

## **ANNUAL TOWN MEETING REPORT**

### **APRIL 14, 2009**

Our Annual Town meeting was called to order following the closure of the Special Town Meeting by Moderator Richardson at 7:45 pm with 258 voters in attendance at the Martha's Vineyard Regional High School Performing Arts Center.

**Article 1.** The only report offered was made by Joe Alosso on behalf of the Energy Committee. He described the interest free loans being offered through TRI that are being made available to make homes more energy efficient and invited anyone interested to contact him for more details.

**Article 2.** A motion was made to nominate the incumbents to the positions of Surveyor of Lumber and Measurer of Wood and Bark (Wayne Guyther); Field Driver (Andy Farrissey); and Fence Viewer (George Fisher). The motion was moved and seconded and so voted unanimously to re-elect these incumbents.

**Article 3.** Voted unanimously to transfer from Free Cash the sum of \$10,700 (Ten Thousand Seven Hundred Dollars) for the purpose of continuing the inspection, groundwater and gas monitoring, and DEP reporting associated with the landfill through the end of fiscal year 2010, all mandated by the Commonwealth's Department of Environmental Protection (DEP).

#### **Board of Health**

**Article 4.** Voted unanimously to transfer from Free Cash or any other available funds the sum of \$7,000 (Seven Thousand Dollars) for the hard cash match toward the Drug Task Force grant (17-3533).

#### **Police Department**

**Article 5.** Voted unanimously, as amended, the FY 2010 Town Budget as printed in Town Meeting Appendix A by:

- a. Raising and appropriating the amount of \$22,178,024. (Twenty Two Million One Hundred Seventy Eight Thousand Twenty Four Dollars), and;
- b. Transferring from the Wastewater Enterprise Fund the sum of \$627,940 (Six Hundred Twenty Seven Thousand Nine Hundred Forty Dollars) to fund the Wastewater borrowing, and;
- c. Transferring and appropriating from Wastewater Retained Earnings the sum of \$132,500 (One Hundred Thirty Two Thousand Five Hundred Dollars) to pay the principal and interest cost of land acquisition, and;
- d. Transferring and appropriating from Ferry Fee account (#15123) the sum of \$200,000 to fund the following accounts:
  - a. #210 Police - \$38,000
  - b. #291 Emergency Management - \$4,000
  - c. #421 Highway Administration - \$53,000
  - d. #231 Ambulance - \$42,000
  - e. #296 Marina Manager - \$12,000
  - f. #199 Unclassified (Selectmen) - \$51,000

All to fund and pay departmental expenses and Town debt for the ensuing fiscal year July 1, 2009 to June 30, 2010.

**Finance and Advisory Board and Board of Selectmen**

**Article 6.** Voted within the FY 2010 budget (Article 5) the amounts required to enter into an inter-municipal agreement with the County of Dukes County to provide an Integrated Pest Management Program (including Rodent Control).

**County of Dukes County**

**Article 7.** Voted within the FY 2010 budget (Article 5) the amounts required to enter into an inter-municipal agreement with the County of Dukes County to provide a Vineyard Health Care Access Program.

**County of Dukes County**

**Article 8.** Voted within the FY 2010 budget (Article 5) the amounts required to continue the Vineyard Health Care Access Program at the current level of service.

**Article 9.** Voted unanimously, as amended, to re-establish the Marina Revolving Fund for the fiscal year beginning July 1, 2009, using receipts collected from all transient visitors; that funds may be spent for Harbor area infrastructure improvements such as piling repair, small dredging and cleanup of small oil spills; that the Harbormaster is authorized to make expenditures from the fund for these purposes; and that the maximum which may be spent from the fund is fifteen thousand dollars (\$15,000).

