COMMONWEALTH OF MASSACHUSETTS

TOWN OF FALMOUTH

ANNUAL FALL TOWN MEETING

Lawrence School
Lakeview Avenue
Falmouth, Massachusetts

MODERATOR:  David T. Vieira

TOWN CLERK:  Michael Palmer

Monday, November 17, 2014

7:00 p.m.

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PROCEEDINGS

THE MODERATOR: Okay, would all Town Meeting Members present please come forward, take your seats. Don’t forget to sign in. A reminder that the attendance for Town Meeting is published in the Falmouth Enterprise.

I remind all Town Meeting Members and guests that, when you speak, please identify yourself by name and precinct each time for our stenographer and for the record.

I want to thank FC-TV Channel 15 for our live broadcast of Town Meeting. We’ve got all of the technical glitches fixed out and we’re able to convene the meeting now.

Our microphone carriers this evening will be Corinne McGillicuddy and Lillia Smith.

All Town Meeting Members present please stand for the establishment of the quorum and the tellers will return a count.

[Pause.]

THE MODERATOR: In the second division,

Mr. Netto?

MR. NETTO: 49

THE MODERATOR: 49. First division,
I’m sorry.

In the third division, Mr. Hampson?

MR. HAMPSON: 66.

THE MODERATOR: 66.

In the second division, Mr. Dufresne?


By a counted vote of 216, we have a quorum and I call the Annual Town Meeting into session.

All present please rise for the presentation of the colors by the Brian Baru Pipe Band and Sea Scout Ship 40. And tonight, Sea Scout Ship 40 is under the direction of Bosun Taylor Martin-Gram. Taylor is also the New England Sea Scout Flotilla Bosun, making her the senior youth sea scout in all of the New England Region.

Would Sea Scout Ship 40 present the colors.

[Applause.]

[Colors presented.]

THE MODERATOR: Please follow me in the Pledge of Allegiance.
[Pledge of Allegiance recited.]

THE MODERATOR: Before Town Meeting about the National Anthem, which the Falmouth Town Band Brass Choir will play. And as many of you know, this past month was the 100th anniversary of the penning of the poem which became the Star Spangled Banner by Francis Scott Key at the beginning of the War of 1812. And, in that spirit, in the unofficial motto of our nation “E Pluribus Unum”, “Out of many, one”, let us all raise our voices tonight with the choir and sing our national anthem.

Ms. Whitehead.

[Town Meeting sings National Anthem along with the Town Band.]

THE MODERATOR: I mis-spoke: it’s the 200th anniversary. [Laughter].

At this time, I’ll introduce Dr. Robert Antonucci for our invocation.

DR. ANTONUCCI: Let us pause.

Oh god, creator of us all, we ask your blessings on this Town Meeting. Let each one of us here this evening recognize our differences and our similarities. Let us listen to each other
thoughtfully and guide us to vote on the issues before us with an open mind.

We ask you to watch over our words and our debates, so that the result of our meeting will be beneficial to all. Amen.

THE MODERATOR: At this time, the Brian Baru Pipe Band will play Amazing Grace in honor of those members that have passed since our last gathering.

[Amazing Grace played.]

[Moment of Silence.]

THE MODERATOR: Colors post.

[Applause.]

THE MODERATOR: At this time, I’ll recognize the Town Clerk for the swearing in of our new Town Meeting Members. Mr. Clerk.

CLERK PALMER: Will the following people please stand: Annie Dean, Kenneth Foreman, Carol Kenney, Kathleen Murray, Diane Slater, Susan Shephard, Charles Swain, John Waterbury, Linda Whitehead, Elizabeth Bothner, Ken Buesseler, Paul Dreyer, Harriet Dugan, Catherine Offinger, Jeffrey Oppenheim, Samuel Patterson, Kelly Welch, Harold Crocker, Robert Donahue, Mary Little, Kevin Lynch,

Can you all stand and raise your right hand and repeat after me: I – state your name -- do solemnly swear that I will faithfully and impartially perform all duties incumbent upon me as
a Town Meeting Member, according to the best of my
ability and agreeable to the laws and Constitution
of the United States and the Commonwealth of
Massachusetts, and the Bylaws of the Town of
Falmouth. So help me God.

Congratulations.

[Applause.]

THE MODERATOR: Congratulations to our
new members.

At this time, I’ll read the Officers
Return of the Warrant. By virtue of this warrant,
I have this day notified and summoned the
inhabitants of the Town of Falmouth qualified to
vote on town affairs, as said warrant directs, by
posting an attested copy thereof in Town Hall and
in every precinct in the town. Signed by the Town
Constable Paul Byrne.

At this time, I’d like to start with the
dispensing of the reading of the warrant. Mr.
Chairman of the Board of Selectmen for the main
motion.

CHAIRMAN FLYNN: Mr. Moderator, I move
to dispense with the reading of the Warrant, except
for the Officer’s Return.
THE MODERATOR: Thank you, Madame Chairman.

You’ve all heard the main motion. All those in favor signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]

THE MODERATOR: The ayes have it; we’ll dispense with the reading of the warrant.

Mr. Clerk, I ask that the warrant become an official part the record.

At this time, the Chair would recognize a motion for non-Town Meeting Members to sit up front with their respective boards and committees.

FROM THE FLOOR: So moved.

THE MODERATOR: So moved. All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]

THE MODERATOR: The ayes have it.

At this time, the Chair would entertain a motion for all Town employees who are not residents of the Town of Falmouth to have the right
to speak on all issues before this Town Meeting.

FROM THE FLOOR: Moved.

THE MODERATOR: So moved. All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]

THE MODERATOR: The ayes have it.

At this point, I’ll recognize the Planning Board for notification of Public Hearing.

MR. DREYER: In accordance with Chapter 40A, Section 5, Massachusetts General Law, and Article 43 of the Falmouth Zoning Bylaw, a public hearing was held October 7th, 2014, on Articles 3, 4, 5, 9 and 10 for the 2014 Fall Annual Meeting; all those who wished to speak were heard. Thank you.

THE MODERATOR: Thank you.

At this time, I’d make an announcement.

The Falmouth Service Center is only receiving half as many turkeys this year from the Food Bank as they did last year. So, on Sunday the 23rd, they’ll be having a – receiving turkeys at the warehouse and the hours are noon to four o’clock.
So if you’re able to get over there on Sunday the 23rd, they’ll take turkeys to distribute through the Falmouth Service Center.

At this point, if all members could turn to the last cover page, the green cover, and we’ll go over the simplified Rules for Town Meeting.

Speaking and Voting. Registered voters, residents and taxpayers of the town may speak on any article in the warrant. Persons who are not voters, residents or taxpayers of the town may address the Meeting only with the consent of a majority of those present.

Only Town Meeting members may vote.

Motions and Amendments. Motions and Amendments may be made only by Town Meeting Members.

Two amendments will be accepted on any article.

Long or complicated motions, and other motions which he shall so request, shall be presented to the Moderator in writing.

Reconsideration. Reconsideration will be allowed at any time during the meeting if the article does not involve the appropriation of
money.

If the article involves the appropriation of money, notice of reconsideration must be given within 30 minutes of the vote on the article. Reconsideration may then be allowed at any future time.

The Moderator shall determine if the motion to reconsider is in order. Motions for reconsideration must be based on substantially new information not available to the Meeting at the time of the original debate. The motion to reconsider is not debatable.

Our Hours of Operation, the first night will be seven o’clock; subsequent nights, seven o’clock, and we’ll close at 11:00 unless there’s a motion to continue and approved by two-thirds vote.

We’re going to begin with a blanket vote. On the blanket vote I’ll go through each of the articles in the warrant, make a brief description of the article and of the recommendation. If anyone would like to debate the article, or wants to make an amendment, stand up and yell, “Hold”; we’ll make a note of that here.

After I go through the entire warrant
with a brief description of each article, I’ll run through it a second time just by number. And then we will have the Finance Committee cast one motion to accept all articles that were not held as recommended as the official action of this Town Meeting.

Article 1, to hear reports, is a hold.

Article 2, to see if the town will appropriate a sum of money for unpaid bills. This is for --

FROM THE FLOOR: Hold.

THE MODERATOR: Hold? Who’s holding this?

Article 3, this is the Code of Falmouth, deleting the word “elderly” from the Public or Nonprofit Housing portion of the bylaw.

Article 4. This is amending Chapter 240 zoning, deleting in its entirety the flood plain zone section.

FROM THE FLOOR: Hold.

THE MODERATOR: Hold.

Article 5, Zoning Code of Falmouth, deleting some sections in their entirety dealing with design structures and features.

Article 6, updating the local policy plan
for the land use element.

Article 7, updating the local policy plan
- comprehensive plan for the coastal resiliency element.

Article 8 is a hold.

Article 9, to amend the zoning map,
changing from Agricultural AA to Light Industrial C, a portion of land on Nathan Ellis Highway.

FROM THE FLOOR: Hold.

THE MODERATOR: Hold.

Article 10.

FROM THE FLOOR: Hold.

THE MODERATOR: Hold.

Article 11, to transfer the sum of $115,000 from Certified Free Cash for finalizing a lawsuit with the Ballymeade Property Owners Association related to water pressure issues.

Article 12. Article 12 is a hold.

This is the Police Federation Contract.

Article 13. This is a contract for lieutenants. The recommendation is indefinite postponement.

Article 14, vote to amend the Town’s Salary Administration Plan, adding
Treasurer/Collector at Grade 9. I believe this is a hold for the new numbers.

Article 15.

FROM THE FLOOR: Hold.

THE MODERATOR: A hold on 15. Yeah, it’s a hold because we have a number that’s incorrect that has to be changed, as well.

Article 15, indefinite postponement.

This is a sum of money for the Special Needs Stabilization Fund for the school.

Article 16, to transfer the sum of $60,000 from Certified Free Cash for the purpose of funding technical services related to the Information Technology Department.

Article 17, to transfer the amount of $278,000 from Certified Free Cash for the purpose of supplementing the Fiscal 2015 Special Counsel budget approved at the April, Town Meeting.

FROM THE FLOOR: Hold.

THE MODERATOR: Hold.

Article 18, is the omnibus Capital Budget. That will be a hold for a presentation and then we get to it, we’ll go section by section for the line items.
Article 19, is a hold. This is land on King Street.

Article 20, a sum of money to demolish a building on King Street; the recommendation is indefinite postponement.

FROM THE DIAS: Hold.

THE MODERATOR: Hold.

Article 21, appropriate a sum of money for window repair in this building. The recommendation is indefinite postponement.

Article 22, to accept the doings of the Board of Selectmen in the laying out of Crane Street in Woods Hole, and a portion of Cowdry Road in Woods Hole.

Article 23, to authorize the Board of Selectmen to enter into an agreement with Cape Light Compact, Cape and Vineyard Electric Cooperative or any other supplier offering Net Metering Power Purchases.

Article 24, to authorize the Board of Selectmen to purchase or take by eminent domain land in Town Hall Square; that’s a hold.

Article 25, this is to authorize the Board of Selectmen to accept a donation of a parcel
of land off Spring Bars Road.

FROM THE DIAS: That’ll be a hold.

THE MODERATOR: That’s a hold. Okay.

Article 26, to authorize the Board of Selectmen to purchase or take by eminent domain land on the north side of Spring Bars Road. The recommendation is indefinite postponement.

Article 27, to authorize the Board of Selectmen to acquire for nominal, non-monetary consideration a parcel of land 500 feet wide abutting Long Pond.

FROM THE FLOOR: Hold, please.

THE MODERATOR: Hold.

Article 28, to ask the School Committee to rescind their vote disallowing voting at elementary schools.

FROM THE FLOOR: Hold.

THE MODERATOR: Hold.

Article 29, to vote to have the Town Counsel provide a litigation report at each Annual Town Meeting. The recommendation is indefinite postponement.

FROM THE FLOOR: Hold.

THE MODERATOR: Article 30, Town taking
for White Path Lane as a public way. The recommendation is indefinite postponement.

FROM THE FLOOR: Hold.

THE MODERATOR: Hold.

Article 31, this is a bylaw dealing with plastic bags. The recommendation is as printed.

FROM THE FLOOR: Hold.

THE MODERATOR: Hold.

Article 32, vote to appropriate the sum of $59,279 from Fiscal '15 Community Preservation estimated revenues to Oak Grove Cemetery.

Article 33, to appropriate the sum of $185,744 from Fiscal '15 Community Preservation estimated revenues to replace two existing tennis courts and perimeter fencing at Swift Park.

FROM THE FLOOR: [Sneeze.]

THE MODERATOR: Bless you.

Article 34, vote to appropriate the sum of $100,000 from Fiscal '15 Community Preservation estimated revenues to preserve the Falmouth Village Green by replacing portions of the fence.

Article 35, to appropriate the sum of $100,000 from Fiscal '15 Community Preservation estimated revenues to replace nine existing
backstops located at town-wide recreational facilities.

Article 36, that the Town vote to appropriate the sum of $55,000 from Fiscal ‘15 Community Preservation estimated receipts to partially fund construction of a – it should say “two” bedroom affordable, single-family home for Habitat for Humanity.

FROM THE FLOOR: Hold.

THE MODERATOR: Hold.

Article 37, to appropriate the sum of $17,450 from Fiscal ‘15 Community Preservation estimated revenues to install humidity distribution and control system and preserve fireplace hearth systems and stone walls at Historic Highfield.

Article 38, the town vote to appropriate the sum of $300,000 from Fiscal ‘15 Community Preservation estimated receipts to partially fund preservation and rebuilding of the granite wall that encompasses the landing and adjacent side slopes of the Town Landing at Old Dock Road.

Article 39, vote to appropriate the sum of $32,350 from Fiscal ‘15 Community Preservation estimated revenue to purchase and install
approximately 50 recreational bike racks in multiple locations.

