

**TOWN OF FALMOUTH
ARTICLES OF THE WARRANT
SPECIAL TOWN MEETING
April 4, 2006**

1	Land Purchase - 480 Main Street
2	Fund Municipal Sanitary Sewer System - New Silver Beach Area
3	Determine Municipal Sanitary Sewer System Cost Disbursement - New Silver Beach Area
4	Amend Falmouth Code - Chapter 191 SOLID WASTE
5	Fire and Police Department Line of Duty Injury
6	Health Insurance
7	Workers Compensation Fund
8	Fund Superior Officers Contract
9	Fund Debt Issuance Costs
10	Appropriate Funding for Community Preservation Debt
11	Appropriate School Foundation Reserve Award - Falmouth High School
12	Fund Long Pond Pump Station Repairs
13	Fund Gus Cauty Recreation Center Roof Repairs
14	Transfer Overlay Funds
15	Wind Energy Facilities Authorization
16	Funding Article

ARTICLE 1: To see if the Town will vote to authorize the Board of Selectmen to PURCHASE OR TAKE BY EMINENT DOMAIN land in Falmouth, Barnstable County, Massachusetts, being the land with the buildings located thereon at 480 Main Street in Falmouth Village now or formerly owned by Eric W. Ruschky and described in deeds recorded in the Barnstable County Registry of Deeds in Book 16954, Page 349, and in Book 17423, Page 137, and further to appropriate a sum of money for the acquisition of the foregoing land, including costs incidental and related thereto, and further to authorize the Board of Selectmen or its designee to accept any further gifts of property, real, personal or otherwise, in relation to the foregoing acquisition and to enter into any agreements and to execute all documents it deems advantageous on behalf of the Town, for partial or full reimbursements of the cost of acquisition, and to determine how the same shall be raised, including borrowing said sum or any part thereof pursuant to Chapter 44, Section 7(3) of the Massachusetts General Laws, or any other enabling authority and to issue bonds or notes of the Town therefore, and by whom expended and further to make this appropriation subject to the vote of an exclusion from the provision of Proposition 2 ½. Or do or take any other action on this matter. On request of the Board of Selectmen.

VOTED: By a declared two thirds vote, a quorum being present on Tuesday, April 4, 2006 the Town voted Indefinite Postponement of Article 1.

ARTICLE 2: To see if the Town will vote to appropriate a sum of money for the purpose of constructing a municipal sanitary sewer system to serve the New Silver Beach area, and to determine how the same shall be raised and by whom expended. Or do or take any other action in this matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 4, 2006 the Town voted Indefinite Postponement of Article 2.

ARTICLE 3: To see if the Town will vote to determine what percentage of the cost of building the sewer system in the New Silver Beach Sewer Service Area, which includes land acquisition, design permitting, construction and equipment costs, shall be paid by abutting landowners by betterment assessments and by the Town from other funds. Or do or take any other action in this matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 4, 2006 the Town voted Indefinite Postponement of Article 3.

ARTICLE 4: To see if the Town will vote to amend Chapter 191 Solid Waste By-Law of the Code of Falmouth by deleting Chapter 191 in its entirety and inserting in its place the following:

Chapter 191, SOLID WASTE

ARTICLE I, Waste Management Facility Regulations

§ 191-1. Definitions.

For the purpose of this Article, certain words and terms are defined as follows:

BULKY WASTES-- Solid Waste comprised of large discarded materials such as appliances, furniture, mattresses, and other metal wastes.

C&D DEBRIS—Materials resulting from the construction and demolition (C&D) of buildings and other structures, including materials such as metals, wood, gypsum, asphalt shingles, roofing, concrete, rocks, rubble, soil, paper, plastics and glass, but excluding putrescible wastes.

DEMOLITION -- All refuse or residue, except concrete and masonry rubble, resulting directly from building or site construction, reconstruction, repair or demolition, or other incidental work in connection with any premises.

DEPARTMENT -- The Department of Public Works of the Town of Falmouth.

DIRECTOR -- The Director of Public Works of the Town of Falmouth.

GARBAGE -- All putrescible animal or vegetable wastes.