**Harbormaster**

**Article 10.** Voted to appropriate from the available CPA funding resources as follows:

From Reserves for Open Space	\$75,872
From Reserves for Community Housing	\$75,872
From Reserves for Historic Space	\$75,872
From available CPA Funds	\$542,384

For the following purposes based on the CPA Committee recommendation to spend \$770,000 for the following projects:

<u>Project Title (Alphabetical Order)</u>	<u>Organization</u>	<u>CPA Category</u>	<u>Amount</u>
1. Church Window Replacement - Trinity Methodist Church		Historic	\$24,000
2. Eastville Beach Preservation - Eastville Beach Committee		Open Space	\$15,000
3. Niantic Park - Oak Bluffs Park Department		Open Space	\$18,000
4. Old Library Conversion – O.B. Affordable Housing Committee		Housing	\$224,000
5. Old Town Fire Engine - Oak Bluffs Fire Department		Historic	\$10,000
6. Rental Assistance Funding - Regional Housing Authority		Housing	\$42,000
7. Seaview Heritage – OB Parks, Historical Commission, BOH		Historic	\$300,000
8. Shoreline Engineering – O.B. Conservation Commission		Open Space	\$75,000
9. Tabernacle Clerestory Restoration - MV Camp Mtg Assoc.		Historic	\$24,000
10. Town Hall Records preservation – O. B. Town Clerk's Office		Historic	\$38,000

## **Community Preservation Committee**

**Article 11.** Voted to adopt the following new general bylaw as Chapter XV, Section X.

“It shall be a violation of the Town Bylaw to wash vehicles upon any town owned road layout within the zoning districts known as the B-1 and B-2 districts. The owner of the vehicle shall be responsible for any fine hereunder. Any person who violates this section shall be subject to a fine of \$50 (fifty dollars) for the first offense and \$100 (one hundred dollars) for each subsequent offense.”

### **Board of Selectmen**

*Following the vote on Article 11 at 10:30 pm, a motion was made, duly seconded and unanimously voted to adjourn this meeting until 7:00 pm tomorrow evening at the same location.*

*The Annual Town Meeting resumed on Wednesday, April 15<sup>th</sup> at 7:10 pm with 82 voters in attendance at the Martha’s Vineyard High School Performing Arts Center. An additional 11 voters arrived during the course of this meeting to bring the total in attendance to 93 of the 3195 registered voters.*

**Article 12.** This article attempting to replace Section 4.3 of the Zoning Bylaw failed to pass.

**Article 13.** Voted unanimously to amend Chapter VIII, Finance & Advisory Committee, Section D. Administration, by deleting the existing text and replacing it with a new Section D, as follows.

#### **“D. ADMINISTRATION**

##### **1. Budgeting Procedures**

- a. No later than four months prior to the Annual Town Meeting, the Finance & Advisory Committee after conferring with the Personnel Board, the Town Administrator and the Financial Director, will provide to all Town boards, commissions, committees and departments charged with the expenditure of Town monies, the prescribed budgetary forms and formats with the deadlines and conditions for submittal thereof.
- b. The Finance & Advisory Committee shall duly consider the estimates and statements filed by the Town’s boards, commissions, committees and departments, and may confer with said boards, commissions, committees and departments, and hold hearings, if they deem it advisable. The Finance & Advisory Committee shall thereupon recommend such sums in such divisions of items for the ensuing fiscal year, as it considers necessary and convenient (under Chapter 41, Section 60 of the General Laws).

##### **2. Annual Warrant Procedures**

- a. The Finance & Advisory Committee shall prepare its recommendations for the annual warrant prior to the publication of the budget.
- b. The Finance & Advisory Committee shall present the budget at the Annual Town Meeting, which shall first be subject to amendments, if proposed, by the Committee and then by the Board of Selectmen before any other amendments are proposed.

##### **3. General Procedures**

- a. Beginning the Year

The Finance & Advisory Committee shall elect a Chairman, Vice Chairman, Clerk, and a member to the Capital Program Committee for a term of one year. The Finance & Advisory Committee shall also appoint for a full term of three years, or for any balance thereof, its appointees to the Personnel Board.

**b. Meetings**

Meetings shall be held regularly and shall be scheduled at times convenient to the Finance & Advisory Committee. The Chairman, subject to proper noticing, may call special and emergency meetings.”

**Finance and Advisory Board**

**Article 14.** Voted unanimously, as amended, to accept the provisions of Massachusetts General Laws Chapter 140 Section 147A, to empower the Town to enact by-laws relative to the regulation of dogs, and to amend the Chapter III, Animal Control, of the General Bylaws by deleting it in its entirety and replacing it with a new Chapter III as printed and amended in Appendix B attached hereto.