Article 40, vote to appropriate the sum of $45,000 from Fiscal ‘15 Community Preservation estimated revenues to partially fund the Falmouth Housing Authority’s Housing Stabilization Program.

Article 41, that the town vote to appropriate the sum of $119,870 from Fiscal ‘15 Community Preservation estimated revenues to the West Falmouth Library to partially fund restoration, fire suppression system, and archive project elements of the West Falmouth Public Library Renovation Project.

Article 42, to appropriate the sum of $229,283 from Fiscal ‘15 Community Preservation estimated revenues to partially fund the repair and replacement of the Falmouth Country Club Golf Course irrigation system and related equipment.

FROM THE FLOOR: Hold.

THE MODERATOR: Hold.

Okay, we’ll run through real quick just by numbers. Article 1 is a hold. Article 2 is a hold.

Article 3.
Article 4 is a hold.

Article 5.

Article 6.

FROM THE FLOOR:  Hold.

THE MODERATOR:  Hold.

Article 7.

Article 8 is a hold.  Article 9 is a hold.  Article 10 is a hold.

Article 11.

Article 12 is a hold.

Article 13?

Article 14 is a hold.  Article 15 is a hold.

Article 16.

Article 17 is a hold.  Article 18 is a hold.  Article 19 is a hold.  Article 20 is a hold.


Article 24 is a hold.  Article 25 is a hold.

Article 26.

Article 27 is a hold.  Article 28 is a hold.  29 is a hold, 30 is a hold.  31 is a hold.

Article 32.  Article 33.  Article 34.

Article 35.
Article 36 is a hold.

Article 37. Article 38. Article 39.

Article 40 –

FROM THE FLOOR: Hold.

THE MODERATOR: 39?

FROM THE FLOOR: Yes.

THE MODERATOR: 39 is a hold.

Article 40. Article 41.

Article 42 is a hold.

Madame Chairman for the main motion.

MR. DUFFANY: Mr. Moderator.

THE MODERATOR: Someone – yeah?

MR. DUFFANY: [No mic: inaudible]

THE MODERATOR: Article 11? Article 11 is also a hold.

Okay, Madame Chairman for the main motion.

CHAIRMAN MAGNANI: Mr. Moderator, I move that all articles that have been passed and not held be and hereby are adopted as recommended as the official action of this meeting, and that the necessary monies for the same shall be raised and appropriated or as otherwise specified.

THE MODERATOR: Okay, you’ve all heard
the main motion to pass everything on the blanket
as recommended. All those in favor signify by
saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.
[None opposed.]

THE MODERATOR: The ayes have it
unanimous.

Madame Chairman for notification.

CHAIRMAN MAGNANI: Mr. Moderator, I
hereby serve notice of reconsideration of all
articles passed under the blanket vote.

THE MODERATOR: Okay, notice of
reconsideration has been served.

Article 1 to hear reports of town
committees and officers. Madame Chairman for the
main motion.

CHAIRMAN MAGNANI: Mr. Moderator, I move
Article 1 as printed.

THE MODERATOR: Okay, Article 1 as
printed. This is to hear the reports. And I have
so far two committees that would like to make a
report.

The first one is the Council on Aging.
Mr. Vieira.

MR. VIEIRA: Thank you, Mr. Moderator.

Good evening, I’m Jim Vieira, Precinct 6, reporting on behalf of the Senior Center Working Group. Slide.

At the Spring, 2013 Town Meeting, I reported that we had narrowed the locations for a new senior center from about 35 to 13. That list was subsequently narrowed to seven. The Working Group has had extensive discussions about each of these. That work correlates to Part C on the overhead. And, by the way, this charge statement was endorsed by the Board of Selectmen in the early months of this year.

On June 23rd we made a presentation to the Selectmen showing all seven and announced the three that we were recommending for further review via a feasibility study. That’s step E on the overhead.

Let’s see if my clicker works, here. Try this one.

Those three are 233 Brick Kiln Road – that is also the site of the Dog Park. We’ll see a slide of that in just a minute. Vacant land at Falmouth High School. And the School
Administration Building and land at that site.

Can I have the next slide, Bob.

Based on the feedback we received from that meeting, the group chose to add a step. We held a community forum on July 30th at the Public Library. We chose to solicit comment on all seven of the locations that we had — that had been on the previous list. The event was very well attended, provided us valuable feedback, and gave the public an opportunity to be heard.

The Working Group met to discuss the comments the following week. We decided that there would be no change to our 6/23 site recommendations. We again met with the Board of Selectmen on September 8th, reaffirming our recommendations. We also encouraged the Board to engage the School Committee in a discussion pertaining to the use of the two sites held under their jurisdiction. It’s my understanding that discussions to that end occurred within the last few weeks.

A week ago tonight the Board of Selectmen endorsed our three site recommendation and added the Gus Canty site to the list. These four
locations are to be further evaluated by a consultant and a feasibility study. Funding for this study is already in place.

So this is the Gus Canty site. This is the ballfield in the back, the Commodore's field. This is the site of the actual recreation building. So that's Gus Canty.

The School Administration Building, we all know where that is, and we'd like our consultant to both look at the building itself and land, consider the whole parcel as a possibility.

233 Brick Kiln Road. This area down here is where the dog park is. As you can see, 233 is a nine acre parcel, most of it undeveloped. This building right here is the PAL building, formerly Knights of Columbus hall. The Board of Selectmen asked to have this included in the feasibility study to be looked at by a consultant.

We had eliminated this from our list early on because at 1.3 acres the PAL site is undersized for our use. And if you see this piece right here, that is a privately owned strip of land between the PAL building and the town-owned land. So it would only make sense to include the PAL
building in this proposal if we also owned this
adjacent site, which is held in private ownership.

So choosing a consultant for the
feasibility study is our next step. We have
provided a draft request for proposals that
contains the guidelines for this work. It’s our
hope that the Town administration will advertise
this in the very near future and the consultant
selected in early 2015.

I’m sure many of you are wondering what
we might have for you in the spring. At this
point, it’s really in the hands of the Board of
Selectmen and the Town administration. All that I
can do is to ask that you keep your enthusiasm for
this project, that you continue to be engaged in
the process and attend further community input
opportunities and please stay tuned. Thank you.

[Applause.]

THE MODERATOR: Okay. Next on my list
is the Artificial Turf Committee. Mr. Duffany.

MR. DUFFANY: Thank you, Mr. Moderator.

Ladies and gentlemen, Michael Duffany Precinct 6
and a member of the Community All-Purpose Turf
Field.
The committee to fund and construct the All Purpose Turf Field at the Falmouth High School has met several times, interviewed PTO parents, gathered information, deliberated at length over the timing and the obstacles to move this project forward. After careful consideration of all the options on the table, it was decided unanimously to suspend further energies on this endeavor, release back to the CPC as promised the $250,000, and that they had earmarked for this project, and take a holding pattern stance at this time.

Although the School Committee supports our endeavors, there are many more questions about funding the School requests for teachers, materials and we’ve heard – we’ve heard these various concerns over each of the meetings that we attended and the folks that we spoke to.

We collectively feel this project needs to be in the School Department’s at this time Capital Budget, and so that in the near future this would ensure that this does not compete for operating budget monies that the schools need for teachers and materials.

The committee sincerely expresses its
gratitude for the continued support of Town Meeting
over the last two years and as we worked to make
this happen. Perhaps we will reconvene in the
future to help to facilitate this worthwhile
project.

We just, we do want to say thank you
again because you have all been very supportive; as
you know, we were not successful at the ballot, and
quite to our dismay we were quite soundly defeated
by the voters.

So, in going around and asking and
meeting with different parents and PTO organization
members to see what it was that we were missing, we
actually found that there was a lot of
misinformation, there was a lot of misgivings and
misconceptions about what was going to take place,
but one thing that was not misunderstood by folks
was the dire need for the school system to maintain
its capacity to have the right numbers of teachers
and materials and so forth for the children to be
able to have a successful education here in
Falmouth.

And again they were very supportive, the
School Committee was, of this here, but without the
unanimous support of several other committees – or, excuse me, with other departments in the Town, we just felt that we were going to have the same result next spring and we didn’t want to put everyone through that again. We listened to you. Hopefully the leaders of the town will also hear that this project was something that a lot of folks did want and will find a way to put it into the Capital Budget and that we will be back again at a later date. And thank you again for all your support.

[Applause.]

THE MODERATOR: Any further committee reports? Hearing none, the question will come on the main motion to accept the reports. All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no. [None opposed.]

THE MODERATOR: The ayes have it unanimous.

Article 2, Madame Chairman for the main motion.

CHAIRMAN MAGNANI: Mr. Moderator, I move
Article 2 as recommended.

THE MODERATOR: As recommended. This is $19,875.83 from Certified Free Cash to pay an Nstar bill and Barnstable County Sheriff’s Office. Ms. Tobey held this.

Can we get a microphone for Ms. Tobey.

MS. TOBEY: Linda Tobey, Precinct 4.

I was concerned when I saw the amount of the bills that were unpaid from the previous year and I’m wondering what the process is.

In the past, I’ve noticed there have been a couple of tiny bills that just didn’t quite get noticed in time, but this is huge. This is almost $20,000.

And I’m wondering - I believe that the Barnstable County Sheriff’s Office would come under the Legal Department, and I’m wondering how this would work. Would that amount be deducted from the budget that they had? Or is this just a - when we approve it -- because obviously we have to pay the bills -- is this an extra $20,000 or $19,000 that they would have to cover the costs? I don’t exactly know how that would work.

THE MODERATOR: So it’ll be an
appropriation from Free Cash, so it doesn’t adjust
any of the budgets. It would be an appropriation
from Free Cash to pay these two bills.

Does someone want to answer what the bill
is?

Ms. Petit.

MS. PETIT: Yes, Jennifer Petit, Finance
Director. This bill did not go unnoticed. This
is from the Barnstable County Sheriff’s Office.
They started assessing us a charge in FY ’13 for
the communications from the ambulance to the
Sheriff’s Office, and so the other communities
started paying the bill and we didn’t pay the bill
right away, thinking it would come into – in FY
‘14. And so it was an ongoing negotiation.

There is a contract and that’s why it’s
an unpaid bill.

MS. TOBEY: Okay, thank you.

THE MODERATOR: Mr. Latimer.

MR. LATIMER: [No mic.] Thank you –

THE MODERATOR: Microphone for Mr.

Latimer, please.

MR. LATIMER: Thank you, Richard

Latimer, Precinct 1.
I’m not going to speak against paying our bills, certainly. But I think if we’re being asked to pay a bill of $19,000 there ought to be some explanation somewhere of what services they are paying for. Which I haven’t heard anybody tell us yet.

THE MODERATOR: She just told you that it was for the ambulance communications provided through the Sheriff’s Office.

MR. LATIMER: Okay, thank you.

THE MODERATOR: Any further –

MR. LATIMER: I would support paying the bill, then.

THE MODERATOR: Okay. Further discussion on Article 2?

Yeah, Ms. Siegal. With the microphone, please.

MS. SIEGAL: Off topic, we’re getting googly-eyed from that light over here. Is it possible to direct it in a different direction? That one. And they’re probably getting this one on the other side.

THE MODERATOR: And the folks on that side are saying this one, too.
MS. SIEGAL: Yeah.

THE MODERATOR: So if our television folks could see if we might be able to adjust these –

MS. SIEGAL: Thank you.

THE MODERATOR: – these two lights that are up front, we’re blinding Town Meeting Members like I’m blinded every night with the ones up here. [Laughs.]

Okay, any further discussion on Article 2? Hearing none, the question will come on the main motion as recommended. This requires a four-fifths.

All those in favor signify by saying aye. [Aye.]

THE MODERATOR: All those opposed no. [None opposed.]

THE MODERATOR: The ayes have it unanimous.

Article 4, Madame – no, this is Planning Board for – yeah, Madame Chairman of the Planning Board for the main motion.

CHAIRMAN KERFOOT: Pat Kerfoot, Chairman of the Planning Board. The Planning Board
recommends this article as printed. And the reason being: Article 18 in the zoning bylaws is a functional duplication of the Conservation Commission’s regulations and bylaws requiring the Conservation Commission’s authority in matters of building and alteration within the flood plain and should therefore no longer be a part of the zoning bylaws.

I know it was held; there must be a question and I will attempt to answer it.

THE MODERATOR: Okay, the main motion is as printed. Mr. Heath.

MR. HEATH: [No mic:] I understand -

THE MODERATOR: Folks, if you could wait until you get a microphone, and then identify yourself by name and precinct, please.

MR. HEATH: Austin Heath, Precinct 8. I understand the reason for this. However, I think under the Charter this is part of your responsibility and there are other places, other means, to accomplish the same thing. As a matter of policy, you can require that any application be covered and reported by the Conservation Commission and submitted to you as review.
One reason I have great faith – sometimes it’s misplaced – in elected bodies as opposed to appointed bodies.

This means that if it is defeated, you can still work with the Conservation Commission, but you could review the article before it passed. If in fact you concurred with their thoughts, you could simply approve it in the meeting much as the Board of Selectmen approves a wedding on a beach. It does not always require a big hearing.

I’d like to see the responsibility and the authority for final approval stay with an elected body, not an appointed body. It’s all too easy for appointed bodies that don’t have to answer to anybody and don’t have to fund them, to approve one thing or another.

I just ask people to think about that when they vote.

THE MODERATOR: Okay, Mr. Duffany.

MR. HEATH: Thank you.

MR. DUFFANY: Thank you, Mr. Moderator.

Michael Duffany, Precinct 6.

I was actually going to hold this article, but for a little bit different reason.
And that’s because a number of years ago we decided to give the Conservation Commission the authority to make its own regulations and to vote its own regulations and we took that away from this governing body here when we did that.

We still have the Planning Board and the Zoning Board of Appeals that comes to us for any bylaws that it wants to change or to amend or to create. And so I have a lot of trouble, if you will, by giving the authority to the Conservation Commission. And it has nothing to do with any individual or the makeup, it’s really more just the way that I feel about this personally that we’re giving a body that – the authority that we had ourselves at one time. And it’s a lot of power to give to someone.

