



SPECIAL TOWN MEETING

Lawrence School Auditorium
Falmouth, MA 02540
APRIL 9, 2013

1. Amend Zoning Bylaw Article II – Building Permits
2. Amend Chapter 240 Code of Falmouth
3. Amend Zoning Map – Scranton Avenue and Robbins Road
4. FY 2013 budget transfers
5. FY 2013 budget supplementations
6. Unpaid bills
7. Transfer Health Insurance funds
8. Set salary of Town Clerk
9. Transfer funds to Reserve Fund
10. Purchase additional software – Financial Management System
11. Purchase Public Schools Security Devices
12. Purchase Fire Chief's vehicle
13. Purchase Menauhant Beach trailer
14. Fund Bikeway repairs
15. Fund Town Landing parking lot repairs
16. Community Preservation Committee Silo historic preservation
17. Community Preservation Committee Affordable Housing Fund
18. Community Preservation Committee Historic Preservation Reserves
19. Land Purchase
20. Authorize Board of Selectmen to grant Mill Road parking lot easement
21. Fund Debt Service – wind turbines
22. Remove wind turbines
23. Fund FY 2013 and FY 2014 deficit
24. Funding Article

ARTICLE 1: To see if the town will vote to amend the zoning bylaw by amending Article II – Building Permit Moratoria – by adding the following:

§240-11 The provisions of the Zoning Bylaw to the contrary notwithstanding, no building permit or special permit for the construction of a Medical Marijuana Treatment Center, as defined, shall issue until April 30, 2014 or until this Article is repealed by a vote of town meeting, whichever occurs first. The purpose of this Article is to provide the time necessary to undertake a planning process to address the potential impacts of medical marijuana in the Town, review guidance from the Commonwealth regarding Medical Marijuana Treatment Centers and consider the adoption of new zoning bylaws regarding the operation and location of Medical Marijuana Treatment Centers.

“Medical Marijuana Treatment Center” shall mean: An establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana or products containing marijuana and/or related supplies or educational materials to qualifying patients or their personal caregivers, for ostensibly medical purposes.”

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

VOTED: By a declared two thirds majority, a quorum being present on Tuesday, April 9 2013 the Town voted Article 1 as printed in the warrant.

ARTICLE 2: To see if the town will vote to amend Chapter 240 – Zoning – of the Code of Falmouth in the following manner:

1) Delete the following sections

Single Residence Districts §240-23.G (5), General Residence Districts §240-28.H (5), Public Use Districts §240-33.G (5), Agricultural Districts §240-38.G (5), Business Districts §240-51.A (12), Light Industrial A Districts §240-57.L (3), Light Industrial B Districts §240-63.G (2)

4) Delete Article XXXIV (34) –Windmills in the entirety.

5) Insert the following:

Article XXXIV (34) Windmills.

Windmills as defined are not allowed in any zoning district either by right or special permit, except as may be allowed pursuant to exemptions specified under Section 3, c.40A GL.

Or do or take any other action on this matter. On behalf of the Planning Board.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted Indefinite Postponement of Article 2.

ARTICLE 3: To see if the town will vote to amend the Official Zoning Map of the Town of Falmouth by rezoning from Marine District to Business Redevelopment District the land at 56 Scranton Avenue, Falmouth, Massachusetts, which land, .448 acre, located on the southeasterly corner of the intersection of Scranton Avenue and Robbins Road, is Lot 33 Land Court Plan 7639-4, being Assessors Parcel 47B 09 005A 033.

Or do or take any other action on this matter. On behalf of Falmouth Heights Marina, Inc.

VOTED: By a declared failed majority, a quorum being present on Tuesday, April 9 2013 the Town voted not to pass Article 3.