**Animal Control Officer**

**Article 15.** Voted by the majority to accept the provisions of Massachusetts General Law Chapter 44, Section 55C, which shall allow the Town to establish a trust to be known as the Oak Bluffs Affordable Housing Trust Fund for the purpose of creating and preserving affordable housing for the benefit of low and moderate income households.

**Affordable Housing Committee**

**Article 16.** Voted in excess of the required 2/3rds, as amended, to borrow \$500,000 to dredge a channel in Sengekontacket Pond parallel to the Joseph Silvia State Beach, provided that a ballot provision to exclude that borrowing from the Town levy is approved in the April 16, 2009 election.

**Petitioned Article**

**Article 17.** Voted in the majority to fix the compensation of full time and part time elected officials of the Town as provided by M.G.L. Chapter 41, Section 108, as amended, for the twelve month period from July 1, 2009 through June 30, 2010 as follows:

Moderator	\$325
Board of Selectmen, Chair	\$4,500
Selectmen, Members	\$3,000 each
Constable (2)	\$500 each
Town Clerk	\$74,360
Tree Warden	\$1,500
Board of Health, Chair	\$3,000
Board of Health, Members	\$2,500 each
Cemetery Commission, Chair	\$250
Cemetery Commissioner	\$150

The proposed salary of the Town Clerk as written in this article generated a bevy of discussion. Mimi Davisson made a motion to reduce the proposed salary to an amount recommended by the Personnel Board, \$70,058. Thad Harshbarger, Chairman of the Finance & Advisory Committee stated that they supported the salary as written. Selectman Kerry Scott said that the entire Board of Selectmen also supported the amount as written. Ms Scott also went on to say that the position of Town Clerk is not covered under the Personnel Board and thereby outside their recommendations, but that this

amount was still within the parameters of the pay schedule that they, the Personnel Board, had adopted and that it is also still substantially less than the Town Clerk salaries of comparable Island towns such as Tisbury - \$88,600, Edgartown - \$77,731 and Nantucket - \$86,851. Additional supportive comments were made before the vote was called for by the Moderator on the amount as written. All were in favor with the exception of 2 nays.

**Article 18.** Voted to elect the following Town Officers on the official ballot:

One Moderator for 1 year

Two Selectmen for 3 years

One Board of Health Member for 3 years

One Cemetery Commissioner for 3 years

Three Finance & Advisory Committee Members for 3 years

One Finance & Advisory Committee Member for 2 years

One Parks Commissioner for 3 years

One Planning Board Members for 5 years

One School Committee Member for 3 years

One Wastewater Commissioner for 3 years

One Water District Commissioner for 3 years

**Finance and Advisory Board Recommendation:**

At 9:10 pm a motion was made, duly seconded and so voted to close this Annual Town Meeting.

A TRUE COPY,

Attest:

Deborah deB. Ratcliff, Town Clerk

**Town Meeting  
Appendix A**

**BUDGET with Worksheets**

<b>DEPT #</b>	<b>DEPARTMENT</b>	<b>FY2009 ACTUAL BUDGET</b>	<b>FY2010 PROPOSED BUDGET</b>
<b>114</b>	<b>MODERATOR EXPENSES</b>	\$ 325.00	\$ 325.00
	<b>TOTAL MODERATOR</b>	\$ 325.00	\$ 325.00
<b>122</b>	<b>SELECTMEN</b>		
	PERSONAL SERVICES	\$ 218,522.00	\$ 237,110.00
	EXPENSES	\$ 107,000.00	\$ 92,000.00
	<b>TOTAL SELECTMEN</b>	\$ 325,522.00	\$ 329,110.00
<b>131</b>	<b>FINANCE COMMITTEE EXPENSES</b>	\$ 6,000.00	\$ 6,000.00
	<b>TOTAL FIN COMM</b>	\$ 6,000.00	\$ 6,000.00
<b>132</b>	<b>FIN COMM-RESERVE FUND EXPENSES</b>	\$ 43,750.00	\$ 43,750.00
	<b>TOTAL FIN COMM-RES FUND</b>	\$ 43,750.00	\$ 43,750.00
<b>135</b>	<b>TOWN ACCOUNTANT</b>		
	PERSONAL SERVICES	\$ 122,246.00	\$ 105,885.00
	EXPENSES	\$ 5,079.00	\$ 1,440.00
	<b>TOTAL TOWN ACCOUNTANT</b>	\$ 127,325.00	\$ 107,325.00
<b>141</b>	<b>ASSESSORS</b>		
	PERSONAL SERVICES	\$ 138,366.00	\$ 140,278.00
	EXPENSES	\$ 12,092.00	\$ 9,490.00
	<b>TOTAL ASSESSORS</b>	\$ 150,458.00	\$ 149,768.00
<b>144</b>	<b>TREASURER/ FIXED COSTS EXPENSES</b>	\$ 2,828,452.00	\$ 2,982,914.00
	<b>TOTAL TREAS FIXED COSTS</b>	\$ 2,828,452.00	\$ 2,982,914.00