HAZARDOUS WASTE -- Solid Wastes with properties that make them dangerous or capable of having a

harmful effect on human health and the environment. Under RCRA, Hazardous Wastes are specifically defined as wastes that exhibit a specific characteristic (toxicity, flammability, ignitability or infectious) or are specifically listed as a hazardous waste in the Subtitle C.

REFUSE -- Non-Putrescible solid waste. Contrast “garbage”.

SOLID WASTE—Any garbage, refuse, sludge, and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from residential habitation; industrial, commercial, mining, and agricultural operations; and community activities.

WHITE GOODS – Discarded household appliances such as stoves, refrigerators, and washing machines.

§ 191-2. Responsibility for refuse disposal.

The Department of Public Works for the Town of Falmouth shall have power and is hereby empowered to take such measures, as it shall deem effectual for the disposal of solid waste in the Town of Falmouth under the rules and regulations. The operation of the Waste Management Facility shall be under the supervision of the Director of Public Works.

§ 191-3. Management of Waste Management Facility. Management of the Waste Management Facility shall be under the jurisdiction of the Department of Public Works.

§ 191-4. General rules governing use of disposal area.

- A. Any person, firm or corporation shall deposit or cause to be deposited solid waste in areas within the Waste Management Facility that are designated as such to accept that particular type of solid waste. The Waste Management Facility gate attendant or operator may hold for examination or reject any material he believes may be hazardous waste until a proper determination can be made.
- B. The Waste Management Facility operated and maintained by the Department shall be for the disposal of acceptable solid waste generated within the boundaries of the Town of Falmouth. All wastes originating outside the town's boundaries are expressly prohibited. Hours of operation are posted at the entrance gate and periodically advertised.
- C. All materials delivered and deposited in the Waste Management Facility shall remain the property of the Department. No person shall separate, collect or carry off such materials unless authorized to do so by the Director. Items deposited at the Swap Shop are an exception to this rule.

§ 191-5. Solid waste considered not acceptable.

The following solid waste shall be considered not acceptable for disposal at the disposal area:

- A. Dangerous chemicals, other hazardous wastes, explosive materials or materials of unknown composition will not be accepted unless special arrangements are made with the Department and/or Health or Fire Department.
- B. Tree stumps, branches and woody stems. Leaves, grass clippings and garden waste must be deposited at the town composting facility on Blacksmith Shop Rd.
- C. Materials of any kind or nature, including ashes, that contain hot live coals or fire.
- D. Auto car or truck bodies.
- E. Whole house and/or principal structure demolition and concrete and masonry rubble.
- F. Dead animals and road kill.
- G. Asbestos including shingles, tile and insulating materials containing asbestos.
- H. Boat hulls of fiberglass, plastic or wood over 17 feet.
- I. Ammunition or explosives.

J. Paint, stains and solvents.

§ 191-6. Refuse considered acceptable.

The following solid waste shall be considered acceptable, subject to special conditions:

- A. Tires shall be off the rim. Tires larger than seventeen (17) inches in diameter will be subject to a fee.
- B. Leaves, grass clippings and succulent growth will not be accepted at the main facility, but shall be deposited at the leaf composting area on Blacksmith Shop Road. [Added STM 10-25-1989, Art. 55]

§ 191-7. Solid waste in open trucks.

All solid waste in open trucks must be covered and tied down.

§ 191-8. User fees.

The Board of Selectmen, unless otherwise provided by statute, shall annually establish and promulgate fees to be charged.

A. Stickers

- (1) Falmouth residents may purchase stickers by mail or at Town Hall.
- (2) A sticker is a PERMIT. This permit may be revoked or suspended by the Department of Public Works or its agents, for misuse or cause.
- (3) Stickers must be attached to the lower left of the front windshield of the vehicle registered to it. It is not transferable. If the vehicle is sold or the glass replaced, the sticker must be removed. A new sticker will be issued upon delivery of the old one to Town Hall.
- (4) A one time pass to the Waste Management Facility may be purchased from the gate keeper or at Town Hall upon proof of residency.
- (5) Vehicles without a sticker may stop at the gatehouse to deposit certain hazardous materials (waste oil, antifreeze, fluorescent bulbs and ballasts) after showing proof of residency and then must exit the facility.

