TOWN OF YARMOUTH

1146 ROUTE 28, SOUTH YARMOUTH, MASSACHUSETTS 02664-4492
Telephone (508) 398-2231 Ext. 1271, Fax (508) 398-2365

BOARD OF SELECTMEN

TOWN ADMINISTRATOR
Daniel M. Knapik

PUBLIC MEETING
Board of Selectmen Meeting
April 14, 2020 ~ 6:00 PM
Yarmouth Town Hall Hearing Room
1146 Rt. 28, South Yarmouth, MA 02664

Per Massachusetts General Law: All town and school boards, committee, and authorities shall post a notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays, and legal holidays. Notice shall contain a listing of topics/agenda that the chair reasonably anticipates will be discussed at the meeting. As required by Open Meeting Law and Mass. General Law, we are informing you that this meeting will be video and audio recorded, as well as rebroadcast. Anyone intending to video or audio tape this meeting is required to inform the Chair.

NOTE: THIS IS A REMOTE PARTICIPATION MEETING

Pursuant to Governor Baker's March 12, 2020, Order Suspending Certain Provisions of the Open Meeting Law, G.L. 30A, § 18, and the Governor's March 15, 2020, Order imposing a limitation on the number of people that may gather in one location, this meeting will be conducted via remote participation. Specific information such as instructions and guidelines for remote by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town website at www.yarmouth.ma.us For the public portion of this meeting, members of the public who wish to watch/listen and participate in the meeting may do so in the following manner:

1. Watch a live stream on Yarmouth's YouTube Channel located at the following link: https://www.youtube.com/channel/UCgQ1QFZevmogW5Mz2PnWKpA/
2. Join the meeting hosted in Zoom by using the following link: https://us04web.zoom.us/j/860235048?pwd=Zmo0OUEwSkdibTRTaEk2cCs5b3FoZz09. Audio, video and screen sharing functions will be disabled during the public session. Request to participate by using the "raise hand" function. (meeting ID 860 235 048 and the **meeting password: 025553)**
3. You may also listen to the meeting by calling in on a phone to either 1-253-215-8782 or 1-301-715-8592 and enter the meeting ID (860 235 048 and the **meeting password: 025553).** Audio, video and screen sharing functions will be disabled. Smart phone callers may be able to participate by using the "raise hand" function. Land line callers will be able to listen, but not participate verbally. All callers, or viewers may participate and provide public comment by using a designated email indicated below.
4. You may submit comments to the Town using the following email: publiccomment@yarmouth.ma.us This email will be monitored by a moderator who will alert the Board Chair of relevant comments.
5. Meeting materials are attached to this agenda, available online at yarmouth.ma.us/Agenda Center, and will be displayed at the online meeting. It is recommended that phone participants access materials in advance of the meeting.
6. Please follow the following general instructions:
    a. Keep your phone muted at all times when not talking;
    b. Do not use speakerphone;
    c. Do not use Bluetooth devices;
    d. Mute all background noise;
    e. Mute the livestream feed and use only the telephone audio;
    f. Please do not speak until the chair or the meeting moderator asks for public comments or questions.

No in-person attendance of members of the public will be permitted. The measures stated above follow the emergency order of the Governor for remote participation. Meetings will be broadcast on Channel 18 as soon as possible after the close of the meeting.

<u>Meeting Agenda</u> *(all times are approximate)*

5:00 PM — Executive Session:

The Yarmouth Board of Selectmen will enter into executive session pursuant to MGL c. 30A, s. 21(a) (3) to discuss collective bargaining strategies.

This session will be conducted via a separate Zoom meeting. The meeting will be audio and video recorded for the purposes of a roll call vote. Once the roll call is taken, the recording will stop and the meeting will continue with a conference call. A recording of the vote to enter executive session will be broadcast on Channel 18 and YouTube as soon as possible. Minutes of the Executive Session will be made available as soon as authorized by subsequent vote to approve by the Board of Selectmen.

6:00 PM — Public Announcements and Comments

The open meeting law discourages public bodies from discussing topics not listed on the agenda. The public should therefore not expect the Board to respond to questions or statements made during the Public Comment portion of the meeting.

6:15 PM **Public Hearing. The Harbor Club, Inc. dba Tugboats, 21 Arlington Street, West Yarmouth, MA: Change of Management Agreement and Manager**

6:45 PM **Shellfish Regulations (Discussion and Vote)**

1. Recreational Shellfish Regulations
2. Commercial Shellfish Regulations

7:00 PM **Update on Town Services and Coordination Efforts Regarding Covid-19**

1. Employee Work Instruction through May 4th
2. Annual Town Meeting

7:30 PM **Families First Coronavirus Response Act**
(Discussion and Possible Vote)

MOTION: "To exclude Town employees considered "health care providers" or "emergency responders" within the meaning of the Families First Coronavirus Response Act, from the requirements of the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act, and to authorize the Town Administrator to take all necessary actions to implement this decision and notify employees."

7:45 PM **Bond Anticipation Notes – DPW Garage & Office (Vote)**

MOTION: "A motion to award $15 million of Bond Anticipation Notes dated April 23, 2020, and payable February 15, 2021 to J.P. Morgan Securities, LLC for $15 million at a net interest rate of 1.337%".

8:00 PM **Special Legislation Chapter 53 of the Acts of 2020**
(Discussion and Possible Vote)

1. Extend Real Estate Tax Payments due date from May 1 to June 1, 2020
2. Waive the Interest and Penalties until June 30, 2020
3. Extend the Property Tax Exemption from April 1 to June 1, 2020
4. Extend the Disposal Sticker expiration to June 1, 2020

8:30 PM **Board and Committee Actions**

1. Board of Selectmen Minutes of Regular Meeting of August 27, 2019
2. Upcoming Agenda Review
3. Individual Items

8:45 PM **Town Administrator Items**

1. Petitioned Articles
2. Town Administrator Updates
3. Water Resources Planning
4. Mattacheese School Project
5. Cape Tech
6. DPW Facility

9:00 PM **Adjourn**

AGENDA ITEMS

TOWN OF YARMOUTH

1146 Route 28 South Yarmouth MASSACHUSETTS 02664-4492
Telephone (508) 398-2231, Ext. 1271,1270 - Fax (508) 398-2365

BOARD OF SELECTMEN

TOWN ADMINISTRATOR
Daniel M. Knapik

April 1, 2020

The Cape Cod Times

Please advertise the following as a Legal Ad in your newspaper on April 3, 2020.

TOWN OF YARMOUTH
BOARD OF SELECTMEN HEARING
CHANGE OF MANAGEMENT AGREEMENT AND MANAGER

The Yarmouth Board of Selectmen, acting as the local licensing authority, has received an application for a change of management agreement and change of the manager from The Harbour Club, Inc. dba Tugboats, 21 Arlington Street, West Yarmouth, Ma.,Theodore Zambelis, manager.

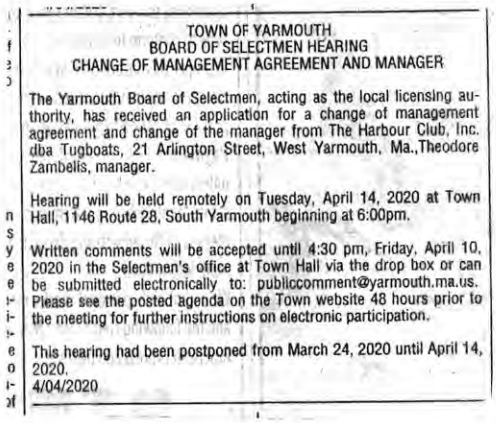
Hearing will be held remotely on Tuesday, April 14, 2020 at Town Hall, 1146 Route 28, South Yarmouth beginning at 6:00pm.

Written comments will be accepted until 4:30 pm, Friday, April 10, 2020 in the Selectmen's office at Town Hall via the drop box or can be submitted electronically to: publiccomment@yarmouth.ma.us. Please see the posted agenda on the Town website 48 hours prior to the meeting for further instructions on electronic participation.

This hearing had been postponed from March 24, 2020 until April 14, 2020.

Please bill the applicant for the ad:

The Town of Yarmouth
Town Administrator
1146 Route 28
South Yarmouth, Ma. 02664


TOWN OF YARMOUTH
BOARD OF SELECTMEN HEARING
CHANGE OF MANAGEMENT AGREEMENT AND MANAGER

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This hearing had been postponed from March 24, 2020 until April 14, 2020.
4/04/2020

The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

APPLICATION FOR MULTIPLE AMENDMENTS

Please select all of the amendments you are applying for(continued):

☐ **CHANGE OF LOCATION**

Alteration of Premises/Change of Location Application
Vote of the Corporate Board
Supporting financial records
Legal Right to Occupy
Floor Plan
Abutter's Notification*
Advertisement*
Monetary Transmittal Form
$200 fee via ABCC website and Payment Receipt

☐ **ALTERATION OF PREMISES**

Alteration of Premises/Change of Location Application
Vote of the Corporate Board
Supporting financial records
Legal Right to Occupy
Floor Plan
Abutter's Notification*
Advertisement*
Monetary Transmittal Form
$200 fee via ABCC website and Payment Receipt

☒ **MANAGEMENT AGREEMENT**

Management Agreement Application
Management Agreement
Vote of the Entity
CORI Forms for all listed in Section 8A and attachments
IMPORTANT NOTE: A management agreement is where a licensee authorizes a third party to control the daily operations of the license premises, while retaining ultimate control over the license, through a written contract. *This does **not** pertain to a liquor license manager that is employed directly by the entity.*

**If abutter notification and advertisement are required for transaction, please see the local licensing authority.*

The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

APPLICATION FOR MULTIPLE AMENDMENTS

Please select all of the amendments you are applying for(continued):

☐ **CHANGE OF CORPORATE NAME OR DBA**

DOR Certificate of Good Standing
DUA Certificate of Compliance
Change of Corporate Name/DBA Application
Business Structure Documents
If Sole Proprietor, **Business Certificate**
If partnership, **Partnership Agreement**
If corporation or LLC, **Articles of Organization** from the Secretary of the Commonwealth
Vote of the Corporate Board
Monetary Transmittal Form
$200 fee via ABCC website and Payment Receipt

☐ **CHANGE OF PLEDGE OF LICENSE, STOCK OR INVENTORY**

DOR Certificate of Good Standing
DUA Certificate of Compliance
Change of Pledge of License, Stock or Inventory Application
Pledge documentation
Promissory note
Vote of the Corporate Board
Monetary Transmittal Form
$200 fee via ABCC website and Payment Receipt

☒ **CHANGE OF MANAGER**

Change of Manager Application
CORI Authorization Complete one for the proposed manager of record. This form **must** be *notarized with a stamp or raised seal.*
Vote of the Entity Board.
Proof of Citizenship. Passport, birth certificate, voter registration, or naturalization papers will be accepted.
Monetary Transmittal Form
$200 fee via ABCC website and Payment Receipt

**If abutter notification and advertisement are required for transaction, please see the local licensing authority.*

The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

RECEIVED
FEB 2 9 2021
LICENSING
TOWN CLERK

APPLICATION FOR MULTIPLE AMENDMENTS

1. BUSINESS ENTITY INFORMATION

Entity Name	Municipality	ABCC License Number
The Harbour Club, Inc.	Yarmouth	LICA-15-0378-04

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation. Attach additional pages, if necessary.

Change of Manager and Management Agreement

APPLICATION CONTACT

The application contact is the person who should be contacted with any questions regarding this application.

Name	Title	Email	Phone
Steven J. Pizzuti	Attorney	steven@pizzutimazzeo.com	508-771-1911

2. AMENDMENT-Change of License Classification

☐ **Change of License Category**
All Alcohol, Wine and Malt, Wine Malt and Cordials

Last-Approved License Category:
Requested New License Category:

☐ **Change of License Class**
Seasonal or Annual

Last-Approved License Class:
Requested New License Class:

☐ **Change of License Type***
i.e. Restaurant to Club
Certain License Types CANNOT change once issued

Last-Approved License Type:
Requested New License Type:

3. AMENDMENT-Change of Business Entity Information

☐ **Change of Corporate Name**

Last-Approved Corporate Name:
Requested New Corporate Name:

☐ **Change of DBA**

Last-Approved DBA:
Requested New DBA:

☐ **Change of Corporate Structure**
LLC, Corporation, Sole Proprietor, etc

Last-Approved Corporate Structure:
Requested New Corporate Structure:

4. AMENDMENT-Pledge Information

☐ **Pledge of License**
☐ **Pledge of Inventory**
☐ **Pledge of Stock**

To whom is the pledge being made:

5. AMENDMENT-Change of Manager

☒ **Change of License Manager**

A. MANAGER INFORMATION

The individual that has been appointed to manage and control the licensed business and premises.

Proposed Manager Name: Theodore H. Zambelis Date of Birth: [redacted] SSN: [redacted]

Residential Address: [redacted]

Email: [redacted] Phone: [redacted]

Please indicate how many hours per week you intend to be on the licensed premises: 50 Last-Approved License Manager: Wayne Kurker

B. CITIZENSHIP/BACKGROUND INFORMATION

Are you a U.S. Citizen?* ◉ Yes ○ No *Manager must be a U.S. Citizen

If yes, attach one of the following as proof of citizenship US Passport, Voter's Certificate, Birth Certificate or Naturalization Papers.

Have you ever been convicted of a state, federal, or military crime? ○ Yes ◉ No

If yes, fill out the table below and attach an affidavit providing the details of any and all convictions. Attach additional pages, if necessary, utilizing the format below.

Date	Municipality	Charge	Disposition

C. EMPLOYMENT INFORMATION

Please provide your employment history. Attach additional pages, if necessary, utilizing the format below.

Start Date	End Date	Position	Employer	Supervisor Name
1991	9/2019	General Manager	Kounadis Enterprises, Inc. dba Yarmouth	n/a

D. PRIOR DISCIPLINARY ACTION

Have you held a beneficial or financial interest in, or been the manager of, a license to sell alcoholic beverages that was subject to disciplinary action? ○ Yes ◉ No If yes, please fill out the table. Attach additional pages, if necessary,utilizing the format below.

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Manager's Signature: [signature] Date: 2/6/2020

6. AMENDMENT-Change of Officers, Stock or Ownership Interest

☐ **Change of Officers/Directors** ☐ **Change of Ownership Interest (LLC Managers/LLP Partners, Trustees)** ☐ **Change of Stock (E.g. New Stockholder/ Transfer or Issuance of Stock)**

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.). Attach additional page(s) provided, if necessary, utilizing Addendum A.