<b>145 TOWN TREASURER</b>			
PERSONAL SERVICES	\$ 50,986.00	\$ 52,501.00	
EXPENSES	\$ 49,363.00	\$ 42,304.00	
<b>TOTAL TREASURER</b>	<b>\$ 100,349.00</b>	<b>\$ 94,805.00</b>	
<b>146 TAX COLLECTOR</b>			
PERSONAL SERVICES	\$ 128,705.00	\$ 102,772.00	
EXPENSES	\$ 15,525.00	\$ 15,350.00	
<b>TOTAL COLLECTOR</b>	<b>\$ 144,230.00</b>	<b>\$ 118,122.00</b>	
<b>155 INFORMATION TECHNOLOGY</b>			
PERSONAL SERVICES	\$ 70,554.00	\$ 72,671.00	
EXPENSES	\$ 217,000.00	\$ 218,256.00	
<b>TOTAL INFORMATION TECH</b>	<b>\$ 287,554.00</b>	<b>\$ 290,927.00</b>	
<b>161 TOWN CLERK</b>			
PERSONAL SERVICES	\$ 108,566.00	\$ 122,082.00	
EXPENSES	\$ 2,830.00	\$ 2,825.00	
<b>TOTAL TOWN CLERK</b>	<b>\$ 111,396.00</b>	<b>\$ 124,907.00</b>	
<b>163 BOARD OF REGISTRARS</b>			
PERSONAL SERVICES	\$ 20,000.00	\$ 20,000.00	
EXPENSES	\$ 7,000.00	\$ 4,000.00	
<b>TOTAL BD OF REGISTRARS</b>	<b>\$ 27,000.00</b>	<b>\$ 24,000.00</b>	
<b>171 CONSERVATION</b>			
PERSONAL SERVICES	\$ 75,563.00	\$ 60,073.00	
EXPENSES	\$ 8,885.00	\$ 6,619.00	
<b>TOTAL CONSERVATION</b>	<b>\$ 84,448.00</b>	<b>\$ 66,692.00</b>	
<b>175 PLANNING BOARD</b>			
PERSONAL SERVICES	\$ 5,067.00	\$ 3,800.00	
EXPENSES	\$ 3,100.00	\$ 2,000.00	
<b>TOTAL PLANNING BOARD</b>	<b>\$ 8,167.00</b>	<b>\$ 5,800.00</b>	
<b>199 UNCLASSIFIED (SELECTMEN)</b>			
EXPENSES	\$ 965,206.00	\$ 865,843.00	
<b>TOTAL UNCLASSIFIED</b>	<b>\$ 965,206.00</b>	<b>\$ 865,843.00</b>	

