



**WARRANT FOR THE SPECIAL APRIL TOWN MEETING
TUESDAY, APRIL 7, 2009 AT 7:00 PM
For action on articles in the Warrant
COMMONWEALTH OF MASSACHUSETTS**

ARTICLE 1: To see if the Town will vote to adjust the Fiscal Year 2009 operating budget to amend the appropriations voted in Article 25 at the April 2008 Annual Town Meeting. Or do or take any other action in this matter. On request of the Town Manager.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 7, 2009 the Town voted the following adjustments to the Fiscal Year 2009 operating budget to amend the appropriations voted in Article 25 of the April 2008 Annual Town Meeting:

01210-51110	Police Department - Salary & Wages	(25,000.00)
01220-51110	Fire Rescue Department - Salary & Wages	(30,000.00)
01220-51144	Fire Rescue Department - Advanced EMT/Medic	(20,000.00)
01300-51110	School Department - Salary & Wages	(84,069.00)
01599-51110	Human Services - Salary & Wages	(9,070.00)
		\$(168,139.00)

And to reduce the amount appropriated at the April 2008 Annual Town Meeting in the amount of \$168,139.00, and further, to reduce the total budget to the amount of \$103,294,688.00.

ARTICLE 2: To see if the Town will vote to appropriate a sum of money for the purpose of funding the operations of the Wastewater Treatment Facility, 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 Director of Public Works.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 7, 2009 the Town voted to transfer from the following accounts:

01411-51110	DPW Admin/Engineering – Salary & Wages	\$ 5,600
01422-51110	DPW Highway – Salary & Wages	\$50,000
01422-52271	DPW Highway – Rent/Lease Equipment	\$10,000
01431-52271	DPW Waste Management – Const & Demo	\$20,000
01433-52393	DPW Solid Waste Collection	\$30,000
01499-51110	DPW Parks – Salary & Wages	\$12,000

For a total of \$127,600 to be distributed as follows:

01440-51130	DPW Wastewater – Gross Overtime	\$12,000
01440-54535	DPW Wastewater – Chemicals	\$65,600
01440-52212	DPW Wastewater – Electricity	\$50,000

for the purposes of Article 2 to be expended under the jurisdiction of the Department of Public Works Wastewater Superintendent.

ARTICLE 3: To see if the Town will vote to appropriate a sum of money for the purpose of funding the Veteran’s Ordinary Benefits Account 01543-57770, 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 Director of Veterans’ Services.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 7, 2009 the Town voted to transfer \$20,000 from Assessors Salary & Wages (01141-51110) and \$10,000 from Treasurer Salary & Wages (01145-51110) to Veterans Ordinary Benefits Budget Line Item (01543-57770), for the purposes of Article 3 to be expended under the jurisdiction of the Director of Veterans’ Services.

ARTICLE 4: To see if the Town will vote to appropriate a sum of money for the purpose of funding group Health Insurance benefits for fiscal year ending June 30, 2009, 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 Manager.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 7, 2009 the Town voted to transfer \$50,000 from School Prior Year Encumbrances (01300-57799) and \$140,000 from Certified Free Cash to be distributed as follows:

01914-51177	Health Insurance – Town	\$ 30,000
01914-51178	Health Insurance - School	\$110,000
01914-51179	Health Insurance Retirement	\$ 50,000

for the purposes of Article 4 to be expended under the jurisdiction of the Town Manager.

ARTICLE 5: To see if the Town will vote to appropriate a sum of money for the purpose of funding the Town's obligation for Unemployment Compensation benefits, 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 Manager.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 7, 2009 the Town voted to transfer \$30,000 to Unemployment Budget Line Item 01913-51174 from the following accounts:

01156-52267	GIS – Computer Repair/Maintenance	\$ 5,000
01162-51120	Elections – Salary & Wages Temp	\$ 5,000
01176-58002	Zoning – Article 65 11/4 Contract Services	\$10,000
01631-51110	Recreation – Salary & Wages	\$10,000

for the purposes of Article 5 to be expended under the jurisdiction of the Personnel Director.

ARTICLE 6: To see if the Town will vote to appropriate a sum of money 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 Town Manager.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 7, 2009 the Town voted to transfer \$55,000 from Overall Town Insurance Budget (01193-57740) for the purposes of Article 6 to be expended under the jurisdiction of the Town Manager.

ARTICLE 7: To see if the Town will vote to transfer a sum of money from the Fiscal Year 2007 Overlay Account to the Fiscal Year 1998 Overlay Account. 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 7, 2009 the Town voted to transfer \$535 from the Fiscal Year 2007 Overlay Reserve Account to the Fiscal Year 1998 Overlay Reserve Account for the purposes of Article 7 to be expended under the jurisdiction of the Director of Assessing.