Right now, if you are in a velocity zone in the Town of Falmouth the Conservation Commission requires that you be a foot above the FEMA regulations, just as an example of one of the things that they had the authority to do and that we as Town Meeting Members will not have any say over.

So, again, I would like to see it stay
with the Planning Board because unless it comes back next spring, I would say to indefinitely postpone this and maybe come back next spring and change the authority of the regulations, the wetlands regulations from the Conservation Commission back to Town Meeting so that we have say in it once again. Thank you.

THE MODERATOR: Okay, Mr. Schmidt. Off to my right. Microphone to my right.

MR. SCHMIDT: Yes, Edward Schmidt, Precinct 8. Also a member of the Conservation Commission for ten years. And that’s why I do feel a little bit of a responsibility to speak out on this issue.

ConCom does have certain permitting responsibilities, but primarily we relate to the footprint on the ground. But there are a lot of other issues related to flood regulations and the latest FEMA regulations. They all relate to building construction techniques, which is well beyond the purview and the expertise of the Conservation Commission. It’s the kind of thing that has been handled very adequately and professionally by the Town Building Inspector.
And having spent ten years on the Commission, I can say I don’t feel that in that ten years I ever acquired sufficient expertise to be able to carry out that responsibility.

I really do believe it needs to remain with the Town Building Inspector, thank you.

THE MODERATOR: Okay. Mr. Hargraves.

And then Mr. Latimer.

MR. HARGRAVES: Peter Hargraves, Precinct 9.

I’d like to build on that comment from a personal experience, and I think there’s some administrative procedures in the Town that need improvement before we could implement a proposal like this.

In the case of my house, after I took title and closed on the house, I discovered there was an open order of conditions and the house had been given a certificate of occupancy.

So I think when you start to scatter the responsibilities and there’s no good coordination among the boards and agencies in town, there’s some things that are going to fall through the crack, as in my personal case, here. And that was the
explanation I got when I wondered how a certificate
of occupancy could be issued when there was an open
order of conditions from the builder, not from just
the previous occupant, but from the builder.

THE MODERATOR: Mr. Latimer.

MR. LATIMER: Thank you, Mr. Moderator, Richard Latimer, Precinct 1. A former member of
the Planning Board.

I can say in response to Mr. Schmidt that
the Planning Board – neither does the Planning
Board have any special expertise in construction.
In either case, if it’s a construction issue, we
would accept referrals from the Building
Commissioner if that’s something material.

But I would have a question here: is
there a statutory mandate for the Town to deal with
this issue? And if so, is there any statutory
mandate as to which board should be doing it? I
don’t know the answer to that.

I do know that having duplicate
regulations doesn’t serve the Town well, certainly
not with the public, and that it should be one
board or the other and I’m not expressing any
preference for that, but I would want to know if
there’s a statutory mandate which puts it more within the purview of one of these boards or more within the other. I don’t know the answer to that question.

THE MODERATOR: Ms. Kerfoot.

MS. KERFOOT: May I respond to --

THE MODERATOR: Yeah, Ms. Kerfoot.

MS. KERFOOT: Oh, okay, thank you.

Rich, the answer to that is no, it doesn’t have to lie with one board or the other. And Mr. Schmidt, the Building Commissioner does determine the building code and how it’s to be applied.

So what we were attempting to do by this -- because we the Planning Board do defer to the Conservation Commission when it has to do with wetlands -- we were attempting to make it more one stop. That’s a complaint that we receive all the time, is that applicants have to go to too many different bodies to get their permits.

THE MODERATOR: Okay, Ms. Lowell.

Microphone on my left.

MS. LOWELL: Vicki Lowell, Precinct 1.

I just didn’t want to let something go by
that I think might not be quite correct, from my esteemed friend Mr. Duffany. My recollection is that there was an effort to have Town Meeting vote on the regulations for the Conservation Commission and that was defeated, but that the Conservation Commission has always had the power to take the local wetlands bylaw and then under that to write its own regulations. Just like the Planning Board does for subdivision regulations.

So, I just didn’t want us – I could be wrong, but I don’t think it ever was up to Town Meeting to write the exact regulations for the Conservation Commission; I just wanted to correct the record on that, thank you.

THE MODERATOR: Ms. O’Connell.

MS. O’CONNELL: Thank you, Maureen O’Connell, Precinct 4.

I would like to concur with the gentleman from Precinct 8, the first speaker, who said that – who pointed out the importance of accountability to the public, the electorate, the taxpayer through an elected board, the Planning Board. I think he made a good point.

All of the preliminary work can be done
by the Conservation Commission and if there is no
conflict of any sort, it’s merely a quick vote by
the Planning Board, it’s not another hearing.

I would like to move indefinite
postponement on this article, thank you.

THE MODERATOR: Okay, for those who want
indefinite postponement, you just vote no on the
main motion.

Any further discussion on Article 4?

This requires a two-thirds vote. All
those in favor signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[No.]

THE MODERATOR: It’s the opinion of the
chair that the no’s have it by a majority and there
is not a two-thirds.

Article 6. Madame Chairman of the
Board of Selectmen for the main motion.

This is the first time I recall having a
Madame Chairman in every chairmanship.

[Laughter.]

THE MODERATOR: Congratulations.

Madame Chairman of the Board of Selectmen.
CHAIRMAN FLYNN: Yes. Thank you, Mr. Moderator. The Board of Selectmen recommends the Town vote Article 6 as printed.

THE MODERATOR: As printed. This is the updating of the Land Use element of the Local Comprehensive Plan.

Ms. O’Connell held this.


Just - I’m just wondering. I’ve been working on spending more time paying attention to the language in the articles, and on the third point under policies, there’s a mention that we’ll develop - guide “development into convenient and pleasant villages” - that’s, you know, whatever that means to whoever, or whomever - “suitable for the 21st Century, balanced with large reserves of open land”.

So I saw the capital C on the Century and I can’t find any - is this referring to a particular plan or a particular guidebook or - because all I can come up with are things that are related to the United Nation when the C is capitalized. And, you know, it can pull a light
up here. And if someone would like to clarify
that for me, I’d appreciate it.

CHAIRMAN FLYNN: Mr. Moderator.

THE MODERATOR: Madame Chairman.

CHAIRMAN FLYNN: The Planning Board and
the Board of Selectmen held a joint meeting some
time back to discuss these really important issues
for the Town, particularly as they related to
planning for the future, and we happened to review
a 1965 plan that was developed by the Board of
Selectmen back in those days.

At that time, Katherine Lee Bates Road
did not exist, and sometime if you have the
opportunity you should really take a look at this
plan, because the Selectmen at that time really had
a great vision in terms of Main Street, what it
should look like in the future and how they might
be able to make that happen. And so Katherine Lee
Bates Road was put into that plan. Shore Street
Extension was put into that plan. And so it
actually delineated from the Village Green to Shore
Street what Main Street could look like in the
future, and actually when you look at Main Street
today that’s exactly what it looks like, from their
vision back in 1965.

So when we thought about that and we thought about the future, in another 20, 30, 40 years from now, what things – what are the areas that we should really think about? And this whole idea of guiding development and thinking about the villages and what areas in the village we should concentrate on expanding or increasing the density and which areas we should not.

So we have embarked jointly on a plan to take a look at Main Street from Shore Street all the way to the School Administration Building.

So this is just more of a vision, because we need to look at that. There are areas of Main that, extending Main Street to make it more viable, make it more of an asset to the community.

If some of you may remember 20 years ago when we did the renovation or the restoration of Main Street, we had a professor from U Mass there; his name was John Mullen, and he told us two things: that if you – if on your Main Street you have a thriving hardware store and a thriving bakery, you will have a thriving Main Street. And we have both. And so we need to pay attention to
these things.

So what we’re looking at is 20, 30 years from now. And it’s only in our ideas; there’s nothing on paper, there’s nothing definitive, but we believe that we have an obligation to take a look at the downtown area of Falmouth and make it a much more viable, attractive place as it moves toward the Village Green – the School Administration Building.

THE MODERATOR: Okay, Ms. O’Connell.

MS. O’CONNELL: I guess I also I guess I was assuming that this was not referring just to downtown, but to all of the villages in Falmouth, perhaps.

CHAIRMAN FLYNN: Yes.

MS. O’CONNELL: So, I appreciate what you’re saying about downtown.

I guess I’m still – I guess I would like more – I guess this is an overview, is what you’re trying to say to us, and I thank you.

THE MODERATOR: Okay. Further discussion?

Okay, hearing none, the question will then come on the main motion as printed.
All those in favor signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[No.]

THE MODERATOR: The ayes have it by a majority.

Article 8. This is West Falmouth Library. The recommendation was indefinite postponement, and do we have a positive motion?

CHAIRMAN FLYNN: Yes. The Board of Selectmen moves approval - moves - recommendation is to vote as printed.

THE MODERATOR: Okay.

CHAIRMAN FLYNN: And the proponent - and the proponent, Charlie McCaffrey, will have a presentation.

THE MODERATOR: Okay, the main motion is as printed.

Mr. McCaffrey.

MR. MCCAFFREY: Thank you. I'd like to give you a little bit of background on this. As a Town Meeting Member I promise to be brief.

At the West Falmouth Library we're very excited about plans we have to make substantial
improvements to the buildings, and this originated with a series of community meetings a couple of years ago, where we asked what are the strengths and weaknesses of the Library. While most of the comments were very positive about the roll of the Library and its facility, it was recognized that there are substantial safety and accessibility issues.

We don’t have good access between our first and ground floor. The staircase was built in 1896 and is very – anyone who has seen it, you hold both sides when you go down it.

We had a lift – I wouldn’t call it an elevator – that most people refuse to get on.

We don’t have that great entrances.

There’s a steep hill to climb to go up granite stairs, which are dangerous for elderly people, particularly in the winter.

It was also felt that we needed some additional program space and more flexible use of the space we had, particularly for expanded children’s programs. An archive room which was the subject of one of the other articles and for a quiet reading space, given the substantial increase
in program activities that are occurring at the
Library.

So that briefly is what the issues were
that we were going to address.

In addressing them, there are four
elements to our plan: a new addition, a renovation
of what was an addition in the back of the Library
in 1972, and that’s pretty much a complete gut of
that space and redo; restoration to historic
preservation standards of the original 1896 Library
building.

We’ve done a detailed analysis of its
condition and although for 120 years of continuous
use it’s in very good condition it does need real
attention in order to make it all that it can be.

And we’re adding outdoor program space.

We have a nice garden to the north of the Library,
but it’s not accessible from the Library itself
with any ease.

The conceptual design work has been done
and we’ve begun a Capital campaign and we intend to
raise 2.9 million, primarily from private funding.

There will be a few grant applications as you have
kindly approved one of them tonight. Thank you
very much.

We are now approximately a little over a
third of the way towards raising our 2.9 million.

Next slide, please. This is a site plan
of the revised building, the renovated building.
If you - the blue is the addition. This tan color
is the ‘72 addition which will be renovated. And
the pinkish color is the original building, which
will have a thorough historic restoration. And
the green is the new outdoor program space.

In looking at this, this leads to why are
we asking for the land swap. The new addition is
located here so that it can be easy grade access
from the parking lot. It’s also located towards
the back of the site in order to avoid competing
with the historic character of the original
building. We certainly expect that the Historic
District Commission will appreciate that we’re
moving this to have the least impact on the visual
quality of the original 1896 Library.

The site, also, the outdoor space, needs
to be handicapped accessible and our designer came
up with a wonderful idea that instead of a large
series of ramps, that we integrate access between
the levels and to grade through a landscaped
pathway cut into the slope and take advantage of
the topography to create the handicapped accessible
grade. That does involve – will involve a little
bit of, as of now, what is Town land.

The boundary for West Falmouth Library
property is just about here, so that it’s very
close. And at that point at the boundary line it
begins to rise very steeply.

Next slide. This is what the addition
will look like. Sketch.

Next slide. This is a rendering of an
example of some of the restoration work that will
occur in the original building. This illustrates
a couple of things. If you’re familiar with the
Library, there’s sliding doors. Only one works;
the other is in fixed position. That will be
restored so they can be opened and that seating for
major programs, concerts, meetings, can overflow
more easily into the adjoining reading room, where
the bookcases are. But all of the bookcases are on
rollers so they easily move back.

Next slide. So the article tonight is
for an exchange of land. As I pointed out on the
earlier map, the Library is very – the existing
Library is very close to the property line and at
the property line the slope rises steeply.

Next slide. All right. Here is the key
piece. You can see this is the existing Library.
That’s the property line behind it; it’s in this
area that the new addition would be built, very
close to the property line, and it’s in this corner
that we would have some landscaped handicapped
accessible ramping.

The Library, however, to the north, this
parcel is also owned by the Library, and this
parcel extends all the way up to adjacent to the
ballfield in the town park. The ballfield is just
about here. Most of this area is – this area, all
along here, is very steep slope. The town park
activity areas are up here.

If I could have the next slide, you can
see that more easily with an aerial photograph.
This is the Library and this vegetated area all
along here is steep slope. Here is the ballfield.
The land that would be exchanged would be town
owned down to the Library here, and the Library
owns up past the ballfield, here.
An equal amount of land, approximately in this area, is town land that would be transferred to the Library in exchange for Library land up here behind the ballfield. It’s a reasonable exchange. The land that – at the top of the Library’s parcel here is of very little use to the Library, but it could have beneficial uses given its proximity to the ballfield. Also this land is not as steeply sloped, so it may be more useable, but its distance from other Library activities makes it not useful for the Library.

On the other hand, the steep slope behind the Library is of little use for any active recreation, and it is important for the Library because we would need, in order to make our addition feasible, to put in some retaining walls and address drainage in that area.