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:
  On Premises (E.g.Restaurant/ Club/Hotel) Directors or LLC Managers - At least 50% must be US citizens;
  Off Premises(Liquor Store) Directors or LLC Managers - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
		◯ Yes ◯ No	◯ Yes ◯ No	◯ Yes ◯ No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
		◯ Yes ◯ No	◯ Yes ◯ No	◯ Yes ◯ No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
		◯ Yes ◯ No	◯ Yes ◯ No	◯ Yes ◯ No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
		◯ Yes ◯ No	◯ Yes ◯ No	◯ Yes ◯ No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
		◯ Yes ◯ No	◯ Yes ◯ No	◯ Yes ◯ No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen	MA Resident
		◯ Yes ◯ No	◯ Yes ◯ No	◯ Yes ◯ No

Additional pages attached? ◯ Yes ◯ No

CRIMINAL HISTORY

Has any individual listed in question 6, and applicable attachments, ever been convicted of a State, Federal or Military Crime? If yes, attach an affidavit providing the details of any and all convictions. ◯ Yes ◯ No

MANAGEMENT AGREEMENT

Are you requesting approval to utilize a management company through a management agreement? Please provide a copy of the management agreement. ◯ Yes ◯ No

6. AMENDMENT-Change of Officers, Stock or Ownership Interest

6B. CURRENT OFFICERS, STOCK OR OWNERSHIP INTEREST

List the individuals and entities of the current ownership. Attach additional pages if necessary utilizing the format below.

Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership
Name of Principal	Title/Position	Percentage of Ownership

6A. INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 6, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages? Yes ☐ No ☐ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

6B. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified identified in question 6, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held? Yes ☐ No ☐
If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

6C. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question 6A or 6B ever been suspended, revoked or cancelled?
Yes ☐ No ☐ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation

7. AMENDMENT-Change of Premises Information

☐ **Alteration of Premises:** (must fill out attached financial information form)

7A. ALTERATION OF PREMISES

Please summarize the details of the alterations and highlight any specific changes from the last-approved premises.

PROPOSED DESCRIPTION OF PREMISES

Please provide a complete description of the proposed premises, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

Total Sq. Footage		Seating Capacity		Occupancy Number	
Number of Entrances		Number of Exits		Number of Floors	

☐ **Change of Location:** (must fill out attached financial information form)

7B. CHANGE OF LOCATION

Last-Approved Street Address

Proposed Street Address

DESCRIPTION OF PREMISES

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. You must also submit a floor plan.

Total Sq. Footage		Seating Capacity		Occupancy Number	
Number of Entrances		Number of Exits		Number of Floors	

OCCUPANCY OF PREMISES

Please complete all fields in this section. Please provide proof of legal occupancy of the premises. (E.g. Deed, lease, letter of intent)

Please indicate by what means the applicant has to occupy the premises

Landlord Name

Landlord Phone

Landlord Email

Landlord Address

Lease Beginning Date

Rent per Month

Lease Ending Date

Rent per Year

Will the Landlord receive revenue based on percentage of alcohol sales? ◯ Yes ◯ No

8. AMENDMENT-Management Agreement

☒ **Management Agreement:** (must fill out all pages in section 8)

Are you requesting approval to utilize a management company through a management agreement?
If yes, please fill out section 8. ◉ Yes ○ No

Please provide a narrative overview of the Management Agreement. Attach additional pages, if necessary.

Management entity shall manage restaurant for licensee and shall pay all expenses related to the licensed premises. In consideration thereof, the management entity shall be paid a percentage of the gross sales generated on the licenses premises.

IMPORTANT NOTE: A management agreement is where a licensee authorizes a third party to control the daily operations of the license premises, while retaining ultimate control over the license, through a written contract. *This does **not** pertain to a liquor license manager that is employed directly by the entity.*

8A. MANAGEMENT ENTITY

List all proposed individuals or entities that will have a direct or indirect, beneficial or financial interest in the management Entity (E.g. Stockholders, Officers, Directors, LLC Managers, LLP Partners, Trustees etc.).

Entity Name	Address	Phone
Above the Harbor, Inc.	P.O. Box 474, W Yarmouth, MA 02	[redacted]

Name of Principal	Residential Address	SSN	DOB
Theodore H. Zambelis	[redacted]	[redacted]	[redacted]

Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
President/Treasurer/Secretary/Stockholder	100%	◉ Yes ○ No	◉ Yes ○ No	◉ Yes ○ No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		○ Yes ○ No	○ Yes ○ No	○ Yes ○ No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		○ Yes ○ No	○ Yes ○ No	○ Yes ○ No

Name of Principal	Residential Address	SSN	DOB

Title and or Position	Percentage of Ownership	Director	US Citizen	MA Resident
		○ Yes ○ No	○ Yes ○ No	○ Yes ○ No

CRIMINAL HISTORY

Has any individual identified above ever been convicted of a State, Federal or Military Crime?
If yes, attach an affidavit providing the details of any and all convictions. ○ Yes ○ No

8B. EXISTING MANAGEMENT AGREEMENTS AND INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Does any individual or entity identified in question 8A, and applicable attachments, have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages; and or have an active management agreement with any other licensees?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

9. FINANCIAL DISCLOSURE

Required for the following transactions:

- Change of Officers, Stock or Ownership Interest (E.g. New Stockholder/Transfer or Issuance of Stock)
- Change of Premises Information
- Pledge of License, Inventory or Stock

Purchase Price(s):

SOURCE OF CASH CONTRIBUTION

Please provide documentation of available funds. (E.g. Bank or other Financial institution Statements, Bank Letter, etc.)

Name of Contributor	Amount of Contribution
Total:	

SOURCE OF FINANCING

Please provide signed financing documentation.

Name of Lender	Amount	Type of Financing	Is the lender a licensee pursuant to M.G.L. Ch. 138.
			◯ Yes ◯ No
			◯ Yes ◯ No
			◯ Yes ◯ No
			◯ Yes ◯ No

FINANCIAL INFORMATION

Provide a detailed explanation of the form(s) and source(s) of funding for the cost identified above.

8. AMENDMENT-Management Agreement

8C. PREVIOUSLY HELD INTEREST IN AN ALCOHOLIC BEVERAGES LICENSE

Has any individual or entity identified in question 8A, and applicable attachments, ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Name	License Type	License Name	Municipality

8D. PREVIOUSLY HELD MANAGEMENT AGREEMENT

Has any individual or entity identified in question 8A, and applicable attachments, ever held a management agreement with any other Massachusetts licensee?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Licensee Name	License Type	Municipality	Date(s) of Agreement

8E. DISCLOSURE OF LICENSE DISCIPLINARY ACTION

Have any of the disclosed licenses listed in question 8B, 8C or 8D ever been suspended, revoked or cancelled?

Yes ☐ No ☒ If yes, list in table below. Attach additional pages, if necessary, utilizing the table format below.

Date of Action	Name of License	City	Reason for suspension, revocation or cancellation

8F. TERMS OF AGREEMENT

a. Does the agreement provide for termination by the licensee? Yes ☒ No ☐

b. Will the licensee retain control of the business finances? Yes ☒ No ☐

c. Does the management entity handle the payroll for the business? Yes ☒ No ☐

d. Management Term Begin Date April 1, 2020 e. Management Term End Date March 31, 2023

f. How will the management company be compensated by the licensee? (check all that apply)

☐ $ per month/year (indicate amount)

☐ % of alcohol sales (indicate percentage)

☒ % of overall sales (indicate percentage) 25%

☐ other (please explain)

ABCC Licensee Officer/LLC Manager

Signature: Wayne Kurker pres

Title: Wayne G. Kurker, President

Date: 2/6/2020

Management Agreement Entity Officer/LLC Manager

Signature:

Title: Theodore H. Zambelis, President

Date: 2/6/2020

APPLICANT'S STATEMENT

I, Wayne G. Kurker the: ☐ sole proprietor; ☐ partner; ☒ corporate principal; ☐ LLC/LLP manager
Authorized Signatory

of The Harbour Club, Inc.
Name of the Entity/Corporation

hereby submit this application (hereinafter the "Application"), to the local licensing authority (the "LLA") and the Alcoholic Beverages Control Commission (the "ABCC" and together with the LLA collectively the "Licensing Authorities") for approval.

I do hereby declare under the pains and penalties of perjury that I have personal knowledge of the information submitted in the Application, and as such affirm that all statements and representations therein are true to the best of my knowledge and belief. I further submit the following to be true and accurate:

(1) I understand that each representation in this Application is material to the Licensing Authorities' decision on the Application and that the Licensing Authorities will rely on each and every answer in the Application and accompanying documents in reaching its decision;

(2) I state that the location and description of the proposed licensed premises are in compliance with state and local laws and regulations;

(3) I understand that while the Application is pending, I must notify the Licensing Authorities of any change in the information submitted therein. I understand that failure to give such notice to the Licensing Authorities may result in disapproval of the Application;

(4) I understand that upon approval of the Application, I must notify the Licensing Authorities of any change in the ownership as approved by the Licensing Authorities. I understand that failure to give such notice to the Licensing Authorities may result in sanctions including revocation of any license for which this Application is submitted;

(5) I understand that the licensee will be bound by the statements and representations made in the Application, including, but not limited to the identity of persons with an ownership or financial interest in the license;

(6) I understand that all statements and representations made become conditions of the license;

(7) I understand that any physical alterations to or changes to the size of the area used for the sale, delivery, storage, or consumption of alcoholic beverages, must be reported to the Licensing Authorities and may require the prior approval of the Licensing Authorities;

(8) I understand that the licensee's failure to operate the licensed premises in accordance with the statements and representations made in the Application may result in sanctions, including the revocation of any license for which the Application was submitted; and

(9) I understand that any false statement or misrepresentation will constitute cause for disapproval of the Application or sanctions including revocation of any license for which this Application is submitted.

(10) I confirm that the applicant corporation and each individual listed in the ownership section of the application is in good standing with the Massachusetts Department of Revenue and has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

Signature: Wayne Kurker pres. Date: 2/6/2020

Title: President

CORPORATE VOTE

The Board of Directors or LLC Managers of The Harbor Club, Inc.
Entity Name

duly voted to apply to the Licensing Authority of Yarmouth and the
City/Town

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on 02/06/2020
Date of Meeting

For the following transactions (Check all that apply):

- [ ] New License
- [ ] Transfer of License
- [x] Change of Manager
- [ ] Change of Officers/ Directors/LLC Managers
- [ ] Change of Location
- [ ] Alteration of Licensed Premises
- [ ] Change Corporate Name
- [ ] Change of Ownership Interest (LLC Members/ LLP Partners, Trustees)
- [ ] Change of Class (i.e. Annual / Seasonal)
- [ ] Change of License Type (i.e. club / restaurant)
- [ ] Change of Category (i.e. All Alcohol/Wine, Malt)
- [ ] Issuance/Transfer of Stock/New Stockholder
- [ ] Other
- [ ] Change Corporate Structure (i.e. Corp / LLC)
- [ ] Pledge of Collateral (i.e. License/Stock)
- [x] Management/Operating Agreement
- [ ] Change of Hours
- [ ] Change of DBA

"VOTED: To authorize Wayne G. Kurker
Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

"VOTED: To appoint Theodore H. Zambelis
Name of Liquor License Manager

as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,

_____
Corporate Officer /LLC Manager Signature

_____
(Print Name)

For Corporations ONLY
A true copy attest,

Wayne Kurker
Corporation Clerk's Signature

WAYNE KURKER
(Print Name)

CORPORATE VOTE

The Board of Directors or LLC Managers of The Harbour Club, Inc.
Entity Name

duly voted to apply to the Licensing Authority of Yarmouth and the
City/Town

Commonwealth of Massachusetts Alcoholic Beverages Control Commission on 2/6/2020
Date of Meeting

For the following transactions (Check all that apply):

☒ Management Agreement

☐ Other

"VOTED: To authorize Wayne G. Kurker
Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

A true copy attest,

_____
Corporate Officer /LLC Manager Signature

_____
(Print Name)

For Corporations ONLY
A true copy attest,

Wayne Kurker
Corporation Clerk's Signature

WAYNE KURKER
(Print Name)

The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3, Chelsea, MA 02150-2358
www.mass.gov/abcc

RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
MONETARY TRANSMITTAL FORM

APPLICATION FOR MULTIPLE AMENDMENTS

APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL LICENSING AUTHORITY.

ECRT CODE: RETA

Please make $200.00 payment here: ABCC PAYMENT WEBSITE

PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE PAYMENT RECEIPT

ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY) LICA-15-0378-04

ENTITY/ LICENSEE NAME The Harbour Club, Inc.

ADDRESS 21 Arlington Street

CITY/TOWN West Yarmouth **STATE** MA **ZIP CODE** 02673

For the following transactions (Check all that apply):

- ☐ New License
- ☐ Transfer of License
- ☒ Change of Manager
- ☐ Change of Officers/ Directors/LLC Managers
- ☐ Change of Location
- ☐ Alteration of Licensed Premises
- ☐ Change Corporate Name
- ☐ Change of Ownership Interest (LLC Members/ LLP Partners, Trustees)
- ☐ Change of Class (i.e. Annual / Seasonal)
- ☐ Change of License Type (i.e. club / restaurant)
- ☐ Change of Category (i.e. All Alcohol/Wine, Malt)
- ☐ Issuance/Transfer of Stock/New Stockholder
- ☐ Other
- ☐ Change Corporate Structure (i.e. Corp / LLC)
- ☐ Pledge of Collateral (i.e. License/Stock)
- ☒ Management/Operating Agreement
- ☐ Change of Hours
- ☐ Change of DBA

THE LOCAL LICENSING AUTHORITY MUST MAIL THIS TRANSMITTAL FORM ALONG WITH COMPLETED APPLICATION, AND SUPPORTING DOCUMENTS TO:

Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, MA 02150-2358

Management Agreement

This AGREEMENT is made the ____ of _____, 20___ by and between THE HARBOUR CLUB, INC., a Massachusetts corporation with a usual place of business at 21 Arlington Street, Hyannis, MA 02601 ("HCI") and ABOVE THE HARBOR, INC., a Massachusetts corporation with a usual place of business at 21 Arlington Street, Hyannis, MA 02601 (hereinafter called the "Manager").