<b>210 POLICE DEPT</b>			
PERSONAL SERVICES	\$ 1,669,396.00	\$ 1,708,629.00	
EXPENSES	\$ 71,136.00	\$ 69,690.00	
<b>TOTAL POLICE DEPT</b>	<b>\$ 1,740,532.00</b>	<b>\$ 1,778,319.00</b>	
<b>220 FIRE DEPT</b>			
PERSONAL SERVICES	\$ 114,600.00	\$ 114,600.00	
EXPENSES	\$ 61,863.00	\$ 61,863.00	
<b>TOTAL FIRE DEPT</b>	<b>\$ 176,463.00</b>	<b>\$ 176,463.00</b>	
<b>231 AMBULANCE</b>			
PERSONAL SERVICES	\$ 238,187.00	\$ 238,187.00	
EXPENSES	\$ 35,500.00	\$ 35,500.00	
<b>TOTAL AMBULANCE</b>	<b>\$ 273,687.00</b>	<b>\$ 273,687.00</b>	
<b>241 BUILDING INSPECTOR</b>			
PERSONAL SERVICES	\$ 233,844.00	\$ 217,844.00	
EXPENSES	\$ 7,320.00	\$ 16,320.00	
<b>TOTAL BUILDING INSPECTOR</b>	<b>\$ 241,164.00</b>	<b>\$ 234,164.00</b>	
<b>249 SHELLFISH</b>			
PERSONAL SERVICES	\$ 120,721.00	\$ 131,165.00	
EXPENSES	\$ 56,500.00	\$ 49,000.00	
<b>TOTAL SHELLFISH</b>	<b>\$ 177,221.00</b>	<b>\$ 180,165.00</b>	
<b>291 EMERGENCY MANAGEMENT</b>			
EXPENSES	\$ 15,500.00	\$ 13,500.00	
<b>TOTAL EMER MANAGEMENT</b>	<b>\$ 15,500.00</b>	<b>\$ 13,500.00</b>	
<b>296 MARINA MANAGER</b>			
PERSONAL SERVICES	\$ 210,918.00	\$ 207,072.00	
EXPENSES	\$ 45,000.00	\$ 40,035.00	
<b>TOTAL MARINA MANAGER</b>	<b>\$ 255,918.00</b>	<b>\$ 247,107.00</b>	
<b>300 SCHOOL DEPT</b>			
PERSONAL SERVICES	\$ 5,164,969.00	\$ 5,274,114.00	
EXPENSES	\$ 727,016.00	\$ 727,016.00	
<b>TOTAL SCHOOL DEPT</b>	<b>\$ 5,891,985.00</b>	<b>\$ 6,001,130.00</b>	
<b>301 M V REGIONAL HIGH</b>			



<b>SCHOOL</b>		
DISTRICT ASSESSMENT	\$ 2,836,291.00	\$ 3,099,453.00
CAPITAL ASSESSMENT	\$ 262,660.00	\$ 198,729.00
<b>TOTAL M V DISTRICT</b>	<b>\$ 3,098,951.00</b>	<b>\$ 3,298,182.00</b>
<b>421 HIGHWAY ADMINISTRATION</b>		
PERSONAL SERVICES	\$ 673,985.00	\$ 706,679.00
EXPENSES	\$ 929,102.00	\$ 673,714.00
<b>TOTAL HIGHWAY</b>	<b>\$ 1,603,087.00</b>	<b>\$ 1,380,393.00</b>
<b>491 CEMETERY</b>		
EXPENSES	\$ 550.00	\$ 550.00
<b>TOTAL CEMETERY</b>	<b>\$ 550.00</b>	<b>\$ 550.00</b>
<b>519 BOARD OF HEALTH</b>		
PERSONAL SERVICES	\$ 115,571.00	\$ 119,050.00
EXPENSES	\$ 48,395.00	\$ 45,275.00
<b>TOTAL BOARD OF HEALTH</b>	<b>\$ 163,966.00</b>	<b>\$ 164,325.00</b>
<b>541 COUNCIL ON AGING</b>		
PERSONAL SERVICES	\$ 137,071.00	\$ 141,169.00
EXPENSES	\$ 65,334.00	\$ 61,362.00
<b>TOTAL COUNCIL ON AGING</b>	<b>\$ 202,405.00</b>	<b>\$ 202,531.00</b>
<b>543 VETERANS SERVICES</b>		
EXPENSES	\$ 31,136.00	\$ 45,667.00
<b>TOTAL VETERANS</b>	<b>\$ 31,136.00</b>	<b>\$ 45,667.00</b>
<b>610 LIBRARY</b>		
PERSONAL SERVICES	\$ 335,184.00	\$ 345,207.00
EXPENSES	\$ 136,085.00	\$ 126,050.00
<b>TOTAL LIBRARY</b>	<b>\$ 471,269.00</b>	<b>\$ 471,257.00</b>
<b>612 ARTS COUNCIL</b>		
EXPENSES	\$ 1,500.00	\$ 1,500.00
<b>TOTAL ARTS COUNCIL</b>	<b>\$ 1,500.00</b>	<b>\$ 1,500.00</b>
<b>630 RECREATION</b>		
PERSONAL SERVICES	\$ 82,765.00	\$ 84,312.00
EXPENSES	\$ 64,750.00	\$ 62,250.00