Next slide. So, if you were to approve this, this would enable the Selectmen and the Library to work out an agreement for the land exchange. We recognize that as park land it will require special approval and perhaps legislation. This is not extraordinary activity, so that we’ll work with the town Selectmen to do that.
I would just mention one point that’s interesting, that the Town land that we’re asking to exchange had been many years ago a gift from the Library to the Town.

[Laughter.]

MR. MCCAFFREY: For park purposes. And because it’s for park purposes, now we need special legislation. Thank you.

THE MODERATOR: Okay, Ms. Flynn.

CHAIRMAN FLYNN: Yes, thank you, Mr. Moderator.

I just wanted to add and emphasize the point that if in fact this article is approved and this land swap takes place, it does require a special act of the legislature to do it because of the parkland aspect of it. And then it will come back to Town Meeting again for final approval.

THE MODERATOR: Okay, any further discussion on Article 8?

Yes, Mr. Noonan.

MR. NOONAN: John Noonan, Precinct 6.

Just a quick question. You just said it would have to come back to Town Meeting. Could we not approve it and direct the Chairman to get a
hold of the legislature and then if approved by the legislature it would go forward?

CHAIRMAN FLYNN: New information.

THE MODERATOR: No –

CHAIRMAN FLYNN: Town Counsel says it does not have to come back to Town Meeting.

THE MODERATOR: Yeah.

Okay, Ms. Perry. Ms. Perry.

MS. PERRY: Yes, can I have a microphone, please?

THE MODERATOR: Yes. Okay.

MS. PERRY: Thank you. Thank you, Mr. Moderator. Jane Perry, precinct 8.

Chairwoman of the Commission on Disabilities.

And I would like to thank Mr. McCaffrey for doing his due diligence and homework and using the word “accessible” instead of “handicapped”. So we’re finally getting the hint.

However, he is correct that this slope – I’ve seen this project presented. This is the third time, I believe. That it would be too costly because what happens is even though you have a ramp, after the ramp, after four feet you have to have a platform, and then for every foot you have
to have running board, 12 inches of running board.

So that material can be just as expensive as doing it this way, and I hope that the Library trustees at the West Falmouth Library and Mr. McCaffrey will contact the Commission on Disabilities to give our input and constructive criticism as this project progresses.

And I think it’s a wonderful project and I hope Town Meeting votes in favor of this. Thank you very much.

THE MODERATOR: Okay, any further discussion on Article 8?

Hearing none, the question will come on the main motion. This requires a two-thirds vote as printed.

All those in favor signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]

THE MODERATOR: The ayes have it unanimous.

Article 9, Madame Chairman of the Planning Board for the main motion.

CHAIRMAN KERFOOT: The Planning Board
Tinkham Reporting
(508) 759-9162

1 recommends Article 9 as printed.

THE MODERATOR: Article 9 as printed.

2 This is to amend the official zoning map to change
Agricultural AA zone to Light Industrial C on
Nathan Ellis Highway.

3 Madame Chairman.

4 CHAIRMAN KERFOOT: The comments that we
have mostly heard on this article is that it’s spot
zoning. That simply is not true. It is part of a
long-term planning process that goes back several
years before and includes Town Meeting’s passage of
the Light Industrial C District to preserve
industrial land for our contractors’ usage.

5 As you know, so many of them have to go
across the bridge to find a space for their
business.

6 The LIC designation was planned for the
major nodes of transportation which are the
intersections of Route 28 with Brick Kiln Road,
Thomas Landers Road and Route 151 as the rezoning
of these nodes becomes viable.

7 It was also planned along the length of
Thomas Landers Road, again as these properties
become viable to rezone LIC.
And you might remember that the first action on this long term plan was the rezoning of the Haddad property at Route 28 and Thomas Landers Road, again for contractors. It was a two acre parcel. There was a challenge to this rezoning as spot zoning, but the Attorney General disagreed because it was part of a long term plan and not just for one individual’s gain.

And I’m sure Town Meeting remembers this.

Please compare and contrast the Haddad case with the Minasian case that came before you three times over and you turned it down three times. Mr. Minasian’s plan did not meet any community needs and would be only for one person’s gain. If you wish a further discourse on spot zoning, Mr. Curry has come prepared to give you a tutorial.

The other thing that has come up is the green way of 151. The Planning Board reaffirmed that concept by looking at the history of it and it had come before us in other instances. And we discussed that and decided, no, we absolutely do not want that to change. We want to keep it a green way, an easy transmission of traffic between the 151 and the Mashpee line.
And I’d be happy to accept any questions you have on that if you have questions or if we just go to discussion.

THE MODERATOR: Okay, discussion on Article 9.

Mr. Wilber.

MR. WILBER: Hello, everyone, my name is Jude Wilber, Precinct 9.

I have a long history of involvement with this. I was the chairman of the Planning Board when Mr. Cavossa first came to us years ago and suggested the need for a special zone to accommodate contractors. This was back during the boom years, which some of you may remember, when contractors were parking their vehicles in the neighbors to a great uproar of the people. And it was recognized and supported by the Planning Board that this was necessary and over a process of two years we developed the plan which Ms. Kershaw’s referring to. And it worked well. She’s presented it accurately in terms of how we looked at this, how it would work.

Mr. Cavossa at the time had an operation on his property and he chose to leave it in
Agricultural AA, which anyone will recognize is a smart business decision since Light Industrial C is considerably more restrictive.

So, it was simply a smart business decision on his part.

When the building boom bust, and Mr. Cavossa’s primary business of septic systems and landscaping and stuff like that went away, he adapted. He’s a significant employer in the community. And he moved into a refuse business. He came to the Planning Board and received a special permit. However, there was a mistake made, I do believe, this is my understanding, in that Agricultural AA did not provide for a special permit in this area, to encompass a refuse business.

So, this appears to be complaint-driven on a rather servile level, in my opinion. And Mr. Cavossa had operated that yard in a number of different ways for well over ten years and has continued to make it a better-looking place every year. He is now offering to provide a service in - to the standards of his other services and I have never - it’s sort of been my experience that this
Town Meeting has never turned down a member of the community who has served the community in various ways that Mr. Cavossa has and has a legitimate right to make a living and provide jobs for the community.

So I strongly support this. I see no good arguments against this. Ms. Kershaw has pointed out spot zoning and it is specious. There’s no water issues. And I strongly support this. This is in conjunction with a long term plan.

So, that’s my story --

THE MODERATOR: Okay –

MR. WILBER: -- going back to the beginning and I strongly urge everyone to approve this necessary article.

THE MODERATOR: Okay, further discussion?

Mr. McNamara.

MR. MCNAMARA: Good evening. Matt McNamara, Precinct 7.

One of the greatest impacts we can have on the character of this community is by modifying the zoning bylaw. In fact, that’s the reason why
it requires two-thirds vote.

A zoning change should not be handed out as a reward for somebody who’s been good to the community. Zoning changes affect the property and last long after the current ownership.

I think it’s important to actually review the history on this property. As Agriculture A District, the only way that the current owner can operate a contractor’s yard is through a special permit that is issued by the Planning Board. The special permits issued by the Planning Board were first issued in 1998, modified in 1999 on two occasions. Modified again in 2000, 2002, and most recently August of this year.

In fact, the minutes of the Planning Board as they prepared the most recent modification of the special permit stated that the current operation -- based on testimony on the current operations and evidence that the site has been used beyond the scope of the permits issued by the Planning Board.

Now, at least the special permit that was issued by the Planning Board, looking back over the history, had some restrictions imposed on the contractor’s yard at this site. The restrictions
included but not limited to the hours of operation
and the number of vehicles. And those have been
changed over the years.

    Now, again, under Agricultural A, the
only way a contractor’s yard can be operated here
is through that special permit. And it’s my
understanding going back to 1998 and forward that
there were concerns that were raised about traffic,
the number of vehicles that were operating at this
site. To the point there was actually a slow down
lane that was installed on Route 151.

    Now, if Article 8, and I’m only talking
about Article 8, were to pass and this gets rezoned
-

      FROM THE FLOOR: Article 9.

      MR. MCNAMARA: I’m sorry, forgive me.

Rezoned as Light Industrial C, a contractor’s yard
will be allowed by right. That means no special
permit will be required. So any of the
restrictions that have been imposed to date by the
Planning Board evaporate. The special permit
dissolves. So that the hours of operation that
have been restricted over the years will be
limitless. The number of vehicles that have been
restricted over the years will be limitless.

So, I would suggest before you take any action on rezoning this, that you understand particularly what will happen to this site. Thank you.

THE MODERATOR: Okay. Mr. Cavossa, did you want to speak?

MR. CAVOSSA: Yes.

THE MODERATOR: Yes, Mr. Cavossa.

MR. CAVOSSA: Thank you, Mr. Moderator. I would defer to the Planning Board; I don’t think my special permit would evaporate. I think that’s not a true statement.

But I have prepared a little bit of a slide show.

My name’s Carl Cavossa; I’m the owner of Nathan Ellis Highway, LLC. It’s an 8.63 acre parcel out on Route 151. It’s currently agriculturally zoned. Both of my companies are the tenants. When I first bought this property, I had another company that was local here in Falmouth that was a tenant and was approved by the Planning Board; they have since moved away.

I’ve asked to change the zoning -- change
the zoning article. That’s a picture of the property from an aerial view. I have one of these little pointers. This is the railroad, right here. This is 151. This is the power lines in the back of the property and there’s a massive piece of land back here that’s Otis Air Force Base.

I’ve been operating out on the site since 1997 without complaint. We’ve not logged one single complaint until we went to the Planning Board this August to change the hours of operation. Over 15 years.

I’m very proud of the property. I’m proud of how it looks from the front. I’m proud about how we’ve maintained the property and worked with our neighbors and the community here in Falmouth.

I’m also proud about the fact that I’ve worked with the Planning Board not only to create the contractor’s yard bylaw, which not only allowed me to operate on my property but several contractors in the town of Falmouth to legally operate on properties that were zoned agricultural. There was no property for contractors to operate on when I first started the contractors yard bylaw,
and it was this body through Town Meeting that
helped adopt that bylaw and gave contractors the
opportunity to stay here in Falmouth and not leave
to go to other communities.

This is an aerial photograph of my
property. I believe that quarter mile radius
there’s not one single home within a quarter mile
radius of my property.

My property is bordered by Route 151,
Route 28, Route 151, the power lines and you can
barely see in there that’s the railroad track there
that has the trash train that goes out on it.

There are two golf courses here that
separate me between the Ballymeade community and
this is Cloverfield Way, which has approximately 20
homes, 25 homes on Cloverfield Way.

The current use. My use of the property
since 1996 has been as a general contractor. We
do site work, septic systems, excavation work.
The bylaw that was created for contractors has very
specific language in it as to what those
contractors can do, what they’re allowed to do and
not allowed to do.

A lot of folks have talked about me
operating outside of my permit, and that what I’ve
done is illegal and they’re upset about that. The
– what happened to my company was I received -- in
1996 I received a special permit to operate an
excavating company and I operated that successfully
for several years. When there was another rubbish
company in Falmouth that went out of business, we
saw a need in Falmouth. We went and met with the
Planning Board and we got a special permit to
operate Cavossa Disposal. In 2002, Cavossa
Disposal has a special permit still in existence to
operate Cavossa Disposal, the company that you all
see now.

Over time, as contracting jobs and the
building boom started to slow, we started to move
into putting dumpsters into the yards – into the
areas of restaurants, retail shops, non-profits,
the hospital, Woods Hole Oceanographic, MBL, and we
saw a need as that other company left. There was
a real need in Falmouth for a local company to do
this type of work.

When we took over work at the hospital
there was no recycling. We’re the ones that
instituted recycling at the hospital and on a big
level. And I’m very proud of that. And not only at this hospital but at the Cape Cod Hospital.

As we grew the company, we had no idea until August of this year that my rubbish company is now not a subcontractor of the general contractors. We do do that type of work, but the – more of our work is now moved towards servicing retail places and restaurants and the hospitals and stuff. We have eight trucks that do that and four trucks that do general contracting work.

So you can see, as my company started to grow, it wasn’t something that we – I mean, my name’s on the dumpsters, my phone number is on every dumpster. I think people are sick of seeing it. I wasn’t hiding from the Planning Board; everybody knew where I was. So, as that happened, we went to the Planning Board to talk about other issues, and one of the issues was hours of operation. As we got into that, we found this. It’s not a mistake, it’s a evolution, I would say.

Some people feel that it was done on purpose. It wasn’t done on purpose. If you read the bylaw, I can have wheeled equipment on my site. Every rubbish truck I have has wheels. There’s no
distinction between Cavossa Disposal contracting work, Cavossa Disposal, you know, doing work at the hospital. There’s no different – it’s the same company.

So that’s basically where the problem came into.

You can go to the next slide.

The zoning history. A little bit of the zoning history Mr. McNamara hit on. Prior to 1981, this piece of land was zoned Light Industrial A. That’s why this piece of land to me was very attractive. I bought the property much later than that, but having known the history that it was Light Industrial A, I thought that eventually this was a good area that the Planning Board has designated for Light Industrial property. I thought this would be a good area to some day be Light Industrial.

In 1981, the Planning Board and this body, Town Meeting, decided that it would go - it would change that piece of land to Agricultural AA, and the reason was was to protect an aquifer on the back of the property. That star on the property is Nathan Ellis Highway. The green area behind
the property is where there was a potential – in
this area somewhere there was a potential well
site.

This is all public use land. So you can
see as you travel down Route 151 the only other
property on 151 on the north side is the
Nickelodeon, which Jeff Hamilton’s doing a fabulous
job renovating and turning into a viable
contractor’s yard.

Next slide. So, C. E. Maguire was the
company. They found that this site could no longer
be used as a Town well site. So the – and the
Town has now moved to use Long Pond and municipal
well sites beyond the impact of the plumes.