ARTICLE 4: To see if the Town will vote to transfer a sum of money within the FY 2013 budget approved by Article 22 of the April 2, 2012 Annual Town Meeting to make necessary adjustments thereto, or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted the following transfer totaling \$21,000 within the FY 2013 budget.

| AMOUNT | TRANSFER FROM | TRANSFER TO |
|----------|--------------------------------|--|
| \$21,000 | 01220-51110 Fire Dept Salaries | 01220-52319 Fire Dept Contractual Services |

ARTICLE 5: To see if the Town will vote to appropriate a sum of money for the purpose of supplementing the FY 2013 budget approved by Article 22 of the April 2, 2012 Annual Town Meeting, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted to transfer the sum of \$840,000 from certified free cash for the purpose of funding \$125,000 to line item 01210-51130 (Police Overtime), \$100,000 to line item 01423-51120 (Snow and Ice salary and wages), \$250,000 to line item 01423-54541 (Snow and Ice Supplies), \$200,000 to line item 01423-52299 (Snow and Ice Plowing Services), \$50,000 to line item 01451-57788 (Regional Water Cooperative), \$75,000 to line item 01150-52300 (Special Counsel), \$32,000 to line item 01162-51120 (Salary and Wages PT Elections), \$5,000 to line item 01162-52319 (Contracts Elections) and \$3,000 to line item 01162-52270 (Rental Buildings Elections) and to be expended under the jurisdiction of the Police Chief, Department of Public Works Director, Town Counsel and Town Clerk respectively.

ARTICLE 6: To see if the Town will vote to appropriate a sum of money for the purpose of paying unpaid bills from a prior year, and to determine how the same shall be raised and by whom expended, or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted Indefinite Postponement of Article 6.

ARTICLE 7: To see if the Town will vote to transfer a sum of money from the health Insurance line item of Article 22 of the April 2, 2012 Annual Town Meeting to a health insurance mitigation fund, and by whom expended. Or do or take any other action on the matter, On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted to transfer \$475,000 from the health insurance account to a health insurance mitigation account to be expended under the jurisdiction of the Personnel Department.

ARTICLE 8: To see if the Town will vote to fix the salaries of the Elected Officials as follows:
Town Clerk..... \$72,201

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted to fix the salaries of the Elected Officials as follows:
Town Clerk..... \$71,201

ARTICLE 9: To see if the Town will vote to appropriate a sum of money for the purpose of supplementing the Reserve Fund approved by Article 22 of the April 2, 2012, Annual Town Meeting, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted to transfer the sum of \$60,000 from certified free cash to line item account number 01132-57785 (Reserve Fund) in to order supplement the reserve fund.

ARTICLE 10: To see if the Town will vote to appropriate a sum of money for the purpose of funding additional software applications to the Town/School Financial Management System, 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.

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VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted to transfer the amount of \$120,000 from certified free cash to fund additional software applications for the Town/School Financial Management System. To be expended under the jurisdiction of the Information Technology Department.

ARTICLE 11: To See if the Town will vote to appropriate a sum of money for the purpose of funding the installation of security devices in the Falmouth Public School buildings, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted to transfer the amount of \$36,000 from certified free cash to fund the installation of security systems at the Falmouth Public Schools and to be expended under the jurisdiction of the School Committee.

ARTICLE 12: To see if the Town will vote to appropriate a sum of money for the purpose of purchasing a replacement Fire Chief's vehicle, 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 unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted to transfer the sum of \$38,000 from certified free cash for the purpose of purchasing a Fire Chief's vehicle and to be expended under the jurisdiction of the Town Manager.

ARTICLE 13: To see if the Town will vote to appropriate a sum of money to purchase an ADA compliant bathroom trailer for Menauhant Beach, 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 unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted to transfer the amount of \$25,000 from certified free cash in order to purchase an ADA compliant bathroom trailer for Menauhant Beach. To be expended under the jurisdiction of the Beach Committee.

ARTICLE 14: To see if the Town will vote to appropriate a sum of money to design, permit and reconstruct a portion of the Shining Sea Bike Way and eroded oceanfront shoulder in the vicinity of Trunk River, and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a declared majority, a quorum being present on Tuesday, April 9 2013 the Town voted to transfer \$225,000 from certified free cash in order to design, permit and reconstruct a portion of the Shining Sea Bike Way and eroded oceanfront shoulder in the vicinity of Trunk River and to be expended under the jurisdiction of the Department of Public Works.

