41                             |
|                          | \$2,950,000.00   | \$1,393,875.00  | \$4,343,875.00        |   |                                     |
| <b>TOTAL LOAN AMOUNT</b> |                  |                 | <b>\$2,950,000.00</b> |   |                                     |
| <b>INTEREST RATE</b>     |                  |                 | <b>4.50%</b>          |   |                                     |

## **ARTICLE 4**

To see if the Town will vote to adopt the following town by-law to regulate the placement of fences,

### **FENCE BY-LAW**

#### **Section I.     Definitions**

Fence: A combination of materials assembled at a fixed location on the ground, for the purpose of protection, confinement, enclosure or privacy, but excluding structures of thirty (30) inches or less in height that are located and designed to delineate a boundary or border, whether made of stone, brick or landscaping timbers or other material.

Height: The distance measured vertically from the undisturbed natural grade at its lowest point to the uppermost level of a fence at its highest point, including any decorative or other projection.

Front Yard: A yard extending between lot sidelines across the front of the principal building, adjacent to each street the lot adjoins. Note that a corner lot shall have two “front” yards.

#### **Section II. – Location and Design**

1. No fence shall be located or constructed in such a manner as to create a hazard, excessively restrict visibility from adjacent properties, or create an unsightly condition in relation to abutting properties or the character of the neighborhood.
2. Location Material & Design Limitations
  - A. A fence located within the front yard shall meet the following standards:
    - 1) Height - no more than four (4) feet
    - 2) Design - at least 50% open space, such as vertical pickets, square rail, split half-round or round post
    - 3) Setback - at least eighteen (18) inches from the front lot line
  - B. A fence located within a side yard, to the rear of the existing building line, or along the rear lot line shall meet the following standards:
    - 1) Height - no more than six (6) feet



3. No fence, wall or other obstruction shall block vision of pedestrians, cyclists or drivers of motor vehicles within the area formed by intersecting street lines and a straight line joining any point on said lines twenty (20) feet back from their point of intersection.
4. Pools shall be securely fenced in compliance with the Massachusetts State Building Code. Any metal fence located at any point within five (5) feet of water's edge shall be bonded in compliance with the State Electrical Code.

### Section III. Exception for Registered Nonconforming Fences

Fences in existence as of the effective date of this bylaw provision, which do not conform to the above requirement, may be maintained, provided the owner registers it with the Building Inspector on or before **January 1, 2006**, in the manner provided below.

The application to the Building Inspector for registration of a nonconforming fence shall include two copies each of a true photograph of the fence, together with a plot plan showing the location of the fence on the ground. The Building Inspector shall date and sign both copies of said photograph and site plan, returning one set to the applicant and retaining one set for the records of the office of the Building Inspector.

Following registration, such fences may remain in place, and may be maintained and repaired for a period of ten (10) years from the effective date of this bylaw. Thereafter, any nonconforming fence shall be removed or made to conform to all the provisions of this bylaw, notwithstanding its prior registration with the Building Inspector.

### Section IV. Enforcement

No fence shall be erected or maintained that does not comply with these bylaw requirements and the Building Inspector shall not issue a permit for erection, repair or maintenance of a nonconforming fence except in compliance with this Bylaw.

The Town may enforce the provisions of this bylaw by means of all remedies available in law or in equity, including enforcement pursuant to G.L. c.40, 21D, non-criminal disposition. The penalty for violation of this bylaw shall be a fine of up to **\$300.00 per day**, with each day constituting a separate offense. When enforced by means of non-criminal disposition, the fines for violation shall be **\$300.00** per day of offense.

By Board of Selectmen/Planning Board

Summary:

The Town has seen a recent increase in the number and height of fences. In some cases these fences create visual barriers when they are located on corners or near a street. This proposed town bylaw will permit the existing fences to remain for ten years, at which time all fences must be in compliance. No new fences may be built after the effective date of this bylaw unless they are in compliance. Any fence not in compliance with this bylaw, and that fails to register by the required date will be considered in non compliance and appropriate enforcement action shall be taken.

BOARD OF SELECTMEN: 5-0

FINANCE COMMITTEE: 7-0

*(majority vote required)*

## **ARTICLE 5**

To see if the Town will vote to change the purpose for which the below described land is held, from being held for general municipal purposes to being held for general municipal and conservation purposes, and further to authorize the Board of Selectmen to grant a perpetual conservation restriction in accordance with the provisions of G.L. Chapter 184 Section 31-34, an eligible agency as deemed appropriate by the Conservation Commission, on a portion of land of 8.08 acres +/- being a portion of the 27 acre parcel of land owned by the Town of Eastham held for general municipal purposes, and bounded on the west side by Oceanview Drive and within the Cape Cod National Seashore generally between seashore owned Nauset Light Beach and Coast Guard Beach, and shown on the plan below; or take any action relative thereto.