ARTICLE 8: To see if the Town will vote to appropriate a sum of money for the purpose of funding expenses relating to cyclical property valuation, 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 Director of Assessing.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 7, 2009 the Town voted to Indefinite Postponement. of Article 8

ARTICLE 9: To see if the Town will vote to appropriate a sum of money from the Community Preservation Fund to be made available for the exterior rehabilitation including re-roofing and structural repairs of the Waquoit Congregational Church in a historically appropriate manner, to be managed by the Waquoit Congregational Church, under the Community Preservation Act category of Historic Resources, or act in any way relative thereto as allowed under the Community Preservation Act. On request of the Community Preservation Committee.

VOTED: By a declared majority vote, a quorum being present on Tuesday, April 7, 2009 the Town voted to appropriate \$190,000 from the Community Preservation Fund (\$100,000 from the Historic Resources Reserve and \$90,000 from the Undesignated Fund Balance) for the purposes of Article 9 to be expended under the

jurisdiction of the Community Preservation Committee.

ARTICLE 10: To see if the Town will vote to appropriate a sum of money from the Community Preservation Fund to be made available for the purpose of funding specific action items of the Town of Falmouth's Housing Production Plan, said funds to be expended under the jurisdiction of the Board of Selectmen, under the Community Preservation Act category of Community Housing, or act in any way relative thereto as allowed under the Community Preservation Act. On request of the Community Preservation Committee.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 7, 2009 the Town voted to appropriate \$20,000 from the Community Preservation Fund Community Housing Reserve for the purposes of Article 10 to be expended under the jurisdiction of the Board of Selectmen.

ARTICLE 11: To see if the Town will vote to authorize the Board of Selectmen to PURCHASE OR TAKE BY EMINENT DOMAIN or any other appropriate authority, land in Falmouth, Barnstable County, Massachusetts, for purposes of open space and/or public recreation, and to grant a conservation restriction in perpetuity, in accordance with M.G.L. c. 184, §§ 31-33, to the 300 Committee, Inc. or other governmental agency or non-profit organization limiting the use of the property to the purposes which it was acquired as set forth in G.L. ch. 44B, § 12(a), said land to be under the jurisdiction of the Conservation Commission and being described as follows:

Land now or formerly of Paularose Chisholm, Trustee of the Bartolomei Family Trust, approximately 6.832 acres, more or less, and being shown on Assessors Map #21, Section 08, Parcel 015A, Lot 005 described in a deed recorded in the Barnstable County Registry of Deeds in Book 20144, Page 208.

And further to appropriate a sum of money for the acquisition of the foregoing land, including costs incidental and related thereto, and to authorize the Board of Selectmen or its designee to: determine how the same shall be raised, including appropriation from the Community Preservation Fund, under the Community Preservation Act, and acceptance of any gifts of property, real, personal or otherwise; enter into any agreements; seek funding under M.G.L. ch. 132A, §11 and execute all documents it deems advantageous on behalf of the town, for partial or full reimbursements of the cost of acquisition; and to authorize expenditure of such funds by the Board of Selectmen or its designee.

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

VOTED: By a declared two-thirds majority vote, a quorum being present on Tuesday, April 7, 2009 the Town voted to authorize the Board of Selectmen to PURCHASE OR TAKE BY EMINENT DOMAIN land in Falmouth, Barnstable County, Massachusetts for purposes of open space conservation and/or passive recreation, and to grant a conservation restriction in perpetuity, in accordance with M.G.L. c. 184, §§ 31-33, to The 300 Committee, Inc. or other governmental agency or non-profit organization limiting the use of the property to the purposes which it was acquired as set forth in G.L. ch. 44B, § 12(a), said land to be under the jurisdiction of the Conservation Commission under the provisions of M.G.L., Chapter 40, §8C and being described as follows: the land now or formerly owned by Paularose Chisholm Trustee of the Bartolomei Family Trust, containing 6.832 acres, more or less, and being shown on Assessors Map #21, Section 08, Parcel 015A, Lot 005, and described in a deed recorded in the Barnstable County Registry of Deeds in Book 20144, Page 208, and further to appropriate \$935,000 for the acquisition of the foregoing land, including costs incidental and related thereto as follows:

- a) The sum of \$684,000 from the Community Preservation Fund Undesignated Fund Balance for the purposes of Article 11. Appropriation of such funds to be contingent upon approval of a grant from the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services LAND Acquisition Fund to reimburse the Community Preservation Fund Undesignated Fund Balance in an amount no less than \$400,000;
- b) The sum of \$100,000 from the Community Preservation Fund Open Space Reserve for the purposes of Article 11 ;

- c) To accept a gift of \$135,000 from The 300 Committee, Inc., for the purpose of Article 11; and
- d) To accept the sum of \$16,000 from the Town's open space mitigation funds held by the Cape Cod Commission for the purposes of Article 11.