B. Fees will be collected by the gate attendant at the time of entry.

C. Nonresident/taxpayer-owned vehicles will be treated in the same manner as resident/taxpayer-owned vehicles.

§ 191-9. Violations and penalties.

A penalty in accordance with Chapter 1, General Provisions, Article I, Penalties, of the Code of the Town of Falmouth will be imposed on violators of these rules and regulations for each offense committed.

Or do or take any other action on this matter. On request of the Solid Waste Advisory Committee.

RECOMMENDATION (Board of Selectmen): That the Town vote Article 4 as printed with the following additions:

§ 191-10. Hours of collection.

The collection of garbage, rubbish and other solid wastes including the collection of recyclable materials, shall be limited to the hours of 7:00 a.m. to 7:00 p.m. in the Town of Falmouth.

§ 191-11. Off-hour collections.

The Board of Health may license off-hour collection of garbage, rubbish and other solid wastes, but not recyclable materials, from nonresidential structures located in business, agricultural, light industrial, public use and marine zoning districts as defined in the Falmouth Zoning Bylaw, Ch. 240, Code of Falmouth, when it

determines that off-hour collection is necessary to protect the public health.

§ 191-12. Term of license.

A license shall be issued for a period of time not to exceed three years.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 4, 2006 the Town voted Article 4 as recommended.

ARTICLE 5: To see if the Town will vote to appropriate the sum of \$15,000 for the purpose of funding hospital, medical and related expenses incurred by employees of the Fire and Police Departments in the performance of their duties and to determine how the same shall be raised and by whom expended. Or do or take any other action in this matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 4, 2006 the Town voted. to transfer the sum of \$15,000 from Certified Free Cash for the purposes of Article 5 to be expended under the jurisdiction of the Board of Selectmen.

ARTICLE 6: To see if the Town will vote to appropriate a sum of money for the purpose of funding group health insurance for School and Town Employees and Retirees for fiscal year ending June 30, 2006, and to determine how the same shall be raised and by whom expended. Or do or take any other action in this matter. On request of the Town Administrator.

RECOMMENDATION (Finance Committee): That the Town vote to transfer from the following accounts:

01000 - 35935	Assessing - Overlay Reserve	\$152,568.00
01141 - 51110	Assessing - Salary & Wages	\$ 13,000.00
01160 - 51110	Town Clerk - Salary & Wages	\$ 13,500.00
01210 - 54583	Police - Uniforms	\$ 3,000.00
01210 - 57782	Police - Drug Investigations	\$ 22,000.00
01440 - 52310	Waste Water - Sludge Haul	\$110,000.00
01440 - 52311	Waste Water - Lab Analysis	\$ 33,000.00
01440 - 54535	Waste Water - Chemicals	\$ 10,000.00
01440 - 51110	DPW - Sewer Salary & Wages	\$ 50,000.00
01440 - 52291	Waste Water - Well Monitoring	\$ 8,000.00
01411 - 51110	Water - Salary & Wages	\$100,000.00
01911 - 51182	Non Contrib. Retirement	\$ 28,500.00
01919 - 51180	Benefit-Long Term Disability	\$ 10,000.00

For a total of \$553,568.00 to be disbursed as follows:

01914-51177	Health Insurance - Town	\$493,239.00
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01914-51168

Health Insurance – School

\$ 60,329.00

for the purposes of Article 6 to be expended under the jurisdiction of the Town Administrator.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 4, 2006 the Town voted Article 6 as printed.

ARTICLE 7: To see if the Town will vote to appropriate a sum of money to Line 84137-58000 for the purpose of replenishing the Workers Compensation Fund, and to determine how the same shall be raised and by whom expended. Or do or take any other action on this matter. On request of the Town Administrator.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 4, 2006 the Town voted to transfer the sum of \$41,000 from the Overall Town Insurance Budget Line Item 01193-57740 for the purposes of replenishing the Workers Compensation Fund, to be expended under the jurisdiction of the Town Administrator.