By Board of Selectmen

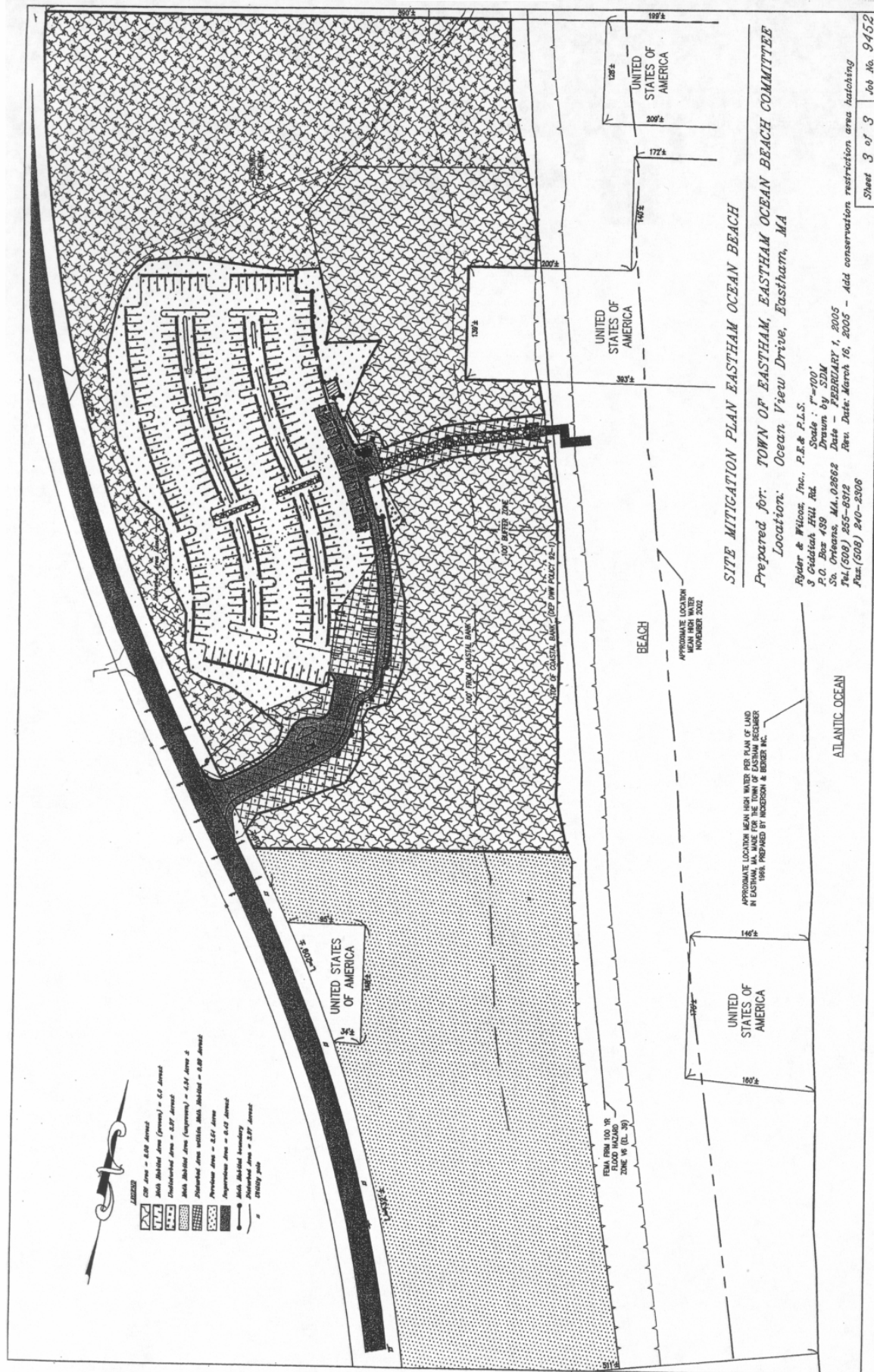
Summary

The Eastham Ocean Beach development review by the Cape Cod Commission has been completed. It was referred by the local Conservation Commission as a mandatory development for review, as a development of regional impact “creating a new vehicular access” to a beach. As part of that review, the Cape Cod Commission requires the town to place in a conservation restriction, land that has been identified as threatened species habitat (4.11 acres) and land sufficient to offset the 250 car parking lot and access road (3.97 acres). The development disturbed .89 acres of species habitat and 3.97 acres of non specialized land. The species protection is at a ratio of 4.11 acres protected to .89 acres impacted, and the parking is at a ratio of 1 acre protected to 1 acre impacted. Thus the 8.08 acres conservation restriction. At the printing of the warrant, the project is undergoing local Conservation Commission review.