	<b>TOTAL RECREATION</b>	\$ 147,515.00	\$ 146,562.00
<b>710</b>	<b>MATURING DEBT- PRINCIPAL EXPENSES</b>	\$ 2,028,937.00	\$ 2,012,389.00
	<b>TOTAL DEBT PRINCIPAL</b>	\$ 2,028,937.00	\$ 2,012,389.00
<b>750</b>	<b>MATURING DEBT- INTEREST EXPENSES</b>	\$ 374,332.00	\$ 330,132.00
	<b>TOTAL DEBT INTEREST</b>	\$ 374,332.00	\$ 330,132.00
<b>751</b>	<b>INTEREST TEMPORARY DEBT EXPENSES</b>	\$ 322,945.00	\$ 317,783.00
	<b>TOTAL TEMP DEBT INTEREST</b>	\$ 322,945.00	\$ 317,783.00
<b>760</b>	<b>BOND ISSUANCE COSTS EXPENSES</b>	\$ 20,600.00	\$ 1,600.00
	<b>TOTAL BOND COSTS</b>	\$ 20,600.00	\$ 1,600.00
	<b>TOTAL GENERAL FUND</b>	\$ 22,449,845.00	\$ 22,487,694.00
<b>60198</b>	<b>WASTEWATER ENTERPRISE PERSONAL SERVICES EXPENSES</b>	\$ 216,924.00 \$ 385,990.00	\$ 223,125.00 \$ 379,789.00
	<b>TOTAL WASTEWATER</b>	\$ 602,914.00	\$ 602,914.00
	<b>TOTAL BUDGET FOR TOWN MEETING</b>	23,052,759.00	\$ 23,090,608.00
	<b>ASSESSMENTS</b>	1,050,195.00	1,012,346.00
	<b>GRAND TOTAL</b>	<b>24,102,954.00</b>	<b>\$ 24,102,954.00</b>

**Town Meeting  
Appendix B**

**CHAPTER III ANIMAL CONTROL**

**A. Definitions**

1. *Abandoned*: A canine is considered abandoned within the meaning of this chapter when it has been left alone or unattended by the owner for any period greater than 24 hours without the owner providing for its needs.
2. *Adequate Shelter*: A structure that is large enough for the animal, whether it be livestock or other domestic animal, to stand naturally, turn around and lie down inside of the structure without being exposed to the elements or weather. The roof and walls of the structure must be waterproof and windproof. Bedding must be kept dry and changed regularly to preserve insulating qualities. Insulation and an inner wall must be included in shelter for canines with short fur (example: Pointers, Staffordshire Terriers, Boxers, Labrador Retrievers) to provide adequate protection from cold. During cold weather a moveable flap must be placed over the entrance to a canine shelter to preserve the canine's body heat. Adequate shelter from sun may be provided by a tarp placed in a manner to provide deep shade and allow air to pass through for ventilation
3. *At large*: Any canine that is not under immediate control of owner via lead restraint or first call command.
4. *Complainant*: Any person, including the animal control officer who witnesses any domestic animal in the act of committing a violation under this chapter, or any other applicable law.
5. *Cruelty to Animals*: Any person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal, or causes or procures an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or killed; and any person who uses in a cruel or inhuman manner in a race, game, or contest, or in training therefore, as lure or bait a live animal, except an animal if used as lure or bait in fishing; and whoever, having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary cruelty upon it, or unnecessarily fails to provide it with proper food, drink, adequate shelter, sanitary environment free of animal waste, or protection from the weather, and whoever, as owner, possessor, or person having the charge or custody of an animal, cruelly drives or works it when unfit for labor, or willfully abandons it, or carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind.
6. *Domestic Animal*: Any canine, feline, farm animal, exotic pet or otherwise domesticated animal with an owner.
7. *Intact*: An un-spayed female canine or feline or an un-neutered male canine or feline.
8. *Owner*: Any person, group of persons or corporation owning, keeping or harboring a domestic animal.