You can see here that green star is the
approximate location of our site, and you can see
these plumes that emanate from the Otis Air Force
base, which negated any opportunity for the Town to
use this site as drinking water.

Why am I here? Light Industrial C
zoning. The Planning Board did invite us, as Mr.
McNamara claimed earlier, to come to you in 2010
when the Haddad property was approved for Light
Industrial C zoning. The Planning Board worked
several years to come up with a zone that worked well for contractors. They came up with Light Industrial C zoning. They invited us to apply. Light Industrial C zoning at that time strips away some of our rights to develop the property down the road if things should change in my business. It takes away the right to have a residential subdivision there and some other rights that are very equitable and financially sound. We didn’t think it was a good business decision, as Mr. Wilber said, so we decided at that time not to pursue Light Industrial C property.

We had no idea this issue with our business was being created at that time and this would be the ultimate end goal, to get Light Industrial C property.

So, as Light Industrial C property here is defined, it’s a contractor’s yard. These are the things that are allowed: wholesale to the trades, warehousing and storage buildings, ground mounted solar arrays.

Next slide. These are accessory uses. There is a cell tower on the property already.

Supported office facilities, fabrication of
assemblies and some assemblies.

Next slide. These are special permit uses that are allowed on Light Industrial C zoning.
It could be a restaurant and fast food place. A wind energy. And you can have a cell tower or radio tower over 50 feet in length. I would have to apply, I believe, for the special permit use because there is already a cell tower there over 50 feet.

I’m not going to be in the restaurant business; it’s not an interest of mine.

The – I am here to ask you to help – help with this zoning issue. I was in front of you in 1997 and in front of the Planning Board several times between 1997 and 2000. I came in front of this body in 2000 to ask to have the property zoned Light Industrial A. The Planning Board wanted some time to study Route 151 and come up with a viable option. They have done that, it’s Light Industrial C. It’s taken some time. We were operating with a special permit; there was no hurry for us. We’re here now.

The Light Industrial C zone I do believe will hopefully create a situation in the future
where other contractors can come in and apply for this and there will be other – other areas in town that apply for Light Industrial C zoning. Contractors do need relief.

Next slide. The Light Industrial C zone is closer to the actual use of my property. Obviously we are a contractor’s yard. I believe right now in the Town of Falmouth at 8.6 acres we’re the largest contractor’s yard in the town of Falmouth.

Next slide, please. This talks about the Planning Board inviting us in 2012 to come to the Town Meeting to ask for this and that’s what we already talked about. The Planning Board unanimously approved this motion to come in front of this body and ask for this change.

If we go back to that slide. This slide shows that this area outlined in red, other than for the 20 homes on Cloverfield Way -- which is separated by a high tension wire and a 200 foot easement with rail trash train -- other than those 20 homes, there are no homes in this area. And this area actually extends up almost to the Otis Rotary, because this is a gravel pit, and the
Cemetery up at Otis.

This area here is Ballymeade’s Country Club. There’s two golf courses here that separate my property from the homes in Ballymeade.

Next slide, please. Continue. This slide shows the proximity of my property to the Ballymeade homes, and this is Thomas Landers Road. The proximity to the Thomas Landers Road, which is Light Industrial A, to the homes in Ballymeade. They’re in fact closer to the Falmouth dump, which is right here, than they are to my property.

I know Mr. Wilber talked a little bit about it. We’ve tried to be a good corporate citizen in the community. We give back to the community. You’re not zoning the person. You’re not zoning the company, I realize that. This location here is ideal for a contractor’s yard. There’s only one piece of property between us and the on ramp to Falmouth on both sides.

I have a letter of support from CLSV. CLSV owns this 32 acres here and they have supported us unanimously with all the partners to rezone this property to Light Industrial C and they’ve also supported us on Article 11.
I would ask Town Meeting that you please
move this to support the zoning change that the
Planning Board has unanimously pushed forward.
Thank you.

THE MODERATOR: Okay, discussion?
Further discussion on Article 9?
Ms. Lichtenstein.

MS. LICHTENSTEIN: Thank you. Leslie
Lichtenstein, precinct 8.

Mr. Cavossa has been a great neighbor. I
have to admit, he’s given us a dumpster every year
for our annual Falmouth Town cleanup. But I’ve had
several calls from people. They had one concern
they wanted me to ask you about trucks going in and
out and beeping noises at night. So I said I
would stand up and I would ask you. And I’m
asking you: what kind of noise will there be?

THE MODERATOR: Mr. Cavossa.

MR. CAVOSSA: Well, currently if the
backup alarms on our trucks -- the beeping noise
that you hear is a backup alarm. We’ve done the
research with our consultant from the Department of
Transportation. We don’t need to have backup
alarms on our equipment. We actually have a
switch on them where we can turn them on and turn them off, and we’ve instructed the drivers to turn them off in the early morning hours and to turn them back on during the day. It’s a hundred percent a safety device.

As you can see by this slide, there’s not a lot of folks near my property. When we leave the property, there’s no backing up. We pull out, we take a right to get onto the highway or we take a left to go to Mashpee.

MS. LICHTENSTEIN: Thank you.

THE MODERATOR: Okay, Mr. Hargraves.

MR. HARGRAVES: Thank you. Peter Hargraves - thank you, Mr. Moderator. Peter Hargraves, precinct 9.

Just as a point of understanding to inform my vote. There’s a lot of technical aspects of the zoning and planning here, but just to simplify it for me, since I’m not a zoning expert. If this is not approved, what aspects of your current business will be impacted? Will you have to shut down operations, lose revenue and people losing their jobs? Or are you just planning for a future expansion and greater
operation in a general area and you’d like to have
a friendly zone for your vision?

THE MODERATOR: Mr. Cavossa.

MR. CAVOSSA: That’s a great question.

That’s a great question. And if I remember the whole thing, I’ll answer it all.

The first part of it is: if this Article 9 does not pass, the general size and shape of my property—of my commercial operation doesn’t change. I would probably defer to the Planning Board as to what would happen next.

Currently there’s no enforcement action against me to leave the property. This is hopefully a fix to get me in line to the next article, which is 11, to make adjustments to Article— to the Light Industrial C zoning. So, before I can get there, I have to get this passed.

Just so everybody there’s a clear understanding. It does not matter what this property is zoned. Article 11 really changes the wording.

FROM THE FLOOR: Ten, ten.

MR. CAVOSSA: I’m sorry, Article 10 changes the wording.
If I was in Light Industrial A, I
couldn’t have waste removal equipment. If I was
in Light Industrial B, I couldn’t have waste
removal equipment. My trucks are not in another
zone.

So it’s important that Light Industrial C
is passed and then some adjustment is made at Light
— on Light Industrial land to allow waste removal
equipment. How much of that equipment and what
activities are permitted, this body would make that
decision.

FROM THE FLOOR: [No mic: inaudible.]

THE MODERATOR: Okay. The —

MR. CAVOSSA: Yes, we currently are in
the waste removal business, yes, that’s correct.

THE MODERATOR: The gentleman in the
aisle. Yes. Could we have a microphone for the
gentleman in the aisle? I got ya, you’re on the
list.

MR. MANN: Thank you very much. My name
is Ryan Mann. I’m a resident of Cloverfield Way.
And, Mr. Cavossa, I just want to say, first of all,
I respect your business and I want you to continue
to thrive here in Falmouth.
But it’s my home that your circle is going to be actually in if it was accurate. And I only say that because it’s not within the quarter mile of a circle from the center of that, but it is within a quarter mile of your property.

Can you go to the next slide, please. Keep going. Keep going.

If I - while you’re doing that, I’m a new resident of Falmouth. My wife and myself and my now five month old baby moved to Falmouth this past June. And if I had known, I don’t know what my choice would be. And I’m not trying to say that this is a not in my back yard situation. At least for me, I don’t know if it is, okay? As I said, I want you to continue to thrive here in Falmouth.

But, for me, it’s a big deal. I hear my neighbors, and we had a little barbeque get together and they said, “We never had rats - rats before Cavossa started their things.”

Now, here’s the thing. I have to be very honest. He hasn’t heard it. The Planning Board hasn’t heard it. It doesn’t mean that it doesn’t exist, but if there’s a change, over time, he can operate under a special permit right now. If
somebody does come forward and say there’s rats in their house, the local Planning Board can review that permit. And with this change in zoning, you can’t do that. That’s a big deal.

Now, I don’t have rats in my house. And I really do want you to continue.

However, that’s a big deal. That really gave me some thought.

So I heard the word “Cavossa” and I didn’t even know where the land was. And then, just two weeks ago, a neighbor came up to me and told me about this and so I contacted the Planning Board. And I was told what’s going on with the land on Cloverfield Way. Because I didn’t know where the land was. And there’s a reason why. Because it’s not on Cloverfield Way, and so I was not notified about the hearings because it doesn’t – I’m not an abutter, as he basically has said, and I’m not – I’m not – I don’t have a say, I guess. And because it’s on Nathan Ellis Highway, not 151, it’s on Nathan Ellis Highway and I am not an exact abutter, as his note out front had said – you know, his abutters are the train tracks. There are people that live there as well.
And I’m not going to go into all the reasons why we want to vote this down. Or, I am not part of this yet. I hope to some day join you. But I just feel that there is an impact to those 20 folks that are there. And it’s not in not in my back yard; I don’t believe this should be in anybody’s back yard.

[Applause.]

THE MODERATOR: Okay, all right.

Let’s go, folks.

MR. MANN: At the end of the day— one second, please, sir? I will finish up real quick, I promise.

THE MODERATOR: Yes.

MR. MANN: I want you and every other business in this town to thrive. But when you talk about spot zoning, why did the Planning Board invite you specifically to go for this? Why are we talking to one person, one lot? That to me is spot zoning. And that may not be the legal definition, but since we’re talking to Mr. Cavossa and the owner of Mr. Cavossa’s disposal company, I think we are talking to a one owner spot zoning.

Thank you very much.
THE MODERATOR: Okay, further discussion.

MR. CAVOSSA: Mr. Moderator, could I answer that?

THE MODERATOR: Yes, Mr. Cavossa.

MR. CAVOSSA: This website, this is not a fabricated thing. This is – you can see up here. This is a quarter mile. This part of my property is material storage: dirt, loam, wood chips, that kind of stuff. Rubbish trucks are parked here. This is the cell tower in here. There’s my garage. And this is Don Delink’s property.

These two properties are outside the circle of a quarter mile.

If you have rats on your property – go to the next slide, please. The next slide will show there’s several homes on Cloverfield Way. This is a half a mile from my property, and you can kind of see the red circle, here. There’s a huge horse farm here with mountains of manure piled up against the street. I don’t think there’s any rats emanating from my property because we don’t store trash there; there’s simply trash trucks.
If you’ve seen my trash trucks, they’re – we try to keep them immaculate. They’re cleaned.
There’s – we don’t keep rats. So I don’t think the rats are from our property. I’m sorry they have that issue, though.

THE MODERATOR: Okay. The aisle on the left. Yes, in the back.

MS. NICHOLSON: Hi, my name is Peg Nicholson. I’m a taxpayer in town. I would like clarity on the question that arose whether the special permit that is now governing the business goes away if this zoning is changed or it does not. Can we get a definitive answer on that?

THE MODERATOR: Mr. Curry.

MR. CURRY: Yeah, Mr. Cavossa has the option of going to the Registry of Deeds and extinguishing the special permit if it’s his desire to do so.

THE MODERATOR: Mr. Ament.

MR. AMENT: Thank you, Mr. Moderator, I’m Bob Ament. I’m from Precinct one. I’m an attorney. Mr. Cavossa’s asked me to help him out tonight.

So, on that issue, I can tell you the
following. The special permit that was granted by
the Planning Board was not granted only with regard
to a contractor’s yard. A special permit was also
required in order to have parking in the front
yard, and significant changes to the operation
would be required if the property didn’t operate
under the special permit.

The special permit will stay in effect
for that very reason.

Furthermore, Mr. Cavossa’s before you
tonight, for this article and the next article, is
to do something that will require a special permit.
He will be back before the Planning Board and his
property then would continue to be subject to a
special permit. So the existing special permit
will stay in effect and his proposal is for a new
special permit. Thank you.

THE MODERATOR: Okay, Mr. Latimer.

MR. LATIMER: Richard Latimer, precinct
one. Former member of the planning Board.

I can tell Mr. Cavossa that had I still
been on the Planning Board in August it would not
have been a unanimous vote. Just as it was not a
unanimous vote on the Haddad project. And for
much the same reasons.

We know that, despite what the actual law is, if we compare this to a conflict of interest, well, it’s the appearance of a conflict of interest. And I think that’s what bothers a lot of people here, is the appearance of spot zoning.

We’re told – and I’m detecting some doublespeak, here -- “I have a special permit to run this trash hauling business.” Then why do you need rezoning? If you’ve got the special permit, keep working with it. One thing is sure: if you had a special permit for that business and it is a legitimate special permit, the Planning Board can control that special permit.

And Mr. Ament is saying, “Well, he has a special permit because he has to park vehicles in the front yard.” That’s not what we’re talking about. We’re talking about the difference between a contractor yard, heavy equipment that does excavating, and trash hauling. And I can tell you, no matter how clean you keep your trucks, they’re still trash hauling trucks. They’re not contractor trucks.

Now, it is unfortunate for Mr. Cavossa
that the housing bubble crashed, but that is not
our fault here in Falmouth. It’s not his fault
that it crashed. But it’s unfortunate for all of
us. But we don’t go getting special treatment
from the Planning Board. We don’t go getting help
with our home mortgages from the Town because our
homes have been jeopardized by that fact. It’s
unfortunate but that’s what we all have to deal
with.

We’re told now that this is not spot
zoning. But we’re told – again, do we detect some
doublespeak, here? -- “Oh, we’re just going to
rezone this because this is part of the existing
plan.” But then we’re told that once we do that,
the very next article we’re going to change that
existing plan by redefining the zone that he’s
going into.