WHEREAS the ("HCI") owns and operates a restaurant which does business under the name Tugboats("Restaurant") located in the town of Yarmouth (West) Massachusetts having a mailing address of 11 Arlington Street, Hyannis, MA 02601; and

WHEREAS, HCI is situated on a parcel of land owned by Wayne Kurker, Trustee of Hyannis Marine Service Realty Trust ("Realty Trust") which land is located within a marina complex operated by Hyannis Marina, Inc. ("Hyannis Marina"); and

WHEREAS, HCI and the Realty Trust have executed a lease wherein HCI is required to pay rent to Realty Trust.

WHEREAS, the Manager is in the business of managing restaurants and has particular expertise in the operation of the type of restaurant operated by HCI; and

WHEREAS, the HCI and Manager wish to enter agreement whereby the Manager will manage Tugboats under certain terms and conditions

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the parties hereby acknowledge, it is agreed as follows:

1. TERM

The Manager shall, for a period of **three (3) years commencing** April 1, 2020 and ending on March 31, 2023 manage Restaurant for HCI. and shall – at its sole cost and expense in accordance with Section 3 (a) purchase all food, beverages, supplies and other material that may be necessary to effectively operate the restaurant; and (b) employ all necessary personnel and maintain and repair all restaurant equipment so that it operates in in good working order; (c) pay all other costs and expenses reasonably necessary to operate said restaurant, including without limitation, the cost of maintaining insurance as provided in the following paragraph.

2. INSURANCE

The Manager shall at all times maintain (a) **general liability and casualty insurance** and liquor liability insurance in amounts no less than TWO MILLION ($2,000,000,00) DOLLARS per occurrence and TWO MILLION ($2,000,000,00) DOLLARS in the aggregate; and (b) property damage coverage in an amount not less than FIFTY THOUSAND ($50,000.00) DOLLARS. Said insurance policies shall name the **HCI, Hyannis Marina Inc., Hyannis**

Marine Service Realty Trust, Kurker Family LLC and Wayne Kurker individually "Kurker" (Marina Entities) as additional insureds.. In addition, the Manager shall maintain workers compensation insurance as required by law. The Manager shall deliver to HCI certificates of insurance upon execution of this Agreement and annually thereafter or such other times as requested by HCI. The Manager shall indemnify and hold the Marina Entities harmless from and against all claims and causes of action incurred by said parties including the cost of defense which claims or causes of action relate to the operation of Tugboats.

3. FINANCIAL ARRANGEMENTS

3.1 **Cash Receipts.** The Manager, acting as trustee for the Licensee, shall, on behalf of the Licensee, deposit all receipts and make all disbursements relating to the Restaurant from a segregated management account (the "Operating Account"), maintained at a bank approved by both parties. The Operating Account shall be opened and maintained by the Manager in accordance with the instructions hereinafter set forth. In no event shall any proceeds from the operation of the Restaurant be commingled with the funds of the Manager, except and to the extent that such proceeds are paid to the Manager pursuant to the terms of this Agreement. The Manager shall provide the Licensee with a monthly report detailing all deposits, withdrawals and payments made from the Operating Account, and copies of any and all statements generated or issued regarding the Operating Account.

3.2 **Deposits.** The Manager shall collect all revenues from the operation of the Restaurant and shall ensure that all deposits are made on a daily basis into the Operating Account.

3.3 Payments by Manager.

(a) The Manager shall make timely payment from the Operating Account of all day-to-day operating expenses for the Restaurant, and for the cost of all consumable items, inventories and the Manager's Management Fee, as hereinafter defined.

(b) The Licensee hereby consents to the payment of all Operating Expenses, as hereinafter defined, from the Operating Account. The Manager herein agrees and stipulates that any and all Operating Expenses, and specifically all payments due and owing to purveyors of alcoholic beverages and all taxing and regulatory agencies, attorney's fees, and accounting fees, shall be paid prior to any payments of the Management Fee called for in this Agreement.

(c) The Manager hereby agrees to maintain the necessary reserves in escrow to account for any items not billed on a monthly basis, and agrees that the same shall constitutes and Operating

Expense which shall be deducted and held in reserve prior to any payments of the Management Fee.

(d) It is understood and agreed that everything done by the Manager in the performance of its obligations hereunder, and all expenses incurred pursuant thereto, shall be for and on behalf of Licensee and for Licensee's account.

(e) Notwithstanding anything herein to the contrary, at the end of each month, if the Operating Expenses equal or exceed the aggregate amount of all cash receipts (which cash receipt shall specifically exclude any deposits made on future functions or reservations) from the operation of the Restaurant, the Manager shall be required to further account to Licensee and remit any sums to the Operating Account necessary to account for said operating costs and the Manager shall assume full responsibility for the payment of the same. The Manager shall be entitled to reimbursement of all sums paid into the Operating Account by the Manager to cover Operating Expenses when, after payments of Operating Expenses and the Management Fee as set forth in Section 3.6 herein, gross sales so allow until full reimbursement is made.

3.4 **Operating Expenses.** The term "Operating Expenses" means all costs and expenses incurred in connection with the operation of the Restaurant, including reimbursement for lease payments and occupancy costs, all costs associated with or detailed in the lease, salaries, wages, benefits and other costs of each employee working in the Restaurant; the prorated monthly share of any and all annual, semi-annual, or quarterly payments including but not limited to insurance costs, licensing and permitting fees, and any and all estimated taxes and utilities; the cost of consumable inventories, supplies, minor equipment, utensils and other goods (including the replacement of glassware); repair, replacement and maintenance of equipment; office expenses, liability insurance, all taxes or charges levied or assessed with respect to the Restaurant, including taxes levied or assessed on wages, salaries, beverages, sales, and the Manager's property, if any, used in the Restaurant, and any penalties, fines, interest and other expenses reasonably incurred in connection with any protest or litigation of such taxes; licenses or permit fees or other charges attributable to the Restaurant, excluding expenses which are paid directly by the Licensee. Operating Expenses shall include all costs and expenses related to the operation of the Restaurant including, but not limited to, the following Operating Expenses which shall be payable in the order set forth herein below:

(a) All Security Deposits, Minimum Rent Payments, Percentage Rent payments, insurance payments and any and all other costs due pursuant to the Lease;

(b) Any and all payments and obligations required pursuant to the Lease, including but not limited to all real estate taxes, utilities, and insurance payments with the minimum coverage amounts set out therein;

(c) Any and all amounts owed taxing and regulatory agencies related to the operation of the Restaurant, including but not limited to taxes levied or assessed on wages, salaries, beverages and sales;

(d) Any and all payments due and owing purveyors of alcoholic beverages; and

(e) Any and all other costs and expenses related to operation, upkeep, maintenance, care and repair of the Restaurant including but not limited to all payments due employees, attorney fees and accounting fees.

3.5 **Management Fee.** Subject to prior payment of all Operating Expenses, the Licensee agrees to pay Manager a management fee equal to twenty-five percent (25%) of the gross sales of the operation of the Restaurant (the "Management Fee"). The Management Fee shall be distributed on a monthly basis from the Operating Account and only from the Restaurant receipts following payment of all Operating Expenses. Prior to the distribution of any Management Fee, the Manager must ensure that the Operating Account accurately reflects and maintains monthly reserves for the future payment of monthly, quarterly, semi-annual and annual fees including but not limited reserves necessary for payroll, insurance, estimated taxes, licensing and permitting fees, and utilities. Any and all deposits or prepayments of private events, reservations or the like, shall not constitute a realized cash receipt nor be applied to funds for distribution of the Management Fee unless and until the event occurs and the deposit is applied to the final event balance. To the extent that a deficiency exists in the Operating Account which does not enable complete payment of the Management Fee, said deficiency shall be carried over to the following month and reconciled on an annual basis. At the end of the fiscal year (or upon the earlier termination of this Agreement), any outstanding Management Fee amounts owed shall be written off and Licensee shall not be liable for said amounts. Notwithstanding the foregoing, in the event of termination of this Agreement for any reason, any monthly outstanding Management Fee amounts owed up to the date of termination shall be accounted for and paid to the Manager to the extent that such amounts are available from the Operating Account. Any funds due and not available from the Operating Account shall be written off at the end of the Term.

3.6 **Billing.** Within twenty (20) days after the end of each Accounting Period (or partial accounting period in the event that this Agreement is terminated), Manager will submit to Licensee an invoice for the Management Fee. All such expenses will be paid from the Operating Account as provided for in Subsection 3.1 hereof, providing however, that payment of any unpaid accounts remaining after the payment of the items referred to in this Article III, shall be borne by the Manager, in the event that the Restaurant has not realized sufficient sales to discharge same. Licensee shall not be liable for such expenses, including but not limited to the Management Fee.

4 DUTIES OF MANAGER

The Manager shall be responsible for all aspects of the operation of the Business, and shall have the authority, except as set forth herein, to conduct its day-to-day affairs, including, without limitation, the following:

4.1 **Responsibilities.** The Manager will have the responsibility for purchasing, pricing, storage, preparation and serving of all foodstuffs, and shall have the exclusive right to determine the menu and type of service. The current general style (casual) shall be continued.

4.2 **Personnel**. The Manager shall have the right to select and employ chefs, cooks, salespersons and other personnel, who shall be employees of the Manager and not HCI.

4.3 **Care and Maintenance**. The Manager shall be responsible for the proper care and maintenance of all equipment, including, without limitation, all furniture, furnishings, kitchen equipment and supplies, machinery, appliances, reasonable wear and tear and insured damage by fire and casualty excepted. The Manager shall also have the grease trap pumped a minimum of three times each year approximately at the end of June and August, and upon closure of the Business for the season. The Manager shall be responsible for the care and upkeep of the non-structural portions of the premises, including, without limitation, cleaning the premises, cleaning the range hoods and grease trap and prompt snow removal and sanitary refuse removal.

4.4 **Compliance.** The Manager shall conduct the Business at all times in full compliance with all applicable laws, rules, regulations and conditions of all licenses.

4.5 **Name of Business**. The Manager shall continue to do business under the name "**Tugboats**". The name "Tugboats" including the domain names and other intellectual property shall remain the property of the HCI and shall not be used by the Manager for any other purpose other than to promote Tugboats.

4.6 **Alterations**. The Manager may not make any alteration in the premises without the prior written consent of the HCI which consent, in the case of non-structural alterations, shall not be unreasonably withheld or delayed.

4.7 **Mechanic's Liens**. The Manager shall not permit any mechanic's liens or other **liens**, attachments or encumbrances, caused by Manager's operation of the Business or otherwise caused by the Manager, to remain on the premises or any asset of the HCI.

5 OPERATION AND CONTROL

5.1 **Food and Beverage**. Ultimate control of all aspects of the food and beverage service shall rest with the HCI, who shall not interfere unreasonably with the Manager's operation of the business, provided, however, that all aspects of the purchase, storage, sale and service of alcoholic beverages shall be directly subject to the supervision and control of the HCI.s manager

or principal representative duly appointed and approved pursuant to G.L.c.138 §26.

5.2 **No Interest**. Except for payments due hereunder, the Manager shall have no interest, direct or indirect, in any aspect of the business or assets of the HCI.

5.3 **Books and Records**. The Manager shall keep the books and accounts of its operation of the business in accordance with good business practices. Upon request, the Manager shall provide proof of payment of all obligations in order to satisfy the HCI that the Manager is faithfully and diligently operating the business in accordance with this Agreement, and shall make the books, accounts, records, etc. of its operation of the business as required herein available for the inspection by the HCI or its agents including review of register tapes, computer printouts, etc.

5.4 **Period of Operations**. The Manager may operate the business during the period this Agreement is in effect at any time such operation is lawful, but the Manager must operate the business from mid-April through Columbus Day Weekend of each year, and from the hours of 11:30 AM to 11:00 PM, daily except closed on Mondays from Mid-April until Memorial Day the Manager shall not operate after the 3rd weekend in October through Mid-April without written permission of the HCI. Manager shall serve breakfast on Saturday of Memorial Day weekend and upon special request from HCI.

6 MISCELLANEOUS PROVISIONS

6.1 **Theodore H. Zambelis**. This Agreement is specifically conditioned upon the personal involvement and the day to day presence of Theodore H. Zambelis ("Zambelis") in the daily operation of the Business and shall consult with HCI periodically upon request for the season following the termination of this Agreement as may be extended.

6.2 **Named Manager**. Zambelis or some other person selected by the shall be named Manager of the common victular's license. This Agreement shall be submitted to the licensing authorities for approval. In the event that this Agreement is not approved, the parties shall use reasonable efforts to make modifications to this Agreement that are acceptable to both parties to effectuate approval of this Agreement by the licensing authority and the ABCC. This Agreement shall terminate in the event approval is ultimately denied by said governmental authorities.

6.3 **Manager's Rights & Obligations**. HCI. shall ensure that the Manager's rights under this Agreement are not impaired or interfered with by any change in the ownership of the business or the real estate upon which the restaurant is located. HCI therefore, shall not sell or transfer title to the restaurant business herein mentioned, or the underlying real estate upon which the same is conducted, without arrangements having first been made providing for continuation of this Management Agreement on the same terms and conditions herein set forth. If there is a s sale or transfer, voluntary or involuntary, of the Business or if the underlying real estate is alienated by virtue of mortgage foreclosure, sale or other disposition or if HCI shall act without cause resulting in early termination of this Agreement, the HCI shall reimburse the Manager for the loss of the remaining term of the Agreement by paying to Manager as liquidated, stipulated and agreed upon damages in full satisfaction hereof, one half of the net profit of Manager for the preceding operating year multiplied by the remaining number of

operating years or fraction thereof lost to Manager by reason of said sale or transfer or termination, in addition to such amount as shall be remaining due Manager under this Agreement.

6.4 **Governing Law**. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, and if any provisions of the Agreement shall to any extent be invalid, the remainder of this Agreement shall not be affected thereby. There are no oral or written agreements between the parties hereto affecting this Agreement. This Agreement may be amended only by the instruments in writing executed by parties hereto. The venue for any litigation shall take place in the County of Barnstable in the applicable court with jurisdiction.