All said appropriated sums shall be expended under the jurisdiction of the Board of Selectmen who are further authorized to accept gifts of property, use, personal or otherwise, in relation to the foregoing acquisition and to enter into any and all agreements, seek funding under M.G.L. ch. 132A, §11, and execute all documents the Board deems advantageous on behalf of the Town for partial or full reimbursement of the cost of acquisition. Notwithstanding the foregoing, all sums received from the LAND Acquisition Fund shall be directly deposited into the Community Preservation Fund Undesignated Fund Balance.

ARTICLE 12: To see if the Town will vote to create a revolving fund under the provisions of General Laws Chapter 44, Section 53E ½, to be known as the "Falmouth Historical Commission Revolving Account" said fund to be established and administered as follows:

- a. Proceeds from the sale of the 'Book of Falmouth' shall be credited to the revolving fund.
- b. Funds may be expended by the Commission for the operation and administration of its programs and activities.
 - 1. All funds shall be expended by the Falmouth Historical Commission with the provision that the amount which may be expended in fiscal year 2010 shall not exceed receipts and any expenditure in excess of \$500.00 shall be subject to the approval of the Board of Selectmen.
 - 2. Expenditures may not exceed \$5,000.00 during any fiscal year without approval of the Finance Committee.

The Falmouth Historical Commission shall report annually to the Board of Selectmen the total amount of receipts and expenditures for the preceding fiscal year. This fund shall be authorized annually, at which time the above-mentioned provisions may be amended by an Annual Town Meeting Vote. Or do or take any other action in this matter. On request of the Falmouth Historical Commission.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 7, 2009 the Town voted Article 12 as printed.

ARTICLE 13: To see if the Town will vote to accept the provisions of General Laws Chapter 32B, section 18 which requires that all retirees, their spouses and dependents who are enrolled in Medicare Part A at no cost to a retiree, their spouse or dependents, be required to enroll in a Medicare health benefits supplement plan offered by the town. Or do or take any other action on this matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 7, 2009 the Town voted Article 13 as printed.

ARTICLE 14: To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation authorizing the Town to impose a room occupancy tax on vacation rentals not currently subject to such tax; provided, however, that the General Court may make clerical or editorial changes of form only to said bill, unless the Board of Selectmen approves amendments thereto prior to enactment by the General Court, and provided further that Board of Selectmen is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition, or do or take any other action on this matter. On request of the Board of Selectmen and Town Manager.

MOTION (Board of Selectmen) That the Town vote to Indefinite Postponement. of Article 14.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 7, 2009 the Town voted Indefinite Postponement. of Article 14

ARTICLE 15: To see if the Town will vote to authorize the Board of Selectmen to apply for membership in the Cape & Vineyard Electric Cooperative, Inc., on terms and conditions deemed by the Board of Selectmen to be in the best interest of the Town, or do or take any other action on this matter. On request of the Town Manager.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 7, 2009 the Town voted Article 15 as printed.

ARTICLE 16: To see if the Town will vote to adopt the following by-law to be incorporated into the Code of Falmouth as Chapter 156, Article VII, § 156-13.

Public Consumption of Marijuana or Tetrahydrocannabinol

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. ch.94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

This by-law may be enforced through any lawful means in law or in equity including, but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. ch. 40, § 21 or by noncriminal disposition pursuant to G.L. c. 40, § 21D, by the Board of Selectmen, the Town Manager, or their duly authorized agents, or any police officer. The fine for violation of this by-law shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this by-law shall be in addition to any civil penalty imposed under G.L. ch. 94C, § 32L.

Or do or take any other action on this matter. On request of the Chief of Police.

AMENDMENT:(Latimer) Delete “but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. ch. 40, § 21 or”

VOTED: By a declared majority vote, a quorum being present on Tuesday, April 7, 2009 the Town voted to amend Article 16 by deleting but not limited to, enforcement by criminal indictment or complaint pursuant to G.L. ch. 40, § 21 or”

VOTED: By a counted vote of 159 in favor and 33 in opposition, a quorum being present on Tuesday, April 7, 2009 the Town. to incorporated into the Code of Falmouth as Chapter 156, Article VII, § 156-13.

Public Consumption of Marijuana or Tetrahydrocannabinol

No person shall smoke, ingest, or otherwise use or consume marijuana or tetrahydrocannabinol (as defined in G.L. ch.94C, § 1, as amended) while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the town; or in or upon any bus or other passenger conveyance operated by a common carrier; or in any place accessible to the public.

This by-law may be enforced through any lawful means in law or in equity including, by noncriminal disposition pursuant to G.L. c. 40, § 21D, by the Board of Selectmen, the Town Manager, or their duly authorized agents, or any police officer. The fine for violation of this by-law shall be three hundred dollars (\$300) for each offense. Any penalty imposed under this by-law shall be in addition to any civil penalty imposed under G.L. ch. 94C, § 32L.

ARTICLE 17: 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 declared two-thirds majority vote, a quorum being present on Tuesday, April 7, 2009 the Town voted that all articles approved at this town meeting be funded as voted for a total of \$1,578,135.00