Now, I would think that as a layperson,
not a lawyer, I would think that to most laypersons
that would look exactly like spot zoning. We’re
not just rezoning the man’s land. Then, once we
get the man’s land rezoned, we’re changing the
zone? Give me a break.

I mean, I agree with everything Mr.
McNamara said. This is not a simple rezoning from one use to another that’s going to benefit everyone. It is a rezoning that is specifically intended to benefit Mr. Cavossa. Whether the Attorney General’s going to call it spot zoning or not, that’s what it is.

And I’m not speaking against Mr. Cavossa. I’m not saying he did anything wrong. But I’m also saying he’s not done anything so good that we should do him this favor that is of general concern not only to the people who live within a half a mile of his property, but to the integrity of our zoning process itself, and what we do here as a community through this body. Thank you.

THE MODERATOR: Okay. Mr. Murphy.

MR. MURPHY: Mr. Moderator and fellow Town Meeting Members. I’d like to bring about a little bit of institutional memory here to this body.

First of all, it is no secret Mr. Cavossa is a friend of mine. I met him some 20 years ago when I served on the Falmouth Chamber of Commerce Board of Directors. He’s also a supplier of mine in a small business that I own in this community
for the last 33 years.

I’d like to say – bring up some institutional memory points. If in fact – and it is very hard to separate this article from the next. But if in fact we have no solid waste allowed in this community, I wonder how, many years ago at the site of the Falmouth Service Center, one of our trash collecting companies, a private hauler, operated out of that business – building. I wonder how over many years Mr. Reine’s operation operated in this community? I wonder how that there was a solid demolition company that operated in the – behind some buildings on Sandwich Road. I wonder how all of them operated without anybody coming and stopping their operation?

I can tell you this, that in a community you have to have the ability to function. And one of the things that this operation does is provide a local supplier within this community. Our zoning does not allow -- and we need to correct it -- it does not allow for solid waste contractor in our community.

I can tell you that I have used other national haulers. If I call for an extra pick up,
I can’t get it. You know why? Because they’re based out of Yarmouth. Or they’re based out of somewhere over the bridge.

Many years ago, as I was the president of the Woods Hole Business Association, Mr. Cavossa came to our group and tried to talk with us and work with us to be able to take waste out of the waste stream. I am proud to say the Woods Hole Business Association now, because of his company, is able to take 40 cubic yards a week of cardboard out of the waste stream.

We have a joint effort to be able to do that. Out of the generosity, as well, of the Woods Hole Oceanographic Institute; they provided us the space.

We take an additional 18 yards of commingled materials. Do you know what the national companies told us? “Sorry. If you want to pay for it, you can pay for it to be picked up on your own property.”

You know, folks, the guy that cuts your lawn, the guys that poops – picks up the poop out of your cesspool, they work in this town. It’s amazing that we talk about, “Oh, we can’t have a
solid waste contractor." We allow septic haulers to park. How much worse could septic trucks be? We allowed zoning for pot. We have special zoning in this town. So don’t tell me we don’t, or can’t, create those type of zonings.

This is a can-do town. We have a mistake in our zoning. We have a mistake that’s going on. And we need to correct it.

If any of you ever looked at that property up there, you would also know that that property is probably the most ideal location for this type of facility. It is close to the highway, both Route 28 and Route 151.

I ask that you support this article and then I’ll ask you to support the next Article. Why? Because we need to continue to move this town forward for our businesses in this town. Our small community businesses. We need people to provide goods and services to those businesses so we can continue to operate.

Thank you very much for your support.

[Applause.]

THE MODERATOR: Ms. Driscoll.

Let’s go, folks. This list is getting
long. Let’s go.

Ms. Driscoll.

MS. DRISCOLL: Kathy Driscoll, precinct 7. Through you, Mr. Moderator to Mr. Cavossa, a couple of questions regarding your property. How many acres is it?

THE MODERATOR: Mr. Cavossa.

MR. CAVOSSA: It’s 8.63.

MS. DRISCOLL: And how much of that is actually developed for your business?

THE MODERATOR: Mr. Cavossa.

MR. CAVOSSA: I don’t know how much of it is developed. Like you mean being used?

MS. DRISCOLL: Yes.

MR. CAVOSSA: Some of it’s dirt piles and stuff. I don’t know, probably six of it.

MS. DRISCOLL: And do you plan to expand it completely to the full eight acres with potential -

MR. CAVOSSA: No. No we – the – a big portion – I have a quarter acre buffer in the front of my property. If you take the, just the front buffer of my property is a quarter acre to buffer me from the road. And we enjoy that. I mean, I
have awards from the Beautification Council –

MS. DRISCOLL: Uh-huh.

MR. CAVOSSA: – that’s, you know,

thanking me for that.

MS. DRISCOLL: Okay.

MR. CAVOSSA: I don’t plan to expand

right to 151 or further to the railroad tracks or

further back, no.

MS. DRISCOLL: Okay. So, kind of with

the intent of an increase in waste disposal or

waste management business, access to the tracks is

not something that you are foreseeing as –

MR. CAVOSSA: No.

MS. DRISCOLL: – an access route or

some type of potential. Do you have that

potential?

MR. CAVOSSA: The railroad tracks cannot

be accessed from my property due to the fact that

the Massachusetts Department of Transportation is

taking over those railroad tracks and they’ve

traded them for some facility up by Hanscom Air

Force Base. So those tracks, once the Otis

Transfer Station closes, I don’t think those tracks

will be used other than for storage of rail cars
out at the base.

MS. DRISCOLL: All right, thank you.

Town Meeting Members, I know that this is a sensitive issue for everyone. Solid waste is something that we have to contend with. We are talking about what we are doing at curbside, how we’re trying to increase recycling. The businesses here in our community really do need different services and different opportunities; Mr. Cavossa provides this for them.

The change in this particular designation, again, I’m one of those going, “Is it really going to be what he needs?” I do look at it as a positive move. If it had been done two years ago with the Haddad property, maybe we would have been more comfortable with it. I don’t see it as that different. You approved that property; this is very similar.

There is a residential property near the Haddad property, as well. There are trucks coming in and out of that location and there is a residence next door and I believe across the street. There are going to be homes nearby this. I’m sensitive to those issues, with the people in
our community.

But I understand as well by the change in this particular article that it is giving certain operations; the community does have the opportunity to come back and make a complaint if it is a particular issue. We’ve – he’s indicated that there haven’t been issues for the last 15 plus years. That is something to be taken into consideration. And I think that this is a particularly good move at this time for its location, for its uses, and I ask for your support on the article.

THE MODERATOR: Okay, Mr. Stecher. Mr. Wilber, you’re on the list.

Mr. Stecher.

MR. STECHER: Bernie Stecher, precinct 3.

I just have a question for Mr. Cavossa. Up to now we’ve been talking about your past operations, but this is going to be something completely different. It’s going to be a transfer station. Is it going to be rubbish and garbage being transferred at this point?

And the other question I have for you is
that somewhere I read there isn’t going to be another transfer station from the lower Cape up to Middleborough. Can you confirm that? And, being that so, it seems to me you’re going to be a very busy guy and they’ll be more trucks, a lot more business if nobody else can do this. Thank you.

THE MODERATOR: Mr. Cavossa.

MR. CAVOSSA: Okay, your article — the question that you’re asking really pertains to the next article. If this article passes, there will — and the next article does not, your question is moot.

I’ll answer the question like this: In order for me to — in order for me to transfer recyclables — and that’s what we’re really interested in doing, is having the ability to transfer recyclables, we need to have a permit that allows transferring.

I’m in a situation now with a permit that is vague and not very clear. I don’t want to be in that situation again and I’m hoping that by passing the next article, this article and the next article, that’ll clear up all the issues. Not only for now, but long into the future.
THE MODERATOR: Mr. Brown.

MR. BROWN: Hi, Douglas Brown, precinct 9 and currently on the Planning Board.

Two things. One is we should keep in mind we don’t want to just keep on driving businesses out of town. And I was looking at this little handout that I was given at the door and I think there’s something lost in translation on Mr. Elliott’s letter.

I spoke at precinct 3, saying that if we approved this it basically keeps Mr. Cavossa’s property operating pretty much similar to as it is. And his interpretation of that from reading the Enterprise Article was that I said it was illegal, and that was not what I said. So I want to clear that up.

So I hope you guys can support this. We don’t want to keep driving people out. It looks like a good place for it. If it doesn’t belong there, where does it belong? Thank you.

THE MODERATOR: Okay, Ms. Schneider.

Microphone to my right for Ms. Schneider.

MS. SCHNEIDER: Barbara Schneider, precinct 4.
I don’t want to say anything against Mr. Cavossa. He’s been very helpful from the beginning time of the dog park. He was great about helping us remove trash, remove poop. It was a big help.

But I do want to clear up one thing. I could not live with myself if I didn’t say something to rebuff something that he did say.

As most of you know from watching me limp around here, I do have a horse. I happen to have my horse by choice at the farm that Mr. Cavossa mentioned. I want to tell you all that I walk that property six days a week. My horse and I walk right directly toward where the manure pile is very carefully maintained. It is one of the most pristine barns you will ever see and I just want to clear up that Cloverfield Way and Highfield Farm is well maintained, carefully maintained and clean. And I have never seen a rat and I’ve been there six years. Thank you.

[Applause.]

THE MODERATOR: Mr. Schmidt.

MR. SCHMIDT: Yes, again I’m Edward Schmidt, precinct 8.

I had not planned on speaking tonight,
but I feel again that I have a responsibility to do
so. A responsibility principally to the people
who are in precinct 8 who did elect me to represent
their point of view here at Town Meeting.

That point of view has been consistently
over the past ten days or so a point of view that I
should be speaking out to oppose this article on
town floor. I’ve probably received more emails on
this issue than anything else in my seven or eight
years now as a Town Meeting Member. I think
that’s because I do live in the Ballymeade area,
and most of the emails are coming from people in
precinct 8 who are neighbors.

But in opposing this article, I’d just
make a few points. First one that Ms. Kerfoot
mentioned about spot zoning. I can’t give you
legal definitions, but I do see this property being
a very different situation from that Haddad
property that I personally did vote to approve as
Light Industrial C, I guess it was just about a
year ago.

But that Light Industrial C property a
year ago is on Thomas Landers Road, a road which to
my view, when I drive up and down, is – has quite a
few commercial businesses. Whether you want to
call them contracting yards or not I can’t get into
precision of definitions, but I see a lot of
commercial properties there. And that was
something that I do not see on Route 151, and I
have a major concern that approving a changing in
the zoning in this part - on this project could
lead eventually to other rezoning opportunities as
well, including that Minasian property that we’ve
seen several times to the west of Route 28, and
including even possibly the CLSV property to the
south that we rezoned for a health care, or I
forget the exact definition, a health care
retirement community; but I guess there have been
no takers so far, at least as far as I know.

So I’m real concerned about commercial
creep and the loss of what we continue to refer to
as a green corridor on Route 151.

As I drive down that 151 right now, it’s
not totally green, because I do pass Mr. Cavossa’s
property and, while he has a berm in front, I do
see a big, bright yellow steamroller sitting there.
Sometimes a smile; some people hate it. Some
people think it’s kind of cute. I have no strong
opinion on that. But I look past it and I see a
building in the back and I see big piles of sand
and some kind of other material like that. So I’m
looking at stuff which definitely is not green, and
I just again am concerned about continued
commercial creep.

I want to comment on the talk about the
reason this was rezoned to double A some years ago,
and it was because it was in water protection –
Water Resource Protection Zone established by the
Cape Cod Commission. I have looked at some maps
going back to the year 2002 which shows part of Mr.
Cavossa’s property in that Water Resource
Protection District, but more importantly his
property is surrounded by quite a bit of extensive
property which is all called Water Resource
Protection District.

The idea here is trying to protect
potential drinking water supply. It’s been
contaminated by the activities on Otis Air Force
Base, but we all know there’s been a lot of effort
to clean that up and at very, very considerable
expense to the Federal Government, and there is an
objective over time of cleaning it up sufficiently
so water underground there at some point in time in
the future once again it will be suitable enough
for drinking water.

So the whole purpose of maintaining a
Water Resource Protection District has not changed
and I don’t think the designation in this area has
changed, as well.

So the reason this went to double A
zoning some years ago is still very much a valid
reason.

Finally, let me address the general whole
concept here. What we’re really not discussing,
whether -- it’s not if Mr. Cavossa can continue to
do business in town; he can whether we approve this
or not. The only question is where is he going to
take that material when he does some sorting before
it’s eventually taken off base.

Now, up to the present, there have been a
number of options that I’m aware of. One, there’s
a big transfer station on Otis Air Force Base.

FROM THE FLOOR: It’s closed.

MR. SCHMIDT: And I won’t get into the
reasons that’s failing, but I guess economically
there’s some real problems there. But that is
what’s been happening in the past.

We’ve also had a Town-owned facility on Thomas Landers Road where I know I’ve taken materials and there’ve always been big dumpsters down there for recyclable and building construction materials, everything else. Whether you want to legally call it a transfer station or not, I don’t know, but that facility certainly has been used as a transfer station and I would say to all of you I don’t personally feel that that whole Town property has been managed for maximum effectiveness.

I think a lot of work can be done to improve it and that really can provide the function that Mr. Cavossa is looking to provide and I really think waste management is one of those things which it really should be a town-owned responsibility so the town can control it and regulate it and avoid any kinds of problems.

And I think that’s where a waste transfer facility really should go.

I would add that I have thought about a possibility, if Mr. Cavossa wants to continue to have a dialogue with Town. Maybe there’s a possibility on this Town-owned property on Thomas
Landers Road for a joint public-private partnership, maybe in the form of a ten year lease with renewables. But maybe Mr. Cavossa is the person who could do a better job than what’s currently being done in managing a facility there.

THE MODERATOR: Okay, Ms. Hawks.

MR. SCHMIDT: These are my comments. I’m going to sit down and ask you to vote no on both of these articles. Thank you.