6.5 **Termination** This Agreement may be terminated by either party upon material breach by the other party. The terminating party shall give the other party written notice of the breach and allow the other party twenty (20) days within which to cure said breach. Waiver of any breach by either party shall not constitute waiver of any other breach. In the event that either party is required to bring legal action to enforce its rights under this Agreement, the prevailing party shall recover reasonable attorney's fees in addition to all other damages, remedies and relief. In the event of termination hereunder the prospective obligations of the Manager and the guarantor shall also be terminated.

6.6 **Parking.** During the time that this Agreement remains in effect, HCI will make reasonable efforts to make available parking for customers in accordance with the usual operation of the boat storage business. The Manager and the Harbor club, Inc. shall work together to provide insured valet parking service on Memorial Day weekend and at his discretion the first two weeks of June but mandatory from mid-June through Labor Day weekend on each and every night. There shall be no street parking other than delivery trucks if approved by HCI or as instructed by HCI. The Manager shall be responsible for cleanliness and landscape of Tugboats' parking lot and in the immediate area of the Business and the restaurant parking area during the restaurant's season.

6.7 **Notice.** Any **notice** to be given in connection with this Agreement hall be in writing and may be delivered in hand, or may be mailed by certified mail, return receipt requested, postage prepaid addressed to the parties' addresses of record. Any such notice shall be deemed given when so delivered by hand, or – if so mailed – on the date on the receipt provided by the U. S. Postal service.

6.8 **Manager's Right to Extend.** The Manager shall have the right to extend the term of this Agreement for an additional three (3) years, and at the end of that term an additional four (4) years both of which shall automatically renew unless the Manager gives ~~by giving~~ written notice thereof to HCI and Wayne Kurker 8 months before the expiration date of the expiring term, subject to the following conditions:

(a). The Manager is not in default of any material provision of this Agreement.

(b). The HCI may refuse to extend the term of this Agreement if the Manager has been given notice of and cured at least three different defaults during the term preceding the extended term.

(c) The HCI. has any other objectively reasonable grounds to refuse to extend the term of this Agreement.

6.9 **Entire Agreement.** This Agreement contains the entire understanding of the parties and supersedes all prior agreements whether written or oral.

6.10 **Successor's and Assigns.** The covenants and conditions to be performed in this Agreement shall be binding upon the legal representatives, successors, and assigns of the parties hereto, but this Agreement shall not assigned by the Manager under any circumstances. No person or entity shall hold any stockholder interest in Above the harbor, Inc. without the express written consent of HCI which consent may be withheld for any no reason.

SIGNED AS A SEALED INSTRUMENT AS OF THE DATE FIRST ABOVE WRITTEN

ABOVE THE BAY, INC

By: Theodore Zambelis Date: 2/7/2020
Theodore H. Zambelis

HARBOR CLUB, INC.

By: Wayne Kurker Date: 2/7/2020
Wayne Kurker, President

TOWN OF YARMOUTH

DEPARTMENT OF COMMUNITY SERVICES

Natural Resources Division

424 ROUTE 28 WEST YARMOUTH MASSACHUSETTS 02673-4713

TELEPHONE (508) 760-4800 FAX (508) 760-4805

Karl W. von Hone

DIRECTOR

MEMO

TO: Daniel Knapik
Town Administrator
Honorable Board of Selectmen

FROM: Karl W. von Hone, Director
Conrad P. Caia, Shellfish Constable

SUBJECT: Recreational Shellfish Regulations Changes

DATE: April 1, 2020

Please find enclosed copies of the Recreational Shellfish Regulations for your review and approval. The Recreational Regulations are effective Sunday May 3, 2020. If you have any questions concerning these changes, please contact me at the office.

Stay safe and health.

TOWN OF YARMOUTH

DEPARTMENT OF COMMUNITY SERVICES

Natural Resources Division

424 ROUTE 28 WEST YARMOUTH MASSACHUSETTS 02673-4713
TELEPHONE (508) 760-4800 FAX (508) 760-4805

Karl W. von Hone

DIRECTOR

AMENDMENT TO SHELLFISH REGULATIONS
RECREATIONAL USE
SOFT SHELL CLAMS AND QUAHOGS

EFFECTIVE DATE: Sunday, May 3, 2020 for Wilbur Park - Sunday's ONLY
Wednesday, May 6, 2020 for Gray's Beach – Wednesday's ONLY

TIME: Sunrise to Sunset

SHELLFISHING PERMITTED: Bass River - Wilbur Park & Gray's Beach

OPEN AREA: - Wilbur Park in Bass River, from the bridge at Highbank Rd. southwest to the no shellfishing sign at the end of Edgewater Drive. **Wilbur Park is open on Sundays Only.**
Grays Beach east of a line drawn from the west tip of Chapin Memorial Beach in a southerly direction to the east tip of Grays Beach including Clay's Creek east to a line drawn across Chase Garden Creek at the windmill house. **Grays Beach is open Wednesdays Only.**

CLOSED AREAS: - Lewis Pond, Lewis Bay, including the area from the Englewood Break Water to the end of Colonial Acres, Mill Creek, Inside of Pine Island, Sweetheart Creek, Crowell and, Springer Lane, and all other areas not listed as open are closed.

LIMIT: One (1) Ten Quart Wire Basket (10 QT.) of Soft Shell Clams and One (1) Ten Quart (10 QT.) Wire Basket of Quahogs per permit per week or a ½ Bushel of Sea Clams per day.

SIZE: No Softshell Clams measuring less than two inches (2") at the longest diameter, No Quahogs measuring less than one inch (1") across the hinge and No Sea Clam measuring less than five inches (5") in the longest diameter and may be taken.

NOTE: Seed Softshell clams that were dry dug must be replanted with siphons (necks) up. All holes dug in search of shellfish must be filled in prior to digging a new hole or leaving the area. Shellfish may be harvested with hand rakes, hand scratchers and basket rakes having measurements not more than 12 inches (1 foot) in any direction. Shellfish gauge are required.

This Amendment supersedes all other Recreational Quahog and Soft Shell Clam Regulation Amendments.

Per Order of the Board of Selectmen: Date: _____

Michael Stone, Chairman: _____

Erik Tolley: _____

Norman Holcomb: _____

Tracy Post: _____

Mark Forest: _____

TOWN OF YARMOUTH

DEPARTMENT OF COMMUNITY SERVICES

Natural Resources Division

424 ROUTE 28 WEST YARMOUTH MASSACHUSETTS 02673-4713

TELEPHONE (508) 760-4800 FAX (508) 760-4805

Karl W. von Hone

DIRECTOR

MEMO

TO: Daniel Knapik
Town Administrator
Honorable Board of Selectmen

FROM: Karl W. von Hone, Director
Conrad P. Caia, Shellfish Constable

SUBJECT: Commercial Shellfish Regulations Changes

DATE: April 7, 2020

Please find enclosed copies of the Commercial Shellfish Regulations for your review and approval. The Commercial Regulations are effective Sunday May 1, 2020. If you have any questions concerning these changes, please contact me at the office.

Stay safe and health.

TOWN OF YARMOUTH

DEPARTMENT OF COMMUNITY SERVICES

Natural Resources Division

424 ROUTE 28 WEST YARMOUTH MASSACHUSETTS 02673-4713

TELEPHONE (508) 760-4800 FAX (508) 760-4805

Karl W. von Hone

DIRECTOR

AMENDMENT TO SHELLFISH REGULATIONS
COMMERCIAL USE
SOFT SHELL CLAMS AND QUAHOGS

EFFECTIVE DATE: Friday, May 1, 2020
TIME: Follins Pond - 8:30 A.M. to Sunset (Monday through Saturday)
Lewis Bay - 7:00 A.M. when using a hydraulic pump or sunrise

SHELLFISHING PERMITTED: - Bass River, SC-35 and Lewis Bay, SC-28 Monday – Saturday

OPEN AREAS: **Bass River** -SC-35 from the "No Shellfishing" signs located at the mouth of Muddy and Weir Creeks in Follins Pond, in a southerly direction to the Route 6 Bridge, is open to the Commercial taking of Quahogs And Softshell clams. **Lewis Bay** - SC-28, **All areas not listed as closed** will revert to an open status for the harvest of Quahogs and Softshelled Clams, **ONLY when Follins Pond-SC-35 is closed due to more than .20 inches of rainfall during the period from May 15, 2020 to December 1, 2020.** **Bass River** SC-33 (south), and SC-34 (center) will close May 31, 2020

CLOSED AREA: Parkers River and Seine Pond SC-30.3, CCB-29, Hyannis Park SC-28.2, the Lewis Bay Recreational Shellfish Areas from the break water at the end of Cove Rd. north to the break water at Englewood Beach and west from the break water at Englewood Beach to the break water at Mill Creek, Inside Pine Island Cove, Sweetheart Creek SC-28.10 and Mill Creek SC-28.5, are closed to the Commercial harvest of shellfish. All other areas not listed as OPEN are CLOSED. and Bass River- SC-33 (south), and SC-34 (center) will be closed to the Commercial harvest of shellfish **as of May 31,2020**

LIMIT: **Follins Pond SC-35** - Four (4) level legal limit bushel boxes of Quahogs including not more two (2) level legal bushels of mixed necks **OR** Two (2) level legal limit boxes of Softshelled Clams.
Lewis Bay SC-28 – Two (2) level legal limit bushel boxes of Quahogs **OR** Two (2) level legal limit bushel boxes of Softshelled Clams.

SIZE: No Quahogs measuring less than one inch (1") across the hinge and no Softshelled Clams measuring less than two inches (2″) in the longest diameter shall be taken.

NOTE: May 15, 2020 starts the Rainfall Closure in SC-35 (Follins Pond) through December 1, 2020.
During this time shellfish may take place after 8:30 A.M. No hydraulic pumps may be used for the harvest of Quahogs. **All boats must leave and land from the boat ramp at Englewood.**
The use of Jerk Rakes is prohibited in areas that contain populations of Softshelled Clams.

THIS AMENDMENT SUPERSEDES ALL OTHER COMMERCIAL SOFTSHELL CLAM AND QUAHOG REGULATION AMENDMENTS.

Per order of the Board of Selectmen: DATE: _____

Michael Stone, Chairman: _____

Erik Tolley: _____

Tracy Post : _____

Norman Holcomb: _____

Mark Forest: _____

TOWN OF YARMOUTH

1146 ROUTE 28, SOUTH YARMOUTH, MASSACHUSETTS 02664-4492
Telephone (508) 398-2231 Ext. 1271, Fax (508) 398-2365

BOARD OF SELECTMEN

TOWN ADMINISTRATOR
Daniel M. Knapik

Date April 9, 2020

To: Board of Selectmen

From: Daniel M. Knapik, Town Administrator DMK

Subject: Families First Coronavirus Response Act (FFCRA)

The Families First Coronavirus Response Act (FFCRA) legislation went into effect on April 1, 2020. This law provides for paid sick leave and expanded leave for employees for various COVID-19 related scenarios.

The attached FFCRA poster provides a summary of these benefits, the qualifying reasons, and the covered scenarios.

The Department of Labor recognizes "Emergency Responders" which may be excluded from FFCRA as follows:
For the purposes of employees who may be excluded from paid sick leave or expanded family and medical leave by their employer under the FFCRA, an emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19. This includes but is not limited to military or national guard, **law enforcement officers**, correctional institution personnel, **fire fighters**, **emergency medical services personnel**, physicians, nurses, **public health personnel**, **emergency medical technicians, paramedics**, **emergency management personnel**, **911 operators**, **public works personnel**, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is an emergency responder necessary for that state's or territory's or the District of Columbia's response to COVID-

In accordance with the legislation, we are recommending the following COVID-19 "emergency responders" within the Town of Yarmouth be exempt from the FFCRA:

Town Administrator, Assistant Town Administrator, Municipal Technical Services Director, Police Chief, Deputy Police Chief, Fire Chief, Deputy Fire Chief, DPW Director, Senior Services Director, Health Director, Assistant Health Director, Natural Resources Director, Director of Finance, Director of Inspectional Services, Director of Human Resources, Health Inspector, Hazardous Waste Inspector, Housing Inspector, Police Officers including Sgts. and Lts., Police Dispatchers, Firefighter/EMT/Paramedics including Cpts. and Lts., Fire Alarm Operators, Primary and Secondary Water Operators, Natural Resources Field Supervisor, Animal Control Officer, Natural Resources Officer, Senior IT Support Specialists.

TOWN OF YARMOUTH

1146 ROUTE 28, SOUTH YARMOUTH, MASSACHUSETTS 02664-4492
Telephone (508) 398-2231 Ext. 1271, Fax (508) 398-2365

BOARD OF SELECTMEN

TOWN ADMINISTRATOR
Daniel M. Knapik

In addition to the FFCRA benefits, the Town has been operating on the basis of department/division emergency work plans. These work plans provide for changing work conditions, work from home arrangements and reduced hours. Work plans attempt to accommodate the FFCRA qualifying reasons 5 and 6 for both FFCRA exempt and non-exempted positions. Providing this flexibility may allow our employees to keep working and be productive and can be complimentary to the FFCRA provisions.

As always, please let me know if you have concerns. Thank you for your collaboration during this unprecedented time.

Sincerely,

Daniel M. Knapik

EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

▸ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to $511 daily and $5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to $200 daily and $2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅔ for qualifying reason #5 below for up to $200 daily and $12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

▸ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

▸ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or
6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

▸ ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.

WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627
dol.gov/agencies/whd

WH1422 REV 03/20

Selectmen

TOWN OF YARMOUTH

1146 ROUTE 28, SOUTH YARMOUTH, MASSACHUSETTS 02664-4463
Telephone (508) 398-2231 Ext. 1281, Fax (508) 398-2365

Finance Department

MEMORANDUM

To: Dan Knapik, Town Administrator

From: Ed Senteio, Finance Director

CC: Jaye Anne Kesten, Assistant Collector/Treasurer
Sue Ripley, Collector/Treasurer

Date: April 6, 2020

Subject: $15,000,000 BOND ANTICIPATION NOTES-DPW GARAGE AND OFFICE

Background:

On Wednesday, April 8, 2020, the Town of Yarmouth will be seeking bids for $15,000,000 bond anticipation notes for the DPW Garage and Office Building construction project.

The Notes will be dated April 23, 2020 and will mature February 15, 2021.

The Notes are authorized under Chapter 44, Section 7(1) of the Massachusetts General Laws, as amended and votes of the Town passed on October 29, 2019 (Article 2) and November 5, 2019 (Question 1) for the construction of a new DPW facility. The total authorization is for $16,235,435.