9. *Public Nuisance*: Any domestic canine shall be deemed a public nuisance when such canine is witnessed to be engaged in any of the following activities:
- a) Attacking, threatening, harassing, or menacing toward persons, fowl, livestock or other domestic animals such as felines, canines or other household pets as determined post investigation by the animal control officer.
  - b) Being a canine at large (not under immediate control of owner via lead restraint or first call command) upon any public park, playground, schoolyard, beach or other public recreation area.
  - c) Being a canine at large upon any public way or private way to which the public has access, chasing motor vehicles, bicycles or pedestrians.
  - d) Being a canine at large over the age of six months, not wearing a suitable collar, current license and rabies tag.
  - e) Being a canine which has been abandoned.
  - f) Being a canine that deposits solid waste not removed by the canine's owner upon any public park, playground, schoolyard, beach or other public recreation area, public or private way, sidewalk or any property other than that of the canine's owner.
  - g) Being a canine on public beaches between May 15th to September 15th of each year between 0800 hours and 1700 hours and on the Inkwell Beach between 0700 hours and 1700 hours.
  - h) Any canine within 100 yards of a posted nesting habitat by federal and state regulation.
  - i) Any canine or feline in non-compliance with Massachusetts General Law Chapter 140 Section 145B stating whoever is the owner or keeper of a canine or feline in the Commonwealth six months of age or older shall cause such canine or feline to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions, and shall cause such canine or feline to be revaccinated at intervals recommended by the manufacturer. Unvaccinated canines and felines acquired or moved into the Commonwealth shall be vaccinated within 90 (ninety) days after the acquisition or arrival into the Commonwealth or upon reaching the age of six months, whichever last occurs.
10. *Restraint*: The control of a canine by physical means, such as a leash, fence or other means of physically confining or restraining a canine.

#### **B. Public Nuisance Prohibited**

No owner of any canine shall, while such canine is within the confines of the Town of Oak Bluffs, allow such canine to be a public nuisance as defined above.

#### **C. Proper Shelter**

Any person owning, keeping or otherwise responsible for a companion animal or pet or farm animal or livestock who confines that animal by tethering, fencing or other means of restraint, shall provide for that animal access to adequate shelter as defined in chapter , from the elements of weather such as rain, cold, or heat. Potable water must be available to the animal at all times.

#### **D. Trapping**

No person shall use, set, place or maintain any type of jawed leg hold trap, padded or not padded, modified or unmodified, including, but not limited to, a soft catch trapping system or any type of conibear trap within the limits of any private

property. Any person violating any provision of this by-law shall be punished by a fine of \$300 (three hundred dollars) for each offense.

#### **E. Cruelty to Animals Prohibited**

In compliance with Massachusetts General Law Chapter 272, Section 77 no owner of a domestic animal shall, while within the confines of the Town of Oak Bluffs, commit an act of cruelty against animals.