THE MODERATOR: Ms. Hawkes.

MR. CAVOSSA: Mr. Moderator.

THE MODERATOR: I’ll come back to you in a second. I’ve got two more folks and then we’re going to wrap up here.

Ms. Hawkes.

I think you’re ready to make your decision. We’ve been debating an hour. So, Ms. Hawkes.


I got a lot of phone calls on this one, also, and the consensus that I got from my constituents in five and six was that they feel that the petitioner Article 9 and 10 be voted down
tonight and that we the town wait to hear from the temporary Solid Waste Director Wayne Melville who was hired on February, 2014 to report on solid waste and it was to be ready in October but we’re still waiting for it. And then we would wait to see about this report and how we deal with waste and before we rezone a large parcel of property.

Thank you.

THE MODERATOR: Okay, the gentleman that was in the aisle to my left.

MR. HADDAD: Good evening. Steve Haddad, Precinct 5.

I don’t own the property on Thomas Landers Road; the distinction goes to my brother John. I did not come last year to support my brother’s rezoning because I thought it stood on its own; he didn’t need my support.

But I am here tonight to speak on – and I’m almost embarrassed to say this, Carl – on behalf of you because you really shouldn’t have to go through this. You’ve been a fantastic citizen, a great businessman here in town and I think most people in the audience recognize that.

[Applause.]
THE MODERATOR: Okay, folks.

MR. HADDAD: What I do want to say -

what I do want to say is I want you to understand

how I’ve used Carl’s business. And I’ve used

Noonan and I’ve used a lot of them. They’re all

fine service guys.

I had a couple of projects in West

Falmouth recently and I went away over the weekend

and lo and behold I get back and someone dumps the

entire apartment in my dumpster. It’s Friday

afternoon. I have birds and I have crows, I have

sea gulls. But I didn’t fill it up with trash.

That either sits there until Monday or I call up a

Cavossa, a Noonan, or any of them and say, “Listen,

can you do me a favor? I’ve got to get this out of

here.” And they come, they take it, and they

store it and they dump it first thing Monday

morning so it’s not sitting in the neighborhoods.

Carl is not looking to store garbage on

his lot. He doesn’t make any money until it gets

to its end place. He’s going to get it off his

property as soon as he can. And we cannot

continue to drive these small business guys out of
town.
And I applaud Carl and the rest of these guys who have come forward and try to get into areas and get it zoned and shape the zoning. And there’s a reason why the Planning Board or the Zoning Board encourages these people to come forward, whether it’s amnesty for apartments - you want to get it out of the shadows.

And businesses change over time. Carl’s business has changed dramatically. I applaud you, Carl, as most people in the room do, and I hope everybody else has the same success. Thank you.

THE MODERATOR: Okay, Mr. Cavossa.

Last word and then we’re going to vote.

MR. CAVOSSA: I just wanted to point out this is the Water Protection Resource District. I don’t think I made that clear. This is the dotted line. Our property is down here.

THE MODERATOR: Okay, this requires a two-thirds vote. All those in favor of Article 9 as printed signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[No.]

THE MODERATOR: All those in favor
signify by standing and the tellers will return a count.

[Pause.]

THE MODERATOR: In the third division, Mr. Hampson.

MR. HAMPSON: 41.

THE MODERATOR: 41.

In the first division, Mr. Netto.

MR. NETTO: 38.

THE MODERATOR: 38.

In the second division, Mr. Dufresne.

MR. DUFRESNE: 60.

THE MODERATOR: 60.

All those opposed, signify by standing and the tellers will return a count.

[Pause.]

THE MODERATOR: First division, Mr. Netto.

MR. NETTO: 10.

THE MODERATOR: 10.

Second division, Mr. Dufresne.


Third division, Mr. Hampson.
MR. HAMPSON: 27.

THE MODERATOR: 27.

By a counted vote of 139 to 68, the necessary two-thirds is attained and the article passes and the meeting will stand in recess for 15 minutes.

[Applause.]

[Whereupon, a recess was held.]

THE MODERATOR: All Town Meeting Members please stand and the tellers will return a count.

In the first division, Mr. Netto.

MR. NETTO: 46.

THE MODERATOR: In the third division, Mr. Hampson.

MR. HAMPSON: 69.

THE MODERATOR: In the second division, Mr. Dufresne.

MR. DUFRESNE: 91.

THE MODERATOR: 91.

By a counted vote of 206, we have a quorum and the annual meeting is back in session.

Article 10. Madame Chairman of the Planning Board for a main motion.

CHAIRMAN KERFOOT: The Planning Board
recommends Article 10 as recommended.

The Planning Board believed that a number of changes to the petitioner’s article were warranted before it could recommend it to the warrant. The difference is that a number of controls were added: a special permit from the Planning Board, definition of what can be handled on site, minimum lot size requirement and requirements to operate under the Massachusetts Department of Environmental Protection and state laws. You could discern that yourself just looking at the two different versions of it.

I would like you to please carefully note and understand that you are being asked for a general change to the Light Industrial C District by adding 64.5.D to the highly restricted permitted business, commercial and industrial uses. Such a change could in future be applied to any area zoned Light Industrial C.

And at this point, Mr. Moderator, I would like you to recognize Carl Cavossa to continue.

THE MODERATOR: Okay, Mr. Cavossa.

MR. CAVOSSA: Town Meeting Members thank you very much for recognizing me and your help and
your trust in me in voting positive on the last article. I understand the trust that Town Meeting has put in me and my company and that’s important and I appreciate that. And I promise you I will go forward understanding how much you trusted in me and my company.

This article goes to Article 9. We now take the special permit and we go back into the special permit phase. We’ve talked about some of the things my company does and the places we do it. We do recycling, solid waste removal, construction/demolition debris removal throughout our community with all different types of businesses in our community.

The next. This – what happens here in this article is I’m not allowed to park this equipment on this site without a special permit from the Planning Board. The Planning Board’s approved some uses prior to this and now we’re expanding on those uses.

Next article. Light Industrial C under Chapter 240 zoning, the permit – what happens here is they take away the potential for residential use, and that’s been an issue in our community with
Light Industrial property. If you remember, during the building boom, Light Industrial A property is very valuable for developers. I believe they can get six or eight units per acre.

So, a two or three acre parcel, if you remember the Lawrence Gardens, that was a Light Industrial A property, believe it or not, and that was developed beautifully, I might add, into condominiums. And it’s a beautiful property but it took Light Industrial A property off of the taxes for Falmouth and also out of the use for our general contractors.

Next slide, please. There are no permitted public use on Light Industrial C. Light Industrial C is primarily for contractor’s yards as defined. Wholesale supplies, warehousing and ground mounted solar panels.

Next slide. These are permitted accessory uses. Television, radio, support facilities, offices, fabrication of sub-assemblies.

And the last one, these are special permit uses which would be allowed only by special permit under the control of the Planning Board. Television and radio towers over 50 feet, support
offices – no, you went back to the wrong slide. You got to go special – there you go. Exceeding 50 feet in height, restaurant or food service, which I’m not interested in, and wind energy systems.

There is no special permits outside of that that I can go for. So this property is not going to be something other than what we’ve told you here tonight.

Next slide. What we’re looking to try and do under this article is to be able to have a place where we can transfer materials. That means taking materials from a small dumpster, putting them into a much larger truck and going to market. And that – those materials are here.

Waste that’s not compostable – I mean, waste that’s not capable of being recycled is going to SEMASS, or to wherever the cheapest disposal site may be. It may be further than SEMASS. And compostable waste, branches and organics and stuff like that. In the past, we’ve composted that stuff right on site. We’ve been doing that for 15 years. As a matter of fact, we’ve helped our own community with the compost facility down there, screening the
compost on a yearly basis.

Next slide. The special permits can only issue if Light Industrial property is in Light Industrial C and it’s in five acres or more. So, that limits what – and the reason we did that was not to limit how many people could come, but also to limit the size and scope of what type of operation this would be and on what size property. You know, this type of operation probably shouldn’t be on a one or two acre site. This is something that should be on a larger site that could have greater setbacks. Even if the setbacks are being used for other things, it gets you away from your neighbors.

Next - and it can’t be in a Water Protection Resource District. It has to comply with the Department of Environmental Protection requirements and all the language in the special permit that talks about the waste stream, transfer stations. The Planning Board wants those tied to the Department of Environmental Protection’s regulations. As those definitions change, the bylaw doesn’t have to come in front of Town Meeting and change. Those definitions are changing, they
will change with the definitions.

Next slide. This article would only allow a transfer station on my property only if the Planning Board approved it, and only if the Department of Environmental Protection approved it. This is a three year plan. This is not something that tomorrow morning would happen on this site. There are other alternatives that we would explore. This is a three year plan. This is something that’s going to take time. The first step is here tonight.

This is the first step. I can’t go to the Department of Environmental Protection. I can’t go get a plan done. It’s foolish to go spend money to try and move anything forward unless this body approves this – this use on this property.

Transfer stations are not landfills. And, you know, I’ve heard and seen and talked to hundreds of people over the past several weeks. Transfer stations are not landfills. Our drop off station at our landfill in the town of Falmouth is on a landfill because it was permitted at that site, so when the landfill closed it was easy to
keep the permit and just continue on and using that facility as a drop off station.

Typically transfer stations are not at landfills nor are the landfills. There’s no, as Mr. Haddad pointed out, there’s no secret thing to keeping waste. If you bring waste to a transfer station and you - it doesn’t disappear. You have to do something with it. You got to bring it to an end site, so it does have to get transferred into a vehicle and go somewhere else.

Next slide. For reasons that we spoke about before with this piece of property, we feel this is an ideal location for this type of use. As it is now, our - can you go to the next slide, please. As it is now, our property on 151, the trucks can go down Route 28 and collect trash in Falmouth, and exit on Route 28 and come here. They’re already going up Route 28 to go to Bourne. Any of the commercial uses in West - in Waquoit and East Falmouth can come down Route 151 and come to this facility. The trucks are already going by that facility now.

We feel that in the proximity to the off ramp and Route 151, and with the amount of open
space behind this property, this is an ideal location for this type of facility.

The prevailing winds on the Cape during the summertime are from the South. There’s been some issues in the past about people talking about odor. Currently the way transfer stations are operated, they do spray odor modifier inside of buildings. This type of transfer station is contained inside a building very similar to what we have here, where trucks would pull into the building, unload the material and then pull out of the building.

If you’ve been by the Otis transfer station, there are no seagulls, there’s no trash. You can’t tell – when that building’s closed, you can’t tell what that building is when you drive up to it. It looks like a garage.

Next slide, please. Sixteen of our employees are here in Falmouth. We currently employ 40 employees. We’ve paid excise tax in the Town of Falmouth for several years.

Next slide. This talks about our commitment to Falmouth with the Fire Department and the Police Department. Our police chief has
called on us to work with our community recently to find some evidence disposed of in dumpsters and, our proximity to the Town of Falmouth being right there on 151, we were able to come down and pick the dumpsters up that he was interested in securing for evidence and bringing them back to the facility and sorting through them with a detective and finding the evidence he was looking for.

We have a similar relationship with the Fire Department where we’ve been able to deploy equipment to fires to expedite and expedite putting out fires, and also to keep firefighters safe so they don’t have to go into buildings.

Next slide. You know, I think everybody knows our corporate commitment to the community and the things we do to try to make our community a better place. It is important for me that people understand: my name is my business. You know, I know a lot of you folks. Some of you are friends. A lot of you are friends. I’m proud of who I am. My name’s on my trucks. When you drive by my facility, I do not want you to hang your head and say, “Oh, my God, I permitted that transfer station” or “I permitted that piece of property”.
I do want to win more awards from the Beautification Council.

I'd like to see Falmouth to be on the cutting edge of recycling. You know, tonight you have an initiative in front of you to pass to ban plastic bags. You know, there are communities now and islands now where they take your trash, every single bag of trash, they go through it, they take out all the recyclables and the rest goes to the landfill.

Without having facilities to do that type of thing in, those things never happen. So, this is the first step.

Next slide, please. This is a letter from CLSV, and this is my largest abutter, and this is the 31 acre parcel across the street that they've owned and had for sale. And this is a letter in support of Article 9 and Article 10.

Next slide. You know, we feel like we have been on the cutting edge of waste disposal and recycling in our community. I talked about earlier our ability to go into the hospital and create a recycling opportunity for the hospital.

We also created a unique recycling
situation down in the Woods Hole community. We also did it with the Falmouth Village Association on Main Street, where a lot of businesses there didn’t have room for containers. We went and put -- made community containers where each business would get a key and they were able to go to those containers and recycle. And you couldn’t recognize them from a dumpster. But they know where they are and they use them.

I ask for your vote on this article. This actually puts me into my special permit with the Planning Board and allows me to go to the next step to allow this waste removal company to exist in the Town of Falmouth.

Could you go to the picture? I’d like to just briefly before I finish just show a picture of a transfer station. This is the transfer station at Otis. That transfer station is 30 years old.

I appreciate your vote on Article 10 and I would ask that you vote in a positive manner.

Thank you.

THE MODERATOR: Okay, Ms. Driscoll.

MS. DRISCOLL: Good evening, Kathy
Driscoll, Precinct 7.

Mr. Moderator, I’d like to make an amendment to Article 10. Under section 4 after the word “with”, I would like to remove 310 CMR 19.207 and replace that with 310 CMR 19.200 and/or 310 CMR 16.00 –

THE MODERATOR: Wait, slow down.

And/or 310?

MS. DRISCOLL: CMR.

THE MODERATOR: CMR.

MS. DRISCOLL: 16.00.

THE MODERATOR: 16.00.

MS. DRISCOLL: I’m making this amendment because on October 1st, 2014, the state of Massachusetts adopted a waste ban regulation for organics material, food waste. The section of 310 CMR 16.00 – and if anyone’s interested, I have them – are all of the regulations that comply or that a facility needs to comply with to collect, store, manage, and/or treat those types of organic wastes. These are banned materials from our waste stream for specific facilities that generate over one ton of waste materials per week.