ARTICLE 15: To see if the Town will vote to appropriate a sum of money to contract for design and permitting services for the reconstruction of the Town Landing parking lot, stone retaining wall, and wooden wharf located at Old

Dock Road in West Falmouth, and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted to transfer \$40,000 from the Waterways Improvement Account for design and permitting services for the reconstruction of the Town Landing parking lot, stone retaining wall, and wooden wharf located at Old Dock Road in West Falmouth and to be expended under the jurisdiction of the Marine and Environmental Services Department.

ARTICLE 16: To see if the Town will vote to appropriate and/or transfer a sum of money from the Community Preservation Fund for the purpose of historic preservation to pay for restoration of the Silo at The 300 Committee's River Bend Conservation Area on Sandwich Road, and to determine how same shall be raised and by whom expended. Or do or take any action on the matter. On the request of the Community Preservation Committee.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted to appropriate the sum of \$86,251, for the purpose of historic restoration of the Silo located on the River Bend Conservation Area, including the foundation, masonry blocks, and roof to be restored in a historically appropriate manner according to the Secretary of Interior's Standards for the Treatment of Historic Properties as required by the Community Preservation Act; and to meet said appropriation transfer the amount of \$45,544 from Community Preservation Undesignated Fund Balance and \$40,707 from the Historic Preservation Reserve and to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this Article.

ARTICLE 17: To see if the Town will vote to appropriate and/or transfer a sum of money from the Community Preservation Fund for the purpose of community housing to the Falmouth Affordable Housing Fund, and to determine how same shall be raised and by whom expended. Or do or take any action on the matter. On the request of the Community Preservation Committee.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted to transfer the amount of \$14,902 from the Community Preservation Undesignated Fund Balance for the purpose of community housing to the Falmouth Affordable Housing Fund.

ARTICLE 18: To see if the Town will vote to appropriate and/or transfer a sum of money from the Community Preservation Fund for the purpose of historic preservation to the Historic Preservation Reserves, to determine how same shall be raised and by whom expended. Or do or take any action on the matter. On request of the Community Preservation Committee.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted Indefinite Postponement of Article 18.

ARTICLE 19: 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, for public water supply purposes, or any other appropriate purpose, and upon such terms and conditions as the Board of Selectmen deems reasonable and proper, said land to be under the jurisdiction of the Board of Selectmen, described as:

Parcel I:

Land now or formerly of Arthur L. Chute, Christina C. Thys and Judith C. Chute comprised of approximately 4.952 acres, more or less, and being shown on Assessors Map 35, Section 4, Parcel 004, Lot 000.

Parcel II:

Land now or formerly of Oliver Swift Chute comprised of approximately 8.760 acres, more or less, and being shown on Assessors Map 35, Section 4, Parcel 004, Lot 000CR.

Parcel III:

Land now or formerly of Oliver Swift Chute comprised of approximately 2.130 acres, more or less, and being shown on Assessors Map 35, Section 4, Parcel 000, Lot 005.

And further to appropriate a sum of money for the acquisition of the foregoing land, and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted Indefinite Postponement of Article 19.

ARTICLE 20: To see if the Town will vote to authorize the Board of Selectmen to grant an easement on, under, through and across the Mill Road parking lot, a portion of Surf Drive and a portion of Surf Drive beach for the

installation and maintenance of a combined power and broadband communication cable to Martha's Vineyard, upon such terms and conditions as the Board of Selectmen deems reasonable and proper, or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a counted vote of 151 in favor and 66 opposed, a quorum being present on Tuesday, April 9 2013 the Town voted to authorize the Board of Selectmen to grant an easement on, under, through and across the Mill Road parking lot, a portion of Surf Drive and a portion of Surf Drive beach for the installation and maintenance of a combined power and broadband communication cable to Martha's Vineyard, upon such terms and conditions as the Board of Selectmen deems reasonable and proper.