The Town expects to permanently finance the project in calendar year 2021. **The Town voted to exclude the debt service relating to the project from the tax limitations of Proposition 2 ½.**

The proceeds of the notes will provide the Town with needed cash flow to pay for project cost through February 2021, at which time, the Town will permanently finance (Bond) the project costs.

The Town Treasurer will provide the Town Administrator with the bid results and form of vote for the Board of Selectmen to review, and vote on, at their meeting, April 14, 2020.

Not voting to approve the Bond Anticipation Notes will mean paying DPW Garage and Office expenses using available Town Funds. This would be required until permanent borrowing authorized at Town Meeting is completed after substantial completion of the project. A major issue for the Town would be cash flow moving forward as well as destroying Town credibility.

Motion and Vote – details to be provided after the sale on the 8th:

I make a motion to award $15 million of Bond Anticipation Notes dated April 23, 2020, and payable February 15, 2021 to J.P. Morgan Securities, LLC for $15 million at a net interest rate of 1.337%.

Signatures:

There must be at least 3 actual signatures on each of the documents provided by the morning of 4/15/2020.

UFASI
UNIBANK FISCAL ADVISORY SERVICES, INC

MUNICIPAL NOTE SALE INFORMATION

Issuer: Town of Yarmouth, MA
Amount: $15,000,000.00
Dated: 4/23/2020
Due: 2/15/2021
Contact Name: Lynne A. Foster-Welsh
Title: Vice President
Fax or I-Deal: Fax: 508-234-1938

Sale Information
Day: Wednesday
Date: April 08, 2020
Time: 11:00 AM

Type:
BAN

Bank Qualified:
No

Paying Agent:
US Bank National Association

Certification:

Right to Prepay:
No

Rating:
Note: SP1+
Current Bond: AA+

Additional Info:
Registered OR DTC

New/Renewal:
New

Disclosure:
Yes 4/1/2020

Award Basis:
Lowest NIC

Interest Basis:
30/360
No. Of Days: 292

Bid Basis:
Par/Premium X
Minimum Premium: $0.00

Tax Status:
TAX-EXEMPT

Project Description:
DPW Facility

Legal Opinion:
Yes
Locke Lord LLP

CUSIP:
Optional

Bid Limits:
All or none ___ Split X
Minimum Amount: $1,000,000.00

Bid Specifics:
Registered or DTC Book-Entry

RESULTS

BIDDER	AMOUNT	RATE	DATE/TIME	PREMIUM	NIC	AWARD	REOFFER
J.P. Morgan Securities LLC*	ALL	2.000%	4/8/2020 10:59 AM	$80,550.00	1.337000	$15,000,000.00	1.25
Century Bank & Trust Company	$5,000,000	1.650%	4/8/2020 08:49 AM		1.650000		
BNY Mellon Capital Markets, LLC*	ALL	2.500%	4/8/2020 10:45 AM	$78,351.00	1.856000		
J.P. Morgan Chase Bank	$8,000,000	1.890%	4/8/2020 09:45 AM		1.890000		
TD Securities LLC*	ALL	3.500%	4/8/2020 10:59 AM	$134,250.00	2.396000		

*=Underwriter

UniBank Fiscal Advisory Services, Inc. (UFASI) is a subsidiary of UniBank for Savings (UniBank) and any bid submitted by UniBank is in keeping with its own investment goals and is not submitted by or on behalf of UFASI.

For further information, please refer to the Preliminary Official Statement and Notice of Sale dated 4/1/2020

TOWN OF YARMOUTH

1146 ROUTE 28, SOUTH YARMOUTH, MASSACHUSETTS 02664-4463
Telephone (508) 398-2231 Ext. 1281

Finance Department

MEMORANDUM

To: Dan Knapik, Town Administrator

From: Ed Senteio, Finance Director

CC: Finance Team

Date: April 6, 2020

Subject: 2020 Standard and Poor's (S&P) Rating Review

S&P completed a bond rating review in connection with the $15 million DPW Garage and Office borrowing. We learned early in the review process that we faced significant challenges in our efforts to maintain or improve the Town's bond rating. This is primarily due to Covid-19 causing S&P to lower the economy rating for the Barnstable County Metropolitan Statistical Area. The rating of the regional economy accounts for 30% of the total score. In addition, S&P's outlook for the U.S. public finance sector is now negative. Fortunately, the Town was able to retain its AA+ rating (second highest rating on the scale). This is thanks in large measure to the fiscal policies adopted by the Selectmen and the disciplined execution of those policies over the past five years.

A summary of the rating for each factor, benchmarks for free cash and reserves vs. local AAA communities and the full rating report are attached for your reference.

S&P Upside scenario: We (S&P) could raise the rating if local economic indicators were to improve and if the town were to continue to manage and address its long-term liabilities while it maintains consistent positive financial performance and increases reserves.

S&P Downside scenario: While unlikely, we (S&P) could lower the rating if the town were to experience a prolonged fiscal imbalance due to rising long-term liabilities costs that could lead to weaker budgetary performance and significant reserve decreases.

S&P advice for maintaining the bond rating and potentially for an increase:

1. Continue to budget local receipts at 85% of prior year actuals for FY 2021.
2. Look to reduce spending to ensure fund balances / reserves do not decrease.

Recommended actions to consider for maximizing Town cash flow and no decrease in fund balance to maintain employees and critical spending – secondary is the S&P Rating:

1. Eliminate non-urgent free cash allocations for the next Town Meeting and re-examine allocating free cash for the Fall Town Meeting, free cash will rollover to the next fiscal year;
2. Close all current articles that are older than two years as per the charter unless the projects have already begun;
3. Do not allow capital spending within the tax levy or other funding sources until the economy and Town receipts sufficiently rebound;
4. Have departments spend all grant dollars allowable prior to spending general fund dollars;
5. Shuttered departments should dramatically decrease all non-employee spending;
6. Be prepared at Town Meeting to cover a Golf Enterprise fund deficit if needed with free cash;
7. Depending on municipal credit markets at the time be prepared to use free cash for the $1.9 million Golf BAN – this is an unlikely need. However, before the stimulus and Federal Reserve quantitative easing, municipal credit markets were in serious trouble.

Ratings maintained at the highest levels possible:

Rating Category	2014 Rating	2016 Rating	Current Rating 2020
Management (20% of rating)	Strong	Very Strong (earned by only the top 15% of municipalities countrywide	Very Strong
Budget Flexibility (10%)	Strong	Very Strong (with the $1 million dollars going to stabilization this May, the Town is now at the lower limit of reserves for a Very Strong rating)	Very Strong
Liquidity (10%)	Very Strong	Very Strong	Very Strong
Debt & Contingent Liability Position (10%)	Very Strong	Very Strong	Very Strong

Categories that prevented the Town from achieving a AAA rating. This represents 50% of our score. The key for the 2020 score was again the economy. Once a AAA is achieved downgrades in the economy by itself will not cause a downgrade.

Rating Category	2014 Rating	2016 Rating	Current Rating 2020
Budgetary Performance (10%)	Strong	Strong (For a very strong rating the funds to support the operating expense budget must exceed the actual expenses by 5%. This essentially means the department givebacks each year must be 5% of the budget – an operating cushion for downturns.)	Strong
Economy (30%)	*Very Strong*	Strong *(S&P downgraded the Barnstable County Metropolitan Statistical Area from Very Strong to Strong. Offsetting this decline were the increases in the Management and Budget Flexibility ratings. This rating is not within Yarmouth's control even with the demonstrated local economic development.)*	Strong (The Barnstable MSA was again downgraded. Once this score increases and we get a AAA, S&P is reluctant to down grade even if this score lowers.)
Institutional Framework (10%)	Strong	Strong (This is a score assigned to all municipalities in Massachusetts based on the State's rating.)	Strong

As a result of the increase in the Management and Budget Flexibility score the Town was able to offset the decrease in the Economy Rating to maintain a AA+ (Stable) rating.

Budgetary Performance Score (the only remaining factor the Town can work to improve if it chooses)

The budgetary performance score measures the current fiscal balance of the government, both from a general fund and total governmental funds perspective. Table 11 details the scoring for this measure.

As indicated in the previous page for a very strong rating the funds to support the operating budget must exceed the expenses by 5%. This essentially means the department give backs each year must be 5% or more. The current percentage is 1.7%.

Table 11
Assessing The Budgetary Performance Score (see paragraphs 65-68)

	Total Governmental Funds Net Result (%)				
General Fund Net Result (%)	> -1	-1 to -5	-5 to -10	-10 to -15	≤ -15
(> 5)	1	2	3	3	4
(-1 to 5)	2	3	3	4	5
(≤ -1)	3	4	4	5	5
A score of '1', '2', '3', '4' and '5' means very strong, strong, adequate, weak, and very weak, respectively.					

The Town may feel it would rather have the current tight budgetary approach rather than to increase the rating on this score. A very strong budgetary performance score will tilt the scoring to 60% very strong vs 40% Strong versus the current 50%/50% Very Strong vs. Strong scoring.

DOR Code	Municipality	Free Cash Certified 2019	Free Cash Certified 2020	Free Cash % of Tax Levy (1)	FY 2018 Stabilization Fund	Stabilization % of Total Levy (DOR 2019 Number) - (2)	S&P Rating	Total Levy 2020
172	Mashpee	9,211,198	9,596,892	19.11%	5,033,169	10.02%	AAA	50,224,018
036	Bourne	8,691,073	8,250,807	15.62%	5,588,053	10.58%	AA+	52,829,049
055	Chatham	5,719,133	5,277,749	14.78%	1,991,406	5.58%	AAA	35,699,116
096	Falmouth	15,588,620	14,670,760	13.75%	15,383,676	14.42%	AAA	106,710,554
300	Truro	2,235,090	2,065,389	12.60%	866,153	5.28%	AA+	16,397,503
020	Barnstable	12,643,236	14,688,744	11.44%	18,533,752	14.44%	AAA	128,392,357
224	Orleans	2,975,988	3,278,345	10.30%	135,127	0.42%	AAA	31,827,519
242	Provincetown	3,552,627	1,893,674	8.80%	1,778,738	8.27%	AA	21,517,176
075	Dennis	4,011,801	3,923,780	8.65%	4,311,865	9.51%	AAA	45,347,111
041	Brewster	1,989,981	2,937,130	8.27%	2,159,142	6.08%	AAA	35,530,848
086	Eastham	1,319,660	1,798,078	6.79%	408,222	1.54%	AA+	26,500,139
318	Wellfleet	1,118,898	**Used FY19**	6.09%	760,963	4.14%	AAA	18,376,951
351	Yarmouth	3,251,701	3,419,403	5.32%	4,277,307	6.66%	AA+	64,265,946
261	Sandwich	2,348,426	2,640,082	3.86%	1,598,030	2.33%	AA+	68,472,184
126	Harwich	3,492,074	1,446,115	2.77%	2,835,173	5.44%	AA+	52,145,765

(1) Yarmouth has a Free Cash % of Total Tax Levy lower than any AAA community i.e. budgeting is tighter than all AAA municipalities. This is the primary sort.

(2) Yarmouth has a Stabilization % of Total Tax Level lower than all but 4 AAA municipalities. This is the secondary sort.

Source: Department of Revenue Databank

S&P Global
Ratings

RatingsDirect®

Summary:

Yarmouth, Massachusetts; General Obligation; Note

Primary Credit Analyst:
Lauren B Carter, Boston + 1 (212) 438 0376; lauren.carter@spglobal.com

Secondary Contact:
Anthony Polanco, Boston + 1 (617) 530 8234; anthony.polanco@spglobal.com

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Rating Action

Stable Two-Year Outlook

Credit Opinion

Related Criteria And Research

Summary:

Yarmouth, Massachusetts; General Obligation; Note

Credit Profile		
US$15.0 mil GO BANs		
Short Term Rating	SP-1+	New
Yarmouth GO		
Long Term Rating	AA+/Stable	Affirmed
Yarmouth GO		
Long Term Rating	AA+/Stable	Affirmed

Rating Action

S&P Global Ratings assigned its 'SP-1+' short-term rating to the Town of Yarmouth, Mass.' $15 million general obligation (GO) bond anticipation notes (BANs), maturing Feb. 15, 2021. S&P Global Ratings also affirmed its 'AA+' long-term rating, with a stable outlook, on the town's existing GO debt.

The short-term note rating reflects our criteria for evaluating and rating BANs. In our view, Yarmouth maintains a very strong capacity to pay principal and interest when the notes come due. The town has what we view as a low market risk profile because it has strong legal authority to issue long-term debt to take out the notes and is a frequent issuer that regularly provides ongoing disclosure to market participants.

Yarmouth's full-faith-and-credit pledge, subject to the limitations of Proposition 2 1/2, secures the existing bonds. We understand that the town voted to exclude the debt service on the notes from the limits of Proposition 2 1/2, but we do not make a rating distinction, as we rate the limited obligation at the same level with our view of Yarmouth's general creditworthiness as expressed in our rating on the unlimited-tax GO bonds. We rate the limited-tax GO debt based on the application of our "Issue Credit Ratings Linked To U.S. Public Finance Obligors' Creditworthiness" criteria (published Nov. 20, 2019).

Officials intend to use note proceeds for the construction of a new Department of Public Works facility.

Credit overview

The rating and outlook reflects S&P Global Ratings' opinion of Yarmouth's strong and well-embedded financial management policies, which we believe will lead to continued positive financial results similar to years past. While unfunded retirement liabilities might pose a long-term credit risk, particularly if costs escalate, we believe the town will absorb any increases in required pension contributions and pay-as-you-go health care costs into the annual levy and budget over the next several years. In addition, we believe a strong reserve and liquidity position provides ongoing rating stability despite the likelihood of a near-term recession due to the global spread of COVID-19 and due to a large anticipated debt project. While we continue to monitor events related to COVID-19, we do not currently expect it to

affect the town's ability to maintain budgetary balance and pay debt service costs. We believe the town's stable, property-tax based revenue source is unlikely to result in materially delayed collections or revenue volatility in the current environment. While For more information, see our article "COVID-19's Potential Effects In U.S. Public Finance Vary By Sector" (published March 5, 2020, on RatingsDirect). In our opinion, management will continue to monitor the budget effects of a potential recession and we believe will continue and make the necessary budgetary adjustments to remain balanced over our two-year-outlook period.