BOARD OF SELECTMEN: 3-1

FINANCE COMMITTEE: 6-1

*(2/3rds vote required)*



## **ARTICLE 6**

To see if the Town will vote to raise and appropriate and/or transfer from available funds the sum of **Five Thousand and 00/100 (\$5,000)** Dollars to finance operational costs relative to the operation of The Juice Bar for Eastham students from the Nauset Regional School District and to authorize the Board of Selectmen to enter into a contract and expend such funds for this purpose or to take any other action relative thereto. The Juice Bar, a substance free alternative for teens of the Nauset Region located in Orleans, is operated and managed by the Nauset Together We Can Prevention Council Inc., a non-profit organization.

By Petition

BOARD OF SELECTMEN: 4-1

FINANCE COMMITTEE:

*(majority vote required)*

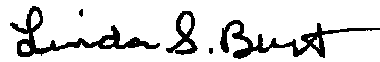
## **ARTICLE 7**

To see if the Town will do or act on anything which may legally come before this meeting.

You are directed to serve this Warrant by posting attested copies thereof at the Post Office in Eastham and North Eastham fourteen days at least before the date of holding said meeting.

Hereof, fail not and make due return of this Warrant and your doings thereon to the Town Clerk at the time and place of holding said meeting.

Given under our hands and seals this 2nd day of September in the year of our Lord, Two Thousand and Five.



Linda S. Burt  
Chair



Joyce E. Brookshire  
Vice-Chairman



Peter Whitlock



Kenelm N. Collins  
Clerk



Russell Sandblom  
BOARD OF SELECTMEN

Greetings:

In a pursuance of the conditions of the foregoing warrant, I have posted attested copies, one each at the Post Office in Eastham and North Eastham fourteen days before time of said meeting.

Constable



A True Copy Attest:



Lillian Lamperti, Town Clerk

## **PROCEDURES FOR ALL TOWN MEETINGS**

In accordance with Section 2-8-2 of the Eastham Town Charter the following procedures will be followed at all future Special and Annual Town Meetings:

1. The Open Town Meeting shall be the Legislative branch of the municipal government of the Town of Eastham, as set forth in the Charter, Section 1-6.
2. Every person wishing to speak at Town meeting shall proceed to one of the available microphones. Once recognized the person shall give his or her name and address, speak to the question for not more than five minutes, and shall not speak again until all those wishing to speak thereon have done so. See Section 2-8-3 of the Charter for exceptions—persons making the motion, and persons required to be in attendance under Section 2-8-1.
3. Discussion on each article in the Town Warrant shall terminate when there is no one wishing to speak on said article or the discussion becomes redundant in the opinion of the moderator, or someone is recognized and moves the question, or a motion to limit or extend debate has been approved by a 2/3 vote of Town meeting.
4. Votes may be taken by voice (Majority to be determined by the Moderator), by show of hands, or by roll call. Articles or motions requiring a 2/3 vote will first be taken by voice vote, and if the Moderator is unable to determine whether or not the article or motion has passed or failed, then a hand vote will be taken. It takes seven town meeting members to question the results of a voice vote. If seven so question the results of a voice vote, we will move to an immediate hand count.
5. Only one who has voted on the prevailing side may move to reconsider an article and may do so at any time during Annual or Special Town Meeting. Reconsideration of an article may occur only once.
6. Amendments to an article must be made in writing and presented to the Moderator.
7. Eastham taxpayers who are not registered voters, who wish to address Town Meeting may do so if permitted by the town moderator who shall ask for a majority consent at the onset of the Town Meeting.
8. TOWN MEETING TIME, A Handbook of Parliamentary Law, Third Edition, 2001, published by and for the Massachusetts Moderators Association, is the parliamentary handbook that will be used to guide Eastham Town Meetings.
9. Voters who sit in the Non-voter Section will not have their votes counted.
10. The only persons allowed in the foyer at Town Meeting will be Registrars, Checkers and voters.
11. Persons with handouts of any nature must be outside.

These provisions address issues that commonly arise at Town Meeting, but do not purport to address all issues that may arise.

**PLEASE BE COURTEOUS BY ALLOWING EACH SPEAKER TO PRESENT THEIR IDEAS WITHOUT INTERRUPTION.**