ARTICLE 8: To see if the Town will vote to appropriate a sum of money to be appropriately distributed by the Town Accountant to the accounts affected for the purpose of funding the provisions for the contract period commencing July 1, 2004, as agreed to by the Town of Falmouth and the Falmouth Superior Officers' Association, and to determine how the same shall be raised and by whom expended. Or do or take any other action in the matter. On request of the Town Administrator.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 4, 2006 the Town voted to transfer \$18,000.00 from Certified Free Cash to be appropriately distributed by the Town Accountant to the accounts affected for the purpose of funding the provisions for the contract period commencing July 1, 2004, as agreed to by the Town of Falmouth and the Falmouth Superior Officers' Association

ARTICLE 9: To see if the Town will vote to appropriate a sum of money for the purpose of Debt Issuance Costs for several projects that have been previously approved by Town Meeting, and to determine how the same shall be raised and by whom expended. Or do or take any other action in the matter. On request of the Town Treasurer.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 4, 2006 the Town voted to transfer the sum of \$20,000 from Certified Free Cash for the purposes of Article 9 to be expended under the jurisdiction of the Town Treasurer.

ARTICLE 10: To see if the Town will vote to appropriate the sum of \$19,382 from the Community Preservation Fund for the purpose of paying principal and interest on Community Preservation Debt for the fiscal year ending June 30, 2006. Or do or take any other action in the matter. On request of the Town Treasurer.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 4, 2006 the Town voted to transfer from the Community Preservation Fund \$15,000 to Line Item 01754-59917 (CPA Fund Principal) and \$4,382 to Line Item 01754-59918 (CPA Fund Interest) for the purposes of Article 10 to be expended under the jurisdiction of the Town Treasurer, as voted by the Community Preservation Committee at a March 23, 2006

meeting.

ARTICLE 11: To see if the Town will vote to appropriate the sum of \$171,000 from the School Foundation Reserve Award Fund to the Falmouth School Department Budget Line Item 01300-57780 for the fiscal year ending June 30, 2006. Or do or take any other action in this matter. On request of the Town Administrator and School Superintendent.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 4, 2006 the Town voted Article 11 as printed to be expended under the jurisdiction of the Falmouth School Committee.

ARTICLE 12: To see if the Town will vote to appropriate a sum of money for the purpose of structural repairs at the Long Pond Pump Station and to determine how the same shall be raised and by whom expended. Or do or take any other action on this matter. On request of the Water Utilities Manager.

VOTED: By a declared two thirds majority vote, a quorum being present on Tuesday, April 4, 2006 the Town voted to appropriate the sum of \$300,000 for structural repairs at the Long Pond Pumping Station, said sum to be appropriated as follows, \$100,000 from Account 33462-58000 (Article 25 – 04/03 Water Mains, project completed). And further, that the Town Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$200,000 under the provisions of G.L. ch. 44 §7(3A) or any other enabling authority, and to issue bonds and notes of the town therefore, said sum to be expended under jurisdiction of the Board of Selectmen.

ARTICLE 13: To see if the Town will vote to appropriate a sum of money for the purpose of repairing the roof at the Gus Canty Recreation Center, and to determine how the same shall be raised and by whom expended. Or do or take any other action on this matter. On request of the Board of Selectmen.

VOTED: By a declared two thirds majority vote, a quorum being present on Tuesday, April 4, 2006 the Town voted to appropriate \$154,500 for the purposes of Article 13, and further, that the Town Treasurer, with the approval of the Board of Selectmen, is authorized to borrow \$154,500 under the provisions of G.L. ch. 44 §7(3A) or any other enabling authority, and to issue bonds and notes of the Town therefore, said sum to be expended under jurisdiction of the Board of Selectmen.

ARTICLE 14: To see if the Town will vote to transfer the sum of \$30,000 from Fiscal Year 2001 Overlay Reserve to the Fiscal Year 2005 Overlay Reserve. Or do or take any other action in this matter. On request of the Director of Assessing.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 4, 2006 the Town voted to release the sum of \$30,000 from Fiscal Year 2001 Overlay to replenish the Fiscal Year 2005 Overlay.