The long-term rating also reflects our view of the town's:

- Strong economy, with projected per capita effective buying income at 121% of the national level and market value per capita of $279,880;
- Very strong management, with strong financial policies and practices under our Financial Management Assessment (FMA) methodology;
- Strong budgetary performance, with operating surpluses in the general fund and at the total governmental fund level in fiscal 2019;
- Very strong budgetary flexibility, with an available fund balance in fiscal 2019 of 21% of operating expenditures, and an ability and willingness to raise taxes when needed;
- Very strong liquidity, with total government available cash at 63.1% of total governmental fund expenditures and 36.7x governmental debt service, and access to external liquidity we consider strong;
- Very strong debt and contingent liability profile, with debt service carrying charges at 1.7% of expenditures and net direct debt that is 24.3% of total governmental fund revenue, as well as low overall net debt at less than 3.0% of market value, but a large pension and other postemployment benefit (OPEB) obligation; and
- Strong institutional framework score.

Stable Two-Year Outlook

Upside scenario

We could raise the rating if local economic indicators were to improve and if the town were to continue to manage and address its long-term liabilities while it maintains consistent positive financial performance and increases reserves.

Downside scenario

While unlikely, we could lower the rating if the town were to experience a prolonged fiscal imbalance due to rising long-term liabilities costs that could lead to weaker budgetary performance and significant reserve decreases.

Credit Opinion

Strong economy

We consider Yarmouth's economy strong. The town, with an estimated population of 22,962, is located in Barnstable County. It has a projected per capita effective buying income of 121% of the national level and per capita market value of $279,880. Overall, the town's market value grew by 6.9% over the past year to $6.4 billion in 2020. The county

unemployment rate was 4.3% in 2018.

Yarmouth is a primarily residential resort community with a portion of summer residents owning second homes or condominiums. The town is about 76 miles southeast of Boston with property along both the bay and ocean sides of Cape Cod. Residential properties make up about 92% of the town's property tax base. Officials indicate the real estate market has remained relatively stable during the past few years. Leading employers include the Dennis-Yarmouth Regional School District (629 employees), EF Winslow Plumbing (200), Red Jacket Resorts (200), and Stop & Shop Supermarket (200).

Overall, we expect Yarmouth's economic profile will likely remain strong as the town continues to benefit from a robust real estate environment in and around Barnstable County. In addition, the town plans to invest in infrastructure and utility in the downtown area to promote further economic development. Although we believe a regional economic slowdown could have an effect on local economic activity, we believe the local economy will likely remain strong due to Yarmouth's desirable location with ample waterfront and coastline properties and continued high-end residential waterfront development.

The global spread of COVID-19, in our view, presents an evolving credit risk that could continue to give rise to volatility, particularly in the region's tourism industry. We understand that the situation will remain fluid in the short term, and we will continue to watch for latent credit stressors for the town, including deterioration in economic and financial performance. Given the town's stable residential tax base, along with its access to several broad and diverse employment centers, we believe any economic effects related COVID-19 would be felt over the longer term.

Very strong management

We view the town's management as very strong, with strong financial policies and practices under our FMA methodology, indicating financial practices are strong, well embedded, and likely sustainable.

The town has taken steps to mitigate exposure to cyber-related risks and has been active in addressing concerns related to rising sea levels that could directly affect taxable properties. In particular, Yarmouth has updated its capital plan to include improvements to sea walls and revetments that will protect properties from damage related to storms, erosion, and sea level rise. Yarmouth also initiated the Cape Cod Energy Park project, which includes an anaerobic digester as well as solar and battery technology. Yarmouth has also become a member of the municipal vulnerability preparedness grant program, providing support to begin the process of planning for climate change and resilience and implementing priority projects. Officials indicate that the project will be completed in a year and a half. While the town continues to plan and support climate-risk mitigation efforts, we note that Yarmouth, as do other Cape Cod communities, receives state and federal support in planning and implementing resiliency projects.

Yarmouth's debt management policy follows state guidelines, limits debt service to 10% of operating revenues, and underlines a target of at least 50% of all debt outstanding to be amortized within 10 years. The town's reserve policy outlines an unreserved fund balance of 5%-10% of expenditures as well as a minimum unrestricted stabilization fund balance equal to 5%-17% of the operating budget (excluding school assessments). In addition, budget practices are conservative and based on at least four years of historical trend analysis. We view budget monitoring sound as budget-to-actual reports are sent to the board of selectmen monthly. Officials maintain a balanced operating budget that projects forward five years as well as a 10-year, annually reviewed capital improvement plan with identified

funding sources. The town's formal investment policy is compliant with state guidelines and formal investment holding and performance reports are provided to the board monthly.

Strong budgetary performance

Yarmouth's budgetary performance is strong in our opinion. The town had operating surpluses of 2.7% of expenditures in the general fund and of 3.5% across all governmental funds in fiscal 2019.

Yarmouth's operations have remained positive over the past several years. We believe a renewed focus on conservative budgeting and an improving economy have catered to a stable budgetary environment. We also believe Yarmouth's ability and willingness to raise taxes to fund capital expenditures has contributed to strong budgetary performance. Furthermore, Yarmouth maintains a stable and predictable revenue profile with property taxes, whose collections we view as strong and stable, contributing 76.5% of 2019 general fund revenue.

Fiscal 2019 results include adjustments for recurring transfers and one-time capital expenditures paid with bond proceeds. Officials mainly attribute the fiscal 2019 general fund surplus to higher-than-budgeted revenue, including excise taxes and licenses and permits. The town benefits from its growing economy and desirable location on the ocean.

Management reports that fiscal 2020 is tracking on budget and the expectation is for another operating surplus, resulting in an increase to available fund balance. As with 2019, management reports that departments are not fully expending appropriations, along with better-than-budgeted revenues, generated positive operating results. Yarmouth is currently in the fiscal 2021 budgeting process. For 2020, local receipts were budgeted at 85.4% of prior-year actuals. Due to COVID-19, the town is making additional adjustments to the fiscal 2021 budget below 85% of actuals and is lowering spending to handle any prolonged issues related to the virus.

Given the town's strong financial controls and proactive budgeting process, we anticipate that management will continue to make adjustments to both revenue and expenditure assumptions, to ensure that the town remains financially balanced. We expect that Yarmouth will maintain strong budgetary performance during the outlook period. However, we also note that future pension and other postemployment benefit (OPEB) costs could become a budgetary pressure due to the pension system's below-average funding ratios and what we view as aggressive assumptions. This is particularly true given the current market environment. We note Yarmouth is funding the pension actuarially determined contribution (ADC) and is pre-funding OPEBs. We believe adjustments to more conservative assumptions could materially affect annual contributions, pressuring the operating budget, particularly if economic conditions worsen.

Very strong budgetary flexibility

Yarmouth's budgetary flexibility is very strong, in our view, with an available fund balance in fiscal 2019 of 21% of operating expenditures, or $16.2 million. In addition, the town has an ability and willingness to raise taxes when needed, which we view as a positive credit factor.

The town's ability and willingness to raise taxes through permanent operating overrides provides additional flexibility. In four of the past five years, Yarmouth has overridden Proposition 2 1#?#2 without an increase in the tax burden on the individual taxpayer. During the last recession, the town used reserves pragmatically to ease operations and we

expect that in another economic downturn, the town would continue this practice. However, given Yarmouth's track record of operating surpluses, coupled with positive results projected for 2020, in addition to the town's willingness to override its levy limit, we expect reserves to remain very strong.

Very strong liquidity

In our opinion, Yarmouth's liquidity is very strong, with total government available cash at 63.1% of total governmental fund expenditures and 36.7x governmental debt service in 2019. In our view, the town has strong access to external liquidity if necessary.

Further enhancing our view of the town's liquidity position is that Yarmouth maintains strong access to external liquidity as it has issued GO bonds frequently in the past several years, including short-term bond anticipation notes. We understand the town has not entered into any bank loans, direct purchase debt, or any contingent liquidity risks from financial instruments with payment provisions that change on the occurrence of certain events. Yarmouth follows state investment guidelines and we do not consider the town's investments aggressive as nearly all investments are in a money markets fund. The town has consistently had very strong liquidity and we do not expect these ratios to change, consistent with our view of the town's strong budgetary performance.

Very strong debt and contingent liability profile

In our view, Yarmouth's debt and contingent liability profile is very strong. Total governmental fund debt service is 1.7% of total governmental fund expenditures, and net direct debt is 24.3% of total governmental fund revenue. Overall net debt is low at 0.3% of market value, which is in our view a positive credit factor.

With this issuance, the town will have about $16.2 million in total direct debt outstanding. About $1.5 million of Yarmouth's debt outstanding is self-supporting. The 10-year capital plan outlines projects, sets priorities, and determines their impact on the town's tax rate.

An additional credit concern is that Yarmouth is under pressure from the state and the Environmental Protection Agency to clean up the wastewater systems on Cape Cod, and is planning to embark on a sizable wastewater capital project to be completed over the next 55 years to replace existing septic systems with sewer. The first anticipated borrowing is for $127 million over a five-year phase starting in fiscal 2022 and $57 million starting in fiscal 2027.The total cost of the project could be as much as $400 million, or closer to $325 million when factoring in grants from the state and federal government. The town is planning to finance these projects through user fees and debt; the additional debt under the wastewater management plan could weaken debt measures from current levels materially. We note, however, that these projects are still in the early stages.

Pension and other postemployment benefits

In our opinion:

- A credit weakness is Yarmouth's large pension and OPEB obligation, particularly given the pension systems' low funded ratio. While the town is currently managing these costs, we believe it has a limited ability to control future pension liability growth.
- Some of the assumptions used by the town's actuaries to build the system's pension ADC are built on what we view as weak assumptions and methodologies, which will likely increase the risk of unexpected contribution escalations.

- Although OPEB liabilities are primarily funded on a pay-as-you-go basis, costs remain low despite the large liability and we expect the town will continue adding to its OPEB trust fund.

Yarmouth participates in the following plans as of June 30, 2019:

- Barnstable County Contributory Retirement System: 57.6% funded, with a net pension liability of $54.3 million.
- A defined-benefit health care plan that provides lifetime health care for eligible retirees and their spouses: 14.03% funded with a net OPEB liability of about $22 million.

Yarmouth's combined required pension and actual OPEB contributions totaled 7.1% of total governmental fund expenditures in 2019. Of that amount, 5.2% represented required contributions to pension obligations, and 1.8% represented OPEB payments. The town makes its ADC annually. Contributions are expected to increase by 5.28% per year on a level percentage-of-pay amortization basis. The adopted funding schedule achieves full funding in a 16-year closed period, ending in 2035. The annual increase, combined with a discount rate of 7.375%, adds risk of cost escalation due to market volatility.

The town also provides OPEBs to retirees. As of June 30, 2019, the most recent actuarial valuation, it reported a $25.6 million total OPEB liability using a discount rate of 7.0%. Yarmouth established an OPEB trust fund in fiscal 2017. Management reports that the value of assets in the trust is approximately $3.6 million. The town currently funds the OPEB trust through a budgetary line item.

Strong institutional framework

The institutional framework score for Massachusetts municipalities is strong.

Related Criteria And Research

- S&P Public Finance Local GO Criteria: How We Adjust Data For Analytic Consistency, Sept. 12, 2013
- Criteria Guidance: Assessing U.S. Public Finance Pension And Other Postemployment Obligations For GO Debt, Local Government GO Ratings, And State Ratings, Oct. 7, 2019
- 2019 Update Of Institutional Framework For U.S. Local Governments

Certain terms used in this report, particularly certain adjectives used to express our view on rating relevant factors, have specific meanings ascribed to them in our criteria, and should therefore be read in conjunction with such criteria. Please see Ratings Criteria at www.standardandpoors.com for further information. Complete ratings information is available to subscribers of RatingsDirect at www.capitaliq.com. All ratings affected by this rating action can be found on S&P Global Ratings' public website at www.standardandpoors.com. Use the Ratings search box located in the left column.

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TOWN OF YARMOUTH

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Finance Department

MEMORANDUM

To: Dan Knapik, Town Administrator

From: Ed Senteio, Finance Director

CC: Rich Bienvenue, Acting Assistant Town Administrator
Jaye Anne Kesten, Assistant Collector/Treasurer
Sue Ripley, Collector/Treasurer

Date: April 3, 2020

Subject: Delaying Real Estate Tax Due Date and Waiving Interest and Penalties

With the signing of the legislation to mitigate the impact on our customers related to Covid-19 either you and/or the Board of Selectmen can now make the following decisions.

1. Delay the due date for the Real Estate tax bills from May 1st to June 1st;

2. Waive the payment of interest and other penalty for late payment of any excise, tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax for payments made after its respective due date but before June 30, 2020 and/or;

3. Change the deadline to apply for exemption from certain property taxes from April 1 to a date no later than June 1, 2020.

The Finance Department's recommendation is to adopt all options above. A cumbersome aspect of bullet # 2 is for the person to prove hardship.

Finance believes a blanket forgiveness of interest and penalties given that Town Hall is closed is more appropriate until June 30 without the need for the Chief Executive to examine individual situation. While this will affect cash flow for the Town this seems to be the most appropriate course of action given the situation.

DLS
DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

Geoffrey Snyder
Commissioner of Revenue

Sean R. Cronin
Senior Deputy Commissioner

Bulletin

BUL-2020-02

An Act to Address Challenges Faced by Municipalities and State Authorities Resulting From COVID-19

TO: Local Officials
FROM: Patricia Hunt, Chief, Bureau of Municipal Finance Law
DATE: April 3, 2020
SUBJECT: **An Act to Address Challenges Faced by Municipalities and State Authorities Resulting From COVID-19**

This Bulletin provides guidance to local officials regarding changes in municipal finance laws included in An Act to Address Challenges Faced by Municipalities and State Authorities Resulting From COVID-19, Chapter 53 of the Acts of 2020, (the Act). Unless otherwise noted below, these changes became effective on April 3, 2020, upon Governor Baker's signing the Act into law.