#### **F. Enforcement:**

1. In all cases it shall be the duty of the appointed animal control officer to investigate any violation under this chapter either witnessed by officer or reported to officer in a complaint by any citizen.
2. If after the animal control officer's investigation of an alleged violation under this chapter, such officer has reason to believe that the described violation did in fact occur as set forth in said complaint or as witnessed by officer, it shall be the animal control officer's duty to issue the owner, the appropriate order and/or impose the appropriate fine designed to prevent a recurrence or continuation of such violation. The period of time during which the order shall be in effect shall be on the order.
3. In all cases it shall be the duty of the animal control officer, if, in officer's opinion appropriate action is necessary to prevent further or continued violations of this chapter pending a complete investigation, to take the following action.
  - a. Notify the owner, if known and available, of the alleged violation and issue of an alleged violation and issue a preliminary order requiring the owner to restrain the canine pending a complete investigation.
  - b. If the owner is not known or is not immediately available:
    - (i) Humanely restrain the domestic animal.
    - (ii) Confine the domestic animal in the Oak Bluffs Town Pound.
    - (iii) Use available means to attempt to identify the animal's owner.
    - (iv) Take such further actions as is allowed by law.
4. It shall be the responsibility of the owner of any domestic animal impounded to reclaim such domestic animal subject to the following criteria.
  - a. The owner shall pay the animal control officer the sum of \$10 for each calendar day the canine or feline was in custody.
  - b. The owner shall have in their possession a current town license for said canine as well as a license tag, both of which shall have been issued with respect to that canine. The license tag shall be attached to the canine by suitable collar before the canine is released from the custody of the animal control officer.
5. Pursuant to Chapter 140 Section 173 of the Massachusetts General Laws, all canines shall be licensed by January 1<sup>st</sup> of each year. Any person who does not register, number, describe and license his or her canine annually by March 1<sup>st</sup> in the Town of Oak Bluffs, Dukes County, shall pay the fees and charges under rules and regulations pursuant to Chapter 140 Section 139 will be required to pay the Town of Oak Bluffs a penalty after the last day of February annually in the amount of \$10 on account of such failure for the first offense. Any second and subsequent failure to so register, number, describe and license the canine shall be subject to a penalty of \$15 in addition to the annual registration fee required by Dukes County regulations.
6. Failure to comply with this section shall constitute a violation subjecting the owner of any unlicensed canine to financial penalties as are allowed by this chapter or as provided for in regulations promulgated by the Board of Selectman

7. All monies received by the Town Clerk's office for the issuance of canine licensing or other fees, fines, charges and penalties under Chapter 140 of the Massachusetts General Laws and this chapter shall be paid into the treasury of the town.

#### **G. Violations and Penalties**

1. Fines assessed for violation of this bylaw shall be as follows:
  - a. If it is the first offense so committed by such person within a calendar year the animal control officer shall issue a written warning.
  - b. If it is the second offense so committed in the Town in the calendar year, the animal control officer shall issue a fine of (\$25.00) twenty five dollars per public nuisance offense. Payment shall be made to the Town Clerk of Oak Bluffs and serve as a final disposition of the charges.
  - c. If it is the third offense so committed in the Town in the calendar year, the animal control officer shall issue a fine of (\$35.00) thirty five dollars per public nuisance offense. Payment shall be made to the Town Clerk of Oak Bluffs and serve as a final disposition of the charges.
  - d. If it is the fourth or subsequent offense so committed in the Town in the calendar year, the animal control officer shall issue a fine of (\$50.00) fifty dollars per public nuisance offense. Payment shall be made to the Town Clerk of Oak Bluffs and serve as a final disposition of the charges.
2. If you desire to contest this matter, you may do so by making a written request for a non-criminal hearing, and enclose a copy of the citation within 21 days of the date of the notice to the Dukes County District Court.
3. These proceedings shall be deemed non-criminal and no person notified to appear before the clerk of the District Court shall be required to report to the probation and no record of the case shall be entered in the probation records.
4. Pursuant of Chapter 272 Section 77 any person committing an act of cruelty against animals shall be punished by imprisonment in the state prison for not more the 5 years or imprisonment in the house of correction for not more then 2 ½ years or by a fine of not more the \$2,500 (two thousand five hundred dollars), or both such fine and imprisonment.
5. In addition to any other penalty provided by law, upon conviction for any violation of Town bylaw Chapter III Section E, the defendant shall forfeit to the custody of the animal to the animal control officer for the care and protection of homeless or suffering animals, the animal whose treatment was the basis of such conviction.
6. In accordance with Massachusetts General Law Chapter 140 Section 151A canines at large shall remain in the custody of the animal control officer for ten (10) days. If at the end of the ten (10) day period the canine has not been claimed by the rightful owner, it shall be surrendered to a recognized animal adoption organization.