ARTICLE 21: To see if the Town will vote to appropriate a sum of money to fund payment of existing debt obligations authorized by Article 14 of the November 14, 2007 Annual Town Meeting, Article 16 of the November 10, 2008 Annual Town Meeting, Article 19 of the November 9, 2009 Annual Town Meeting, and Article 1, Article 2 and Article 3 of the June 29, 2009 Special Town Meeting for the purpose of constructing, repairing and maintaining two town-owned wind turbines, known as Wind I and Wind II, located at the Falmouth Wastewater Facility on Blacksmith Shop Road, and to raise any additional revenue required to fund the Town's Wind Energy Program and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 9 2013 the Town voted Indefinite Postponement of Article 21.

ARTICLE 22: To see if the Town will vote to appropriate a sum of money to fund the cost to mitigate the neighborhood impacts of two town-owned wind turbines, known as Wind I and Wind II, located at the Falmouth Wastewater Facility on Blacksmith Shop Road, including without limit, to dismantle and dispose or relocate both turbines, including all engineering and design costs, and any other expenses relative thereto; or for other appropriate measures and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a counted vote of 125 in favor and 72 opposed, a quorum being present on Tuesday, April 9 2013 the Town voted not to pass Article 22 as printed in the Warrant by failing to receive the required the two thirds majority.

AMENDMENT (Jones): Add "not to be expended unless the ballot question is passed by the Town" after jurisdiction of the Town Manager

VOTED: By a declared majority, a quorum being present on Wednesday, April 10 2013 the Town voted to Add "not to be expended unless the ballot question is passed by the Town" after "jurisdiction of the Town Manager"

VOTED: By a counted vote of 110 in favor and 91 opposed, a quorum being present on Wednesday, April 10 2013 the Town voted to appropriate the sum of \$100,000 from Certified Free Cash, for the purpose of soliciting and evaluating proposals to dismantle Wind I and Wind II and any other costs relative thereto, to be expended under the jurisdiction of the Town Manager, not to be expended unless the ballot question is passed by the Town and further to support the Board of Selectmen's placement of question(s) on the ballot seeking the vote of the Town to exclude the amounts required to repay any borrowing authorized for the purpose of dismantling and removing wind turbines and repaying grants received on account of such wind turbines from the limits of chapter 59, section 21C of the General Laws(also known as proposition 2 1/2) and pursuant to the passage of special legislation contained in this motion.

And further the Board of Selectmen is authorized to submit a petition to the Legislature for enactment of special legislation as follows and that the Board of Selectmen is authorized to accept recommended changes by Legislative, Counsel or Bond Counsel to further effectuate the purposes in this article:

AN ACT PERTAINING TO THE ISSUANCE OF BONDS OR NOTES BY THE TOWN OF FALMOUTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Falmouth is authorized to borrow, from time to time, such sums of money as may be necessary to pay costs of decommissioning, dismantling and removing wind turbines, repaying grants received on account of such wind turbines, refinancing outstanding debt related to such wind turbines, without regard to the present value savings requirements of section 21A of chapter 44, and for the payment of any and all other costs incidental and related thereto. Bonds or notes issued under this act shall be issued for a term not to exceed 20 years from their date or dates of issue, and the maturities of any bonds issued by the town under this act 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 practicable in the opinion of the municipal treasurer and collector of taxes, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. Bonds or notes issued under this act shall be outside the limit of indebtedness prescribed in section 10 of chapter 44, and, except as otherwise provided in this act, shall be subject to the applicable provisions of said chapter 44.

SECTION 2. This act shall take effect upon its passage.

ARTICLE 23: To see if the Town will vote to appropriate a sum of money to supplement the Fiscal 2013 and Fiscal 2014 operating budget necessitated by the curtailment or shutdown of both of the town-owned wind turbines, known as Wind I and Wind II, located at the Falmouth Wastewater Facility on Blacksmith Shop Road, and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a declared majority, a quorum being present on Wednesday, April 10 2013 the Town voted transfer from Certified Free Cash \$140,000 for operating budget deficits resulting from the shutdown of Wind I and Wind II, said sum to be expended under the jurisdiction of the Board of Selectmen.

ARTICLE 24: 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 Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Wednesday, April 10 2013 the Town voted the town voted that all articles considered in this town meeting be funded as voted for a total of \$2,221,153.00, and that the Board of Selectmen be requested to place a question on the May 2013 Annual Town Election Ballot as voted in article 22.