I. Town Meeting Delays

A. Power of Boards of Selectmen and Town Councils to Delay Annual Town Meeting

Section 1 of the Act - Before its amendment, G.L. c. 39, § 9 provided that an annual town meeting must take place during the months of February, March, April, May or June; however, a board of selectmen or town council, by vote, could delay the annual town meeting as long as the town meeting completed its business on or before June 30th. Section 1 adds the following exception to the June 30th deadline "in the event of an emergency that poses an immediate threat to the health or safety of persons or property that prevents the completion of the business of the delayed town meeting on or before June 30 if the governor has declared a state of emergency with respect to such emergency."

This exception is available, if necessary, to towns that must delay their town meetings beyond June 30, 2020 due to the COVID-19 outbreak and the declaration of a state of emergency by the governor. Towns are advised to consult with their local counsel regarding the form of vote. See Section I-B of this Bulletin for recess and continuation of town meetings by a town moderator where the town meeting warrant has already been issued.

B. Power of Moderator to Continue Scheduled Town Meetings in Event of Public Health Emergency (Application to Districts)

Sections 2 through 4 of the Act - These sections amend G.L. c. 39, § 10A by adding "public health" emergencies as a reason for a moderator to recess and continue town meetings already scheduled by warrant. Prior to the amendment, section 10A applied to weather-related and public safety emergencies. Under the amended section 10A, during and for a period of five days after a weather-related, public safety or public health emergency, a town moderator may, in consultation with public safety or public health officials and the board of selectmen, declare a recess and continuance of the town meeting to another time, date and place certain; however, the continuance is limited to a period of 30 days. There are notice, posting and other requirements regarding the time, date and place of the recessed and continued meeting. Additionally, within 10 days after the initial declaration by the moderator of recess and continuance, a local public safety or public health official designated by the board of selectmen must submit a report to the Attorney General providing the justification for the moderation's continuance.

These amendments also clarify that a moderator may invoke section 10A more than once to recess and continue a town meeting during the same emergency; however, each continuance period must not exceed 30 days and the moderator may not continue the meeting more than 30 days after the rescission of the declaration of emergency by the governor. Additionally, if a town does not have a moderator, the board of selectmen may recess and continue the town meeting under the amended section 10A.

Under G.L. c. 41, § 119 and c. 48, § 66 (fire districts only), the moderator of a district meeting has the powers of a moderator of a town meeting. As a result, a district moderator may recess and continue scheduled district meetings under G.L. c. 39, § 10A. For purposes of section 119, a district means a fire, water, sewer, water pollution abatement, refuse disposal, light, or improvement district, or any other district formed for the purpose of carrying out any of these functions, whether established under general law or special act. G.L. c. 41, § 1A.

Because several town moderators had already invoked Section 10A to recess and continue a scheduled town meeting due to the outbreak of COVID-19, the amendments to section 10A were made retroactive to March 10, 2020. (See Section 19 of the Act.)

II. Emergency Liabilities in Excess of Appropriation if the COVID-19 Emergency Prevents the Adoption of an Annual Budget

Section 5 of the Act - Under G.L. c. 44, § 31, no department financed by municipal revenue, or in whole or in part by taxation, of any city, town or special purpose district, except Boston, may incur liabilities in excess of appropriation "except in cases of major disaster, including, but not limited to, flood, drought, fire, hurricane, earthquake, storm or other catastrophe, whether natural or otherwise, which poses an immediate threat to the health or safety of persons or property, and then only upon a declaration by the governor of a state of emergency with respect to the disaster ...." On March 10, 2020, the Governor declared a state of emergency regarding COVID-19. As a result, cities, towns and special purpose districts may, with the approval of the Director of Accounts (director) of the Division of Local Services (DLS), expend from any available funds in the treasury in relation to the emergency without an appropriation by following the procedure described in Bulletin 2020-1.

Section 5 amends G.L. c. 44, § 31 by inserting the following:

> If the declared emergency prevents the adoption of an annual budget by a town or district by the June 30 preceding the start of the fiscal year, the board of selectmen, town council or district commissioners shall notify the director and the director may approve expenditures, from any appropriate fund or account, of an amount sufficient for the operations of the town or district during the month of July not less than 1/12 of the total budget approved by the town or district in the most recent fiscal year pursuant to a plan approved by the board of selectmen, town council or district commissioners and such authority shall continue for each successive month while the emergency continues to prevent the adoption of a budget. The director may promulgate and revise rules or regulations regarding the approval of emergency expenditures described in this section and accounting with regard to such expenditures.

This amendment will allow deficit spending, with the approval of the director, on a month-to-month basis in fiscal year 2021 if the town or district was prevented from adopting a budget for fiscal year 2021 due to Governor Baker's Declaration of Emergency issued on March 10, 2020. Additional guidance will be issued by the director, like that contained in Bulletin 2020-01, that will explain the procedure to follow to obtain the director's approval to deficit spend under this provision.

III. Director's Authority to Allow Appropriations after June 30, 2020 from Free Cash Certified as of July 1, 2019

Section 6 of the Act provides:

> "...[I]f the adoption of an annual budget in a city, town or district is delayed beyond June 30, 2020, as a result of the governor's March 10, 2020 declaration of a state of emergency or the outbreak of the 2019 novel coronavirus, also known as COVID-19, the director of accounts of the department of revenue may authorize the appropriation from the available balance of the city's, town's or district's undesignated fund balance or "free cash" certified by the director under section 23 of chapter 59 of the General Laws as of July 1, 2019, as a funding source for the city's, town's or district's fiscal year 2021 expenditures, including, but not limited to any such undesignated fund balance in an enterprise fund or special revenue account...."

Ordinarily, under G.L. c. 59, § 23, appropriations from certified free cash may only be made until the June 30th following its July 1 certification date. As a result, free cash certified by the director as of July 1, 2019 is available for appropriation only up to and including June 30, 2020. This section allows the director to authorize the appropriation from free cash certified as of July 1, 2019 after June 30, 2020 where the city, town or district has been prevented from adopting its FY 2021 annual budget by June 30, 2020 due to the Governor's March 10, 2020 declaration of a state of emergency or the outbreak of the 2019 novel coronavirus. Once a city, town or district can meet and adopt its FY 2021 budget, this section will allow the director to permit appropriations from free cash certified as of July 1, 2019 as a funding source for its FY 2021 expenditures. Pursuant to Section 6, the director will issue additional guidance regarding the implementation of this provision.

IV. Amortization of Deficit Resulting from COVID-19 Over a Three-year Period

Section 7 of the Act - Under G.L. c. 44, § 31, deficit expenditures not otherwise provided for must be funded in full when setting the tax rate for the next fiscal year. Section 7 of the Act permits the amortization over a three-year period of the amount of a city, town or district's fiscal year 2020 deficit resulting from the outbreak of the 2019 novel coronavirus also known as COVID-19, as described in the governor's March 10, 2020 declaration of a state of emergency. This applies to both expenditure deficits and revenue deficits related to the emergency. Examples of revenue deficits that could result from the emergency are reduced meals tax and room occupancy revenues. This legislation is similar to St. 2015, c. 10, § 58 which, due to the extreme snow removal costs incurred the previous winter, permitted amortization of snow and ice expenditure deficits over three years. Again, the director will issue additional guidance on the implementation of this section.

V. Continuation of Expenditure Authorization for Departmental Revolving Funds under G.L. c. 44, § 53 E ½ in FY 2021

Section 8 of the Act - Under G.L. c. 44, § 53 E ½, a city or town may authorize by bylaw or ordinance one or more revolving funds and must annually before July 1 vote the limit on the total amount that may be expended from each revolving account. Section 8 of the Act allows the continued expenditure in FY 2021 from these departmental revolving funds at the same level of expenditure authorized by the city or town for FY 2020 until the city or town adopts its FY 2021 annual budget at which time the legislative body of the city or town must adopt the FY 2021 expenditure limits for each departmental revolving fund.

VI. Suspension of Time Period for Cities and Towns to Exercise Right of First Refusal to Purchase Lands Classified under G.L. c. 61, 61A and 61B

Section 9 of the Act - Section 9 suspends the time periods that require a city or town to "act, respond, effectuate or exercise an option to purchase" under G.L. c. 61, § 8, c. 61A, § 14 and c. 61 B, § 9. The suspension is during and for a period of 90 days after the termination of the governor's March 10, 2020 declaration of a state of emergency. If a city or town receives notice of intent to convert or sell classified land during this period, we advise that local counsel be contacted for advice.

VII. Due Dates of Real and Personal Property Tax Bills and Applications for Exemptions and Waiver of Interest on Certain Late Payments

Sections 10 and 11 of the Act include several provisions regarding local tax bills.

A. Local Option to extend the Due Dates of Property Tax Bills

Sections 10(a)(i-iii) include a local option to extend the due dates of property tax bills under G.L. c. 59, §§ 57 and 57C from April 1, 2020 (for semi-annual billing communities with annual

preliminary bills) or May 1, 2020 to a date not later than June 1, 2020. This local option applies to semi-annual tax billing communities and quarterly tax billing communities. The local option is exercised by the chief executive officer of a city, town or district. The chief executive officer is a mayor in a city and the board of selectmen in a town unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter. In a district, the chief executive officer is the prudential committee or commissioners.

B. Local Option to Extend the Due Date for Exemption and Deferral Applications

Section 10(a)(iv) includes a local option to extend the due date under G.L. c. 59, § 59 for applications for exemptions from April 1, 2020 to a date not later than June 1, 2020. This due date extension, if exercised, will automatically apply to deferrals under G.L. c. 59, § 5[18A] and [41A], residential exemptions under G.L. c. 59, § 5C and small commercial exemptions under G.L. c. 59, § 5I. This second local option is exercised in the same manner described in Section VII-A of this Bulletin.

C. Local Option to Waive Interest on Certain Payments Made After Due Dates

Section 11 includes a local option to waive interest and other penalty for late payment of any excise, tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax for any payments with a due date on or after March 10, 2020 where payment is made after its respective due date but before June 30, 2020. This third local option is also exercised in the same manner described in Section VII-A of this Bulletin.

This section allows the waiver of interest and penalties regarding late payments of bills with a due date of March 10, 2020 or after, when such bills are paid late but paid on or before June 30, 2020. This section does not permit waiver of interest and penalties regarding bills with due dates before March 10, 2020 or if the bill is not paid by June 30, 2020.

Section 11 also provides that a city or town shall not terminate an essential service of a resident, including but not limited to, water, trash collection or electricity, for nonpayment of taxes or fees with due dates on or after March 10, 2020 if paid on or before June 30, 2020, if the inability to pay resulted from circumstances related to the outbreak of COVID-19 or the governor's March 10, 2020 declaration of a state of emergency.

D. Clarification of Due Dates When Municipal Office is Closed Due to COVID-19

Section 10(b) - Under G.L. c. 59, §§ 57, 57C and 59, there is an automatic extension of due dates for tax payments and applications for exemptions when a municipal office is closed for a weather-related or other public safety emergency until the next day that the municipal office is open. Section 10(b) of the Act clarifies that these automatic extensions do not apply if municipal offices are closed as a result of the outbreak of the 2019 novel coronavirus or the declaration of a state of emergency issued by the governor on March 10, 2020 and that due dates shall only be extended by the exercise of the local options described in Sections VII- A and B of this Bulletin.

E. Notice to Taxpayers

Tax bills (with due dates of April 1, 2020 or May 1, 2020) should have already been mailed in the formats described in IGR 2019-1, IGR 2019-2, IGR 2019-3 or IGR 2019-4, as applicable. Where

tax bills have been mailed, the attached Notice must be sent to taxpayers by separate mailing if any of the local options described above are exercised. If a city or town has not adopted all three local options or June 1, 2020 due dates, the attached Notice must be amended, as appropriate, by the city or town to reflect its exercised options.

If the tax bills have not been mailed and any of the above local options are exercised, the format and content of the tax bills themselves should not be changed. Instead, tax bills should be issued in the form described in IGR 2019-1, IGR 2019-2, IGR 2019-3 and IGR 2019-4, as applicable, and the mailing must include the attached Notice (worded to reflect the local options and due dates approved by the city/town) in the same mailing as the tax bill. (See Sections IV-B-1 of IGR 2019-1, IGR 2019-2 and IGR 2019-3 and Section V-B-1 of IGR 2019-4 for insertion by collector of tax billing information in same envelope as a tax bill.)

VIII. Waiver for Hours Worked and Earnings Received During State of Emergency Regarding Services Performed by Certain Retirees Under G.L. c. 32

Section 14 of the Act includes a waiver for hours worked and earnings received by certain retirees during the state of emergency. Cities and towns are advised to contact the Public Employee Retirement Administration Commission (PERAC) for more information regarding this section.

IX. Other Provisions of the Act

The Act also includes other non-finance provisions related to cities and towns, including **Section 17** regarding the suspension of certain deadlines affecting local permits and local permitting authorities. Cities and towns are advised to review the Act with their local counsel.

SAMPLE NOTICE TO TAXPAYERS
TO BE INCLUDED WITH TAX BILL OR SEPARATELY MAILED
(Samples should not be used without the advice of municipal counsel.)

Town/City of _____

Important information Regarding Your Tax Bill

Under "An Act to Address Challenges Faced by Municipalities and State Authorities Resulting From COVID-19," Chapter 53 of the Acts of 2020, the town/city has adopted local options to extend due dates for real and personal property tax payments and applications for exemptions and a waiver of interest on certain municipal tax and other bills paid by June 30, 2020. See below.

1. **The due date of your real and personal property tax bill has been extended to June 1, 2020**. June 1, 2020 is the new due date even if the due date for payment on your enclosed or previously mailed tax bill is April 1, 2020 or May 1, 2020.

2. **The due date for applications for property tax exemptions has also been extended to June 1, 2020**. June 1, 2020 is the new due date even if the due date for applications on your enclosed or previously mailed tax bill is April 1, 2020.

   This extension applies to applications for the exemptions listed in the third paragraph of G.L. c. 59, § 59, including exemptions under clauses 17, 17C, 17C1/2 and 17D (seniors, surviving spouses, minor children of deceased parent); 18 (financial hardship – activated military, age and infirmity); 22, 22A, 22B, 22C, 22D, 22E, 22F and 22H (veterans, surviving spouses and surviving parents); 37 and 37A (blind persons); 41, 41B, 41C and 41C1/2 (seniors); 42 and 43 (surviving spouse and minor children of firefighter/police officer killed in line of duty); 52 (certain eligible seniors); 53 (certain eligible properties with septic systems); 56 (National Guard and reservists on active duty in foreign countries); and 57 (local option tax rebates). This extension also automatically applies to applications for residential exemptions under G.L. c. 59, § 5C, for small commercial exemptions under G.L. c. 59, § 5I and for deferrals under G.L. c. 59, § 5, clauses 41A (seniors) and 18A (poverty or financial hardship due to change to active military).