ARTICLE 15: To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to authorize the Town of Falmouth to install, finance and operate wind energy facilities at the Wastewater Treatment Facility, said legislation to be substantially in the following form:

**“AN ACT AUTHORIZING THE TOWN OF FALMOUTH TO INSTALL,
FINANCE AND OPERATE WIND ENERGY FACILITIES.”**

Section 1. Notwithstanding any general or special law to the contrary, the Town of Falmouth is hereby authorized to design and install wind energy facilities at its wastewater treatment facility at Blacksmith Shop Road in said Falmouth, to prepare and improve said site, to acquire all equipment necessary for said wind energy facilities, to make improvements and extraordinary repairs to said facilities, and to pay all other costs incidental and related thereto.

Section 2. The Town of Falmouth is hereby authorized to issue from time to time bonds or notes in order to finance all or a portion of the costs of the wind energy facilities project authorized pursuant to section I of this act. Notwithstanding any provisions of chapter 44 of the General Laws to the contrary, the maturities of any such bonds issued by the Town of Falmouth hereunder either shall be arranged so that for each issue the annual combined payments of principal and interest payable in each year, commencing with the first year in which a principal payment is required, shall be as nearly equal as practical in the opinion of the town treasurer, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. The first payment of principal of each issue of bonds or of any temporary notes issued in anticipation of the bonds shall be not later than five years from the estimated date of commencement of regular operation of the wind energy facilities financed thereby, as determined by the town treasurer and the last payment of principal of the bonds shall be not later than 25 years from the date of the bonds. Indebtedness incurred under this act shall not be included in determining the limit of indebtedness of the town under section 10 of said chapter 44 but, except as otherwise provided herein, shall be subject to the provisions of said chapter 44.

Section 3. Notwithstanding any general or special law to the contrary, the Town of Falmouth is hereby authorized to operate any wind energy facilities installed pursuant to section 1 of this act, to sell any electricity generated from such facilities and to sell any other marketable products resulting from its generation of wind energy at such facilities or from its generation of any type of renewable energy at any renewable energy facility which the town is authorized by law to operate including electronic certificates created to represent the “generation attributes” (as such term is defined under 225 CMR 14.02) of each megawatt hour of energy generated by the wind energy facilities or any such other renewable energy producing facilities. The Board of Selectmen of the Town of Falmouth may enter into one or more contracts on behalf of the Town of Falmouth for the sale of electricity and energy facilities with such parties and upon such terms and conditions as the Board of Selectmen determine to be in the best interests of the Town of Falmouth.

Section 4. The Town of Falmouth shall procure any services required for the design, installation, improvement, repair and operation of the wind energy facilities authorized pursuant to this act, and the acquisition of any equipment necessary in connection therewith, in accordance with the procurement requirements of chapter 30B of the General Laws, and the Town of Falmouth may procure any such services and equipment together as one procurement or as separate procurements thereunder.

Section 5. The Town of Falmouth is hereby authorized to establish an enterprise fund pursuant to section 53F1/2 of chapter 44 of the General Laws for the receipt of all revenues from the operation of the wind energy facilities authorized pursuant to this act and from any other renewable energy producing facilities which the Town is authorized by law to operate and all moneys received for the benefit of the wind energy facilities and any such other renewable energy facilities, other than the proceeds of bonds or notes issued therefore. Such

receipts are to be used to pay costs of operation and maintenance of the wind energy facilities and any such other renewable energy facilities, to pay costs of future improvements and repairs thereto, and to pay the principals and interest on any bonds or notes issued therefore.

Section 6. This act shall take effect upon its passage.

Or do or take any other action on this matter. On request of the Board of Selectmen.

VOTED: By a declared two thirds majority vote, a quorum being present on Tuesday, April 4, 2006 the Town voted to authorize Article 15 as printed.

ARTICLE 16: To see if the Town will provide funding for any or all of the purposes voted for in the foregoing articles by transfer from available funds, by borrowing or by any combination of the foregoing. Or do or take any other action on this matter. On request of the Finance Committee and the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 4, 2006 the Town voted that all articles approved at this town meeting be funded as voted for a total of \$1,322,450