3. The town/city has also voted to waive interest and other penalty for late payment of any excise, tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to a tax for any payments **with a due date on or after March 10, 2020 where payment is made late but before June 30, 2020.** This applies to late payments of bills that have a due date of March 10, 2020 or after, when such bills are paid late but paid on or before June 30. This waiver of interest does not apply to bills with due dates before March 10, 2020 or if the bill is not paid by June 30.

NOTE - If the municipal offices are closed on the June 1, 2020 extended due date for tax payments or filing of exemption applications as a result of the outbreak of the 2019 novel coronavirus or the declaration of a state of emergency issued by the governor on March 10, 2020, the due dates for tax payments and applications for exemptions are not extended – they will be due on June 1, 2020 even if the municipal offices are closed. (See section 10(b) of the Act.)

[City/town should add information on how/where to make tax payments and file applications for exemptions, for example, by mail, through an on-line payment system or dropping payment into a lockbox (with the location). The city/town should also provide a telephone number where questions to local officials can be directed and the address of any relevant website information.]

TOWN OF YARMOUTH

DEPARTMENT OF PUBLIC WORKS

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Telephone (508) 398-2231 ext. 1250 Fax (508) 771-7998

Admin & Engineering
Buildings & Grounds
Highway
Waste Management
Water & Wastewater

To: Yarmouth Board of Selectmen
Daniel Knapik, Town Administrator

From: Jeffrey Colby, DPW Director
Roby Whitehouse, Waste Management Superintendent

Date: April 9, 2020

Subject: Disposal Area sticker recommendation related to COVID-19

I understand that the Board of Selectmen are considering an extension to June 1st for the deadline for taxpayers to pay their property tax bill. As you are aware, recent legislation also states that the Town cannot terminate an essential service (trash disposal) of a resident for non-payment of taxes or fees. So as to be consistent with the property tax deadline extension, I recommend that the requirement to purchase a Disposal Area sticker be extended to June 1st. Current Disposal Area stickers would be valid until June 1st.

This is also consistent with the extension date that the Town of Dennis has adopted for their Disposal Area stickers. Please let me know if you have any questions regarding this recommendation.

APPROVAL

OF

MINUTES

Board of Selectmen
Public Meeting Minutes
August 27, 2019

The regular meeting was called to order at approximately 6 p.m. in the Town Hall Hearing Room by Chairman Stone. Selectmen present: Erik Tolley, Tracy Post, Michael Stone, Mark Forest, and Norm Holcomb. Also attending: Yarmouth Town Administrator Dan Knapik; and Yarmouth Interim Assistant Town Administrator Rich Bienvenue.

1. Public Hearings

a. Special Wine & Malt License for Chamber of Commerce Miniature Golf Tournament

Chairman Stone read the legal ad into the record and noted there was no written correspondence regarding this application. Tom Nickinello, President of the Yarmouth Chamber of Commerce, and Jenn Werner, Communications Director for the Yarmouth Chamber of Commerce, presented their request for a one-day special wine and malt liquor license for a mini-golf tournament. No one offered any public comment on the application.

MOTION: To move to close the public hearing.
Motion by: Tracy Post **Seconded by: Mark Forest** **Yea 5 Nay 0**

MOTION: To move to approve the application as presented.
Motion by: Tracy Post **Seconded by: Mark Forest** **Yea 5 Nay 0**

2. Proclamation to Amy von Hone

The Board of Selectmen presented a proclamation to Amy von Hone, outgoing Assistant Health Director for the Town of Yarmouth, thanking her for her dedication to her job and service to the community for over 29 years. Christine Greeley also thanked Ms. von Hone for her invaluable assistance to the Yarmouth Substance Abuse Committee. Bruce Murphy, Yarmouth Health Director, also offered words of appreciation for Ms. von Hone's service to the community.

3. DY Agreement Vote

Chairman Stone explained that the Board of Selectmen have been presented with a proposed DY School Agreement, which puts the Board's previous memorandum of understanding with the Town of Dennis in legal terms. Mr. Stone explained that this agreement has previously been approved by the DY School Committee and by the Town of Dennis.

MOTION: To move to place and support the DY School Agreement article on the October 29, 2019 Special Town Meeting warrant.
Motion by: Tracy Post **Seconded by: Mark Forest** **Yea 5 Nay 0**

4. YPD Parking Regulations Amendment

Officer Phil Magnuson presented a proposed revision to update Town of Yarmouth parking regulations. It was explained that these revisions aimed to design a new parking ticket which better reflects current state law and practice. Mr. Magnuson explained that the main thing that was

changed was to increase the parking fine in beach areas to $35. A parking clerk was also proposed to be established for people who want to appeal a parking ticket. Selectmen stated that the Town Clerk should serve as the parking clerk instead of a Yarmouth Police officer for due process reasons. Selectmen also requested that the parking regulations be revised to include the easterly side of Center Street to Homers Dock Road on the list of areas where these parking regulations are in effect. It was noted that if approved, these revisions would be put into effect immediately. Town Clerk Phil Gaudet and Dave Carlson of the Parks and Recreation Department indicated that they supported these regulations.

MOTION: To move to approve the revised Yarmouth Parking regulations with the amendments of naming the Town Clerk as the parking clerk and the addition of the east side of Center Street to Homers Dock Road to be included in the areas subject to these regulations.
Motion by: Erik Tolley **Seconded by: Norm Holcomb** **Yea 5 Nay 0**

5. Wastewater Update

Dan Knapik, Town Administrator, presented a wastewater planning update to the Board of Selectmen. He explained that there is a tri-town Dennis/Harwich/Yarmouth (DHY) Board of Selectmen meeting scheduled to be held on September 19th at 6:00 p.m. at the Harwich Community Center. Meeting topics include: DHY Special Legislation Update; DHY Partnership overview and cost projections; DHY Agreement Update; a schedule/next steps for the process. Mr. Knapik also explained that the DHY Special Legislation was approved by the State's House of Representatives last week and now resides with the State Senate. It is the hope that the bill will be approved by early October for the Governor's final review/approval.

It was also explained that there is consideration to schedule a joint meeting with the Board of Selectmen and the Community Preservation Committee on September 10th to discuss the establishment of a Water Infrastructure Investment Fund and a potential corresponding reduction to the Community Preservation Act surcharge. Selectmen also discussed whether or not wastewater articles should be placed on the upcoming Special Town Meeting in the fall, and it was noted that, since Harwich has decided not to hold a Town Meeting in the fall, it would be a moot point to place any DHY articles on Yarmouth's Special Town Meeting (since DHY will need to be approved by all three towns).

The Conservation Law Foundation's (CLF) potential legal action against towns for not solving water quality issues was also discussed, and it was noted that CLF has expressed some displeasure with the amount of progress being made on this topic by some Cape Cod towns.

Selectman Forest suggested that Selectmen should have a robust public discussion of the proposed DHY Agreement. Selectmen agreed to hold a wastewater workshop meeting on September 17th to discuss this and other wastewater items.

6. FY20 BOS Goals Review

Selectmen reviewed the progress of their FY20 goals. The wastewater planning goals were reviewed, and it was noted that the Town was on track to meet these goals. Selectman Forest suggested adding community outreach to the wastewater goals. Selectman Post suggested eliminating preserving open space as a goal, and other Selectmen agreed. Selectman Holcomb suggested that the Town be more specific with their goals going forward, such as stating quantitative objectives. Selectman Forest stated his support for the current Envisio goal tracking software/system and suggested the Town continue to move forward with this platform.

7. Board of Selectmen

a. Committee Appointments

MOTION: To move that the Board of Selectmen appoint Edwin Hoopes to the Conservation Committee for a term expiring June, 2022.
Motion by: Tracy Post **Seconded by: Mark Forest** **Yea 5 Nay 0**

MOTION: To move that the Board of Selectmen appoint Robert Hyslop as an alternate member to the Yarmouth Historical Commission for a term expiring July, 2020.
Motion by: Tracy Post **Seconded by: Michael Stone** **Yea 5 Nay 0**

MOTION: To move that the Board of Selectmen appoint Sam Lawrence as an alternate member to the Yarmouth Historical Commission for a term expiring July, 2020.
Motion by: Tracy Post **Seconded by: Erik Tolley** **Yea 5 Nay 0**

b. Approval of Minutes for March 26, 2019

MOTION: To move that the Board of Selectmen approve the minutes of March 26, 2019.
Motion by: Tracy Post **Seconded by: Mark Forest** **Yea 4 Nay 0**
(Erik Tolley abstained)

c. Upcoming Agenda Review

The next Board of Selectmen meeting will take place on September 10, 2019. There will be a couple of Special Entertainment License applications to be reviewed, as well as a DHY update. The Special Town Meeting warrant articles will also be reviewed. The Yarmouth Business and Permitting Guide presentation will also be on an agenda in the near future.

Selectman Holcomb left the meeting room at approximately 7:50 p.m.

d. Individual Items

Selectman Tolley reminded bike riders to stop at all stop signs.

8. Town Administrator Items

a. Consent Agenda

Dan Knapik, Town Administrator, presented the Consent Agenda to the Board of Selectmen. He explained that there were various donation requests on the agenda to be approved.

MOTION: To move that the Board of Selectmen approve the consent agenda.
Motion by: Tracy Post **Seconded by: Mark Forest** **Yea 4 Nay 0**

b. Town Administrator Updates

Dan Knapik, Town Administrator, noted that the Yarmouth Fire Department recently received a $177,214.54 grant for personal protective equipment through the Federal Government. He also noted that the Captain Gladcliff affordable apartments could now be applied for. Finally he mentioned that

August 31st was Overdose Awareness Day and the Town would be installing purple lights at various locations to honor this event.

9. Adjourn

MOTION: To move that the Board of Selectmen adjourn the meeting.
Motion by: Mark Forest **Seconded by: Erik Tolley** **Yea 5 Nay 0**

Meeting adjourned at approximately 8:05 p.m.

Respectfully submitted,

Linda Dennehy

DISTRIBUTED MATERIAL AGENDA PACKET

- Special Wine & Malt Application for Yarmouth Chamber of Commerce
- Proposed Revision to YPD Parking Regulations
- Memo to BOS from Town Administrator dated August 22, 2019 re: Wastewater Update
- FY20 BOS Goals – Full Plan Report
- Memo to BOS from Appointments Chairman dated August 21, 2019 re: Appointment to Conservation Commission
- Memo to BOS from Appointments Chairman dated August 22, 2019 re: Appointment to Historical Commission
- Draft BOS Meeting Minutes for March 26, 2019
- 2019 BOS Upcoming Agenda Items Schedule
- Memo to BOS from Recreation Division dated August 20, 2019 re: Donations
- Letter to BOS from The Garden Club of Yarmouth dated August 6, 2019 re: Permission to solicit donations at the landfill
- Memo to BOS from YPD dated August 8, 2019 re: Donation Approval Request
- Captain Gladcliff Affordable Apartments Lottery Flyer

TOWN OF YARMOUTH
BOARD OF SELECTMEN
PROJECTED 2020 AGENDA ITEMS

MEETING DATE		BUDGET SCHEDULE DUE DATES	REGULAR BOS AGENDA ITEMS
FEBRUARY 27	SAE		• TRI-TOWN BOS MEETING
MARCH 3	NO MEETING ELECTIONS		
MARCH 10			• EXECUTIVE SESSION: COLLECTIVE BARGAINING • NEW GENERAL PREMISE ALCOHOL LICENSE & WEEKDAY & SUNDAY ENTERTAINMENT LICENSES FOR ALPHA ENTERTAINMENT GROUP LLC DBA THE MUSIC ROOM • SHELLFISH LEASE REALLOCATION • CPC ARTICLE REVIEW • FY21 COMMDEV BUDGET REVIEW • FY21 FINANCE DEPARTMENTAL BUDGET REVIEW • FY21 ELECTED AND GENERAL BUDGET REVIEW
MARCH 16	***MONDAY MEETING***	• *FINAL BOS RECOMMENDA-TIONS ON ARTICLES*	• CHANGE OF MANAGER FOR BLUE WATER; RIVIERA BEACH; AND BLUE ROCK CLUB • FY21 CCRT BUDGET REVIEW • FY21 INSPECTIONAL SERVICES BUDGET REVIEW • FY21 COMMUNITY SERVICES BUDGET REVIEW • APPROVE 2020 ATM WARRANT
MARCH 19	NO MEETING		• ***DEADLINE FOR ATM WARRANT TO PRINTER & THE REGISTER***
MARCH 24	NO MEETING		
MARCH 31	NO MEETING		
APRIL 7	TBD		•
APRIL 14			• PUBLIC HEARING: MANAGEMENT AGREEMENT AMENDMENT FOR THE HARBOUR CLUB DBA TUGBOATS • CEDC GOALS AND SUPPORT OF WASTEWATER; AND SPECIAL EVENTS
APRIL 21	NO MEETING PATRIOTS DAY		
APRIL 28			• PUBLIC HEARING; FY 21 BUDGET PRESENTATION WITH FINCOM, CBC AND DYRSD • WEIGHTS & MEASURES IMA
MAY 5			• LEGAL SERVICES REVIEW • MVP PROJECT UPDATE • CAPE LIGHT COMPACT PRESENTATION

Updated 4/9/2020

TOWN OF YARMOUTH
BOARD OF SELECTMEN
PROJECTED 2020 AGENDA ITEMS

MEETING DATE		BUDGET SCHEDULE DUE DATES	REGULAR BOS AGENDA ITEMS
MAY 12	NO MEETING		
MAY 19	TOWN MEETING		
MAY 26	NO MEETING MEMORIAL DAY		

- RENAMING POLICY
- COMMITTEE REPORTS
- DHY AGREEMENT
- CLEAN WATER TRUST
- MATTACHEESE BUILDING & REUSE COMMITTEE
- FINANCE UPDATE ON INTERNAL CONTROLS
- BARNSTABLE MUNICIPAL AIRPORT – AIRPORT MASTER PLAN (JUNE)
- CAPE COMMISSION UPDATE (JUNE)

Updated 4/9/2020