A lot of detail has gone into this. I
know this. I work at Massachusetts Maritime Academy. My campus has to comply with this. We need to divert our organic waste, and we do it in a different way than actual solid waste facility collection, so I’m very happy about that. We actually collect it and send it to a pig farm, so it’s not trash.

But, these regulations are very important because they do go hand in hand with 310 CMR 19.200. And I changed the 207 to 200 because it’s a complete section of regulations over a solid waste facility, and it’s not just a transfer station but a handling facility.

There are subsections that do deal with landfills or that do deal with other types of waste to energy facilities or other disposal. This particular bylaw here for the Town will only relate to transfer and/or handling facilities or facility to handle those organic wastes. I include the organic wastes.

The regulations actually were finalized and probably not specifically available to the Planning Board when they were putting this wording together. So it’s not that they missed it or that
they were keeping it out, it’s probably that they
just really didn’t know that it was there. So I’m
trying to close the loop on that and be able to
have the facility, or any type of facility, in this
case Mr. Cavossa’s facility, comply with all of the
necessary regulations.

These regulations also require a Mass. DEP permit. Any facility that is going to do a
transfer, handling, or the collection, storage of
these types of waste, solid waste, recycling,
organic wastes, do have to have a permit issued by
the Massachusetts Department of Environmental
Protection.

These regulations also incorporate the
use of the Board of Health. Our local Board of
Health will also be involved in the process of
siting any facility. There will be many
mechanisms for the neighbors of any of these types
of properties to come forward to the Board of
Health, to the Zoning Board of Appeals and be able
to give their input and their evidence and their
facts to say why or why not a facility should be
permitted and allowed by special permit.

So I ask for you to accept this amendment
to Article 10.

THE MODERATOR: Ms. Driscoll, you said you had the regs printed there?

MS. DRISCOLL: Excuse me?

THE MODERATOR: The regs that you referred to you had it in print?

MS. DRISCOLL: I have Section 16.

THE MODERATOR: Sixteen. Could you just let Mr. Curry look at that because that’s a small screen that he’s looking it up on. Thank you.

Okay, so now we’re going to start a new speaking list on the amendment to change the CMR references. On the amendment. Go ahead. Yes. We need a microphone here.

MR. DONAHUE: Bob Donahue, Precinct 3. You are giving us numbers which I’m afraid maybe just because I’m a senior citizen, but I have no idea of what you’re talking about.

MS. DRISCOLL: Sure.

MR. DONAHUE: Could you please explain, as briefly as you can, what these numbers are and what – what they entail? Thank you.

MS. DRISCOLL: Uh-huh. Um –
THE MODERATOR: Mr. Donahue, I just —
with all due respect, she just did that.

[Laughter.]

THE MODERATOR: And do you know what 310 CMR 19.207 was?

MR. DONAHUE: [No mic:] No, I don’t have any idea what it was.

THE MODERATOR: Okay. I mean, she spoke for six or seven minutes explaining what that section was.

MR. DONAHUE: [No, mic:] She didn’t say “316 is this”.

THE MODERATOR: Okay, could you re-explain what you explained, please.

MS. DRISCOLL: Sure.

FROM THE FLOOR: Oh, come on.

MS. DRISCOLL: For both — briefly.

THE MODERATOR: And this is the last time I’ll have her explain it.

MS. DRISCOLL: Okay. For both of these sections, for 19.200 and 16, section 16, the entire section, it is the process by which a company — I’ll use Mr. Cavossa — will need to apply to the Mass. DEP to get a permit to operate a
transfer facility, or a handling facility. And it covers the various types of waste that he is talking about.

Section 19.200 are the solid waste. That’s the trash and the recycling. It will also cover concrete, bricks and asphalt and how his operation has to be managed. There has to be odor control, there has to be closure plans in place, there has to be assurances of financial responsibility for operating this plant, and the other regulation does the same thing but it specifically relates to the organic waste that has now come into recent regulation.

THE MODERATOR: Okay, Mr. Duffy.

MR. DUFFY: Frank Duffy, Town Counsel. One of the problems with statutory drafting is when you include another statute or regulation in it you’re subject to any change that may occur in that other statute or regulation and then you’re scrambling to catch up.

So, the inclusion of a CMR, which is a Code of Massachusetts Regulation, in a zoning bylaw is problematic in and of itself. I’m just wondering why we don’t say that the permit will be
subject to all applicable regulations.

THE MODERATOR: Is there somebody that would like to make that an amendment?

MR. LATIMER: [No mic:] I will.

THE MODERATOR: Okay, Mr. Latimer moves that we - Mr. Latimer, are we doing that to all CMR code references?

Let's have a microphone for Mr. Latimer.

MR. LATIMER: [No mic: inaudible.]

THE MODERATOR: Okay. So we've got - what do we got, two of them in here? In numbers three and four.

MR. LATIMER: Yeah, the amendment is a no-brainer. The language in the article at section four as written refers to one section of the regulations. The - Ms. Driscoll's purpose was to make sure that all DEP regulations apply to this permit, but she then did that by citing specifically to 200 CMR.

Mr. Duffy's much more streamlined amendment, which does the same thing, is to simply say "all DEP regulations regarding this kind of operation will apply". It's a no-brainer.

Let's get that and then move on to the
substance of the article itself.

THE MODERATOR: Okay, so we have an amendment in number 3, striking 310 CMR 1900 and replacing — inserting thereof “all applicable regulations”, and in number four, striking 310 CMR 19.207 and inserting “all applicable regulations”.

Ms. Driscoll.

MS. DRISCOLL: Okay. To this amendment, and I understand what Mr. Duffy is doing. And if we do end up saying all applicable CMR DEP, we are then opening the floodgates. 19.200 and — I don’t have the references in front of me.

THE MODERATOR: And 16.

MR. DRISCOLL: Section 16 specifically relate to solid waste transfer and handling and organic waste. Those will be the only allowable uses under this bylaw. That’s what we want. That’s what the reference is to. Let’s it keep it to those applicable areas, not broadening it up and saying, “Okay, now we can talk about landfills, now we can talk about waste to energy.” We want to keep it very specific and I’m giving the entire section that the Mass. DEP references to solid
waste activities of transfer and handling and
organic waste.

So, by broadening it, we maybe open a
floodgate. I’m asking you to keep it narrowed.

THE MODERATOR: Mr. Latimer.

MR. LATIMER: Either one of these
amendments gets to the point. As written now, the
sections cited by Ms. Driscoll are applicable to
this operation. What Mr. Duffy was saying is that
regulations get amended. Additional regulations
get promulgated from time to time and we could be
caught short if we limit ourselves to that one
section and then DEP decides to add a different
section as new technology emerges.

So, either one, though, is a no-brainer.
We don’t want to just confine it to one section of
an existing regulation. We want to make sure that
we are being comprehensive as to what DEP
regulations will apply to these projects.

So, again, that’s a no-brainer. We want
to make sure that happens. I’ll withdraw my
amendment. I suggest we vote in favor of Ms.
Driscoll’s amendment.

THE MODERATOR: Okay, we have an
amendment on the floor, so we’re going to – Mr. Duffy and then Mr. Ament.

Mr. Duffy.

MR. DUFFY: Frank Duffy, Town Counsel.

Well, if the Planning Board can put conditions on this and specify what uses are permitted there and then only the regulations that apply to those uses will apply.

THE MODERATOR: Okay, Mr. Ament.

MR. AMENT: Presently the proposed article includes a subsection two for conditions. Any site granted a special permit shall be further subject to the requirements of the Massachusetts Department of Environmental Protection. I think what that says is whatever the Planning Board approves by special permit must comply with DEP regulations. And which is really what Mr. Duffy was suggesting be added, I think, and it’s already there.

THE MODERATOR: Okay. Anything else on this amendment, Mr. McCafferty?

MR. MCCAFFERTY: [No mic: inaudible].

THE MODERATOR: Microphone, please.

MR. McCafferty: Thank you. I have a
question. As worded, it would seem that the Planning Board can then consider in its permit all of the — any regulations or procedures of the state. If they’re concerned with that, it would seem why not make a condition of the permit — of the special permit by the Planning Board that the applicant must already have a permit for the state, then the Planning Board can just look at it in terms of other consideration and it knows that, at a minimum, the state standards have been met, because it will not consider a permit until a state permit has been issued.

It’s sort of a question, but it’s —.

THE MODERATOR: Anybody want to address the question? We’ve already got two amendments on the floor, so we can’t amend it again, but.

Ms. Lowell. Microphone for Ms. Lowell.

MS. LOWELL: I would like to move that we table this and we work out appropriate language in the meantime and then bring it back to get the wording right for making it conform.

THE MODERATOR: Okay, so we have a motion to lay this on the table. All those in favor of laying this issue on the table, signify by
saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[No.]

THE MODERATOR: It’s the opinion of the chair that the no’s have it, and is there any further discussion on the second amendment?

MR. LATIMER: [No mic:] I have withdrawn that.

THE MODERATOR: You can’t withdraw an amendment once we get down the road of debating it. Yeah. We just have to vote it down if we don’t want it.

Yes, microphone down here in the second row, please.

MS. KAPP: Thank you. I just have one question in reading on page four under –

FROM THE FLOOR: Identify yourself, please.

THE MODERATOR: Name and precinct, please.

MS. KAPP: Oh, sorry. Dale Kapp, precinct 3.

I have one question on page four, 240
And if we go halfway down the paragraph, we start talking about compostable materials. And that’s a whole different ball game than concrete, brick, and so obviously that could have some odor to it, so I’m curious about this compostable – compostable organic materials.

THE MODERATOR: Okay, we are debating an amendment to change references to the regulation. We can come back to that on the main motion.

But is there anyone that needs to speak on the amendment to strike out the CMR references and put “all applicable regulations”?

Mr. Pinto and Mr. Jones. Mr. Pinto.

This is just on the applicability of the regulations.

MR. PINTO: Thank you, Mr. Moderator.


Number one, you’ll notice at the bottom of page 4 that we have number two: Waste disposal contractor et cetera. At the top of page number five we have number two: Any site granted a special permit et cetera. That creates a small problem, I believe.

THE MODERATOR: Yeah, we have a
scribe's error. So let's just fix that: one, two, three, four and five. How's that sound?

MR. PINTO: I appreciate that correction.

THE MODERATOR: Yes. Scribe's error, thank you.

MR. PINTO: As -

THE MODERATOR: Can't see the trees through the forest.

MR. PINTO: We're discussing the second amendment, correct?

THE MODERATOR: Just the second amendment, that's correct.

MR. PINTO: Very good. So, it does seem to me, I have to agree with Mr. Ament that this is covered in what is now number three, that - let me ask it this way, if I may, through you to Town Counsel. If this Town Meeting were to pass a bylaw that in some way conflicts with current Code of Massachusetts Regulations, would that get kicked back to us by the Attorney General's Office?

MR. DUFFY: The Attorney General might not kick it back, but might send it back with the comment that the applicable state law supercedes
that provision in the bylaw.

MR. PINTO: Thank you, sir.

THE MODERATOR: Okay, Mr. Jones.

MR. JONES: In support of the more general amendment, Douglas Jones, precinct 1.

310 CMR 19 dash 200 is simply the preamble, and if we start just putting one number in, we’re actually – I think the intent was many more references than just 19.200. And so I think to limit to certain numbers, we’re going to be limited by some things and then have to change them when the Mass. Regulations change.

I think that just the general form would be much better for us to use.

THE MODERATOR: Okay. So the question will come on the second amendment, Mr. Latimer’s amendment to say “all applicable regulations”.

All those in favor of the amendment, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[No.]

THE MODERATOR: It’s the opinion of the chair that the ayes have it by a majority.
And the question will now come on the first amendment. Now, this is where it gets a little confusing, because we’re going to go back and vote on the first amendment, which puts in the numbers 19.200 and 310 CMR 16.

So if you want the vote that you just took to stand, you would vote no on this motion. Okay? But if you want to contradict the vote you just took, then you would vote yes, okay?

[Laughter.]

THE MODERATOR: So, all those in favor of the second amendment, signify by saying aye.

[None say aye.]

THE MODERATOR: All those opposed?

[No.]

THE MODERATOR: It’s the opinion of the chair that the nos have it and the amended language is now part of the main motion and we go back to my original speakers list.

Mr. Antonucci, you’re next on the list.

So now you have as recommended changing all CMR references to applicable regulations.

MR. ANTONUCCI: We’re on the main motion now, right?
THE MODERATOR: That’s correct, as amended.


I sat in the discussion on Article 9 and was going to say something, and I respect everybody’s opinion, but I think on Article 10 we need to stick to the facts rather than opinions and innuendos. There are a lot of information sent out there that stimulated discussion but there was no basis for fact. And I hope we do that.

Secondly, I hope we support this amendment. All the issues were mentioned in the last article; I don’t want to repeat them. We’ve got a good businessperson. We’re not doing this for Carl. We’re doing this for the Town of Falmouth. We’re doing it for business in this town. We need to maintain a business, here.

We’re getting more and more restrictive in what we do at these town meetings, and pretty soon we won’t have anybody else to restrict. And we won’t get the services we need.

So I would hope that you’d give it good, serious thought. Give him a shot, he’s a good guy,
good business. You drive by his place, it doesn’t
even look like a contractor’s yard and it’s
something we need.
So, let’s do it and move on.

THE MODERATOR: Okay, Ms. Kapp. Ms.
Kapp, you had the question about the composting and
all that, so, do you want to direct that question
again to someone?
If we could have a microphone for Ms.
Kapp, please.

MS. KAPP: Thank you. Dale Kapp,
precinct 3.

Mr. Cavossa, I was curious, on page four
there’s discussion or citation about compostable
materials. And I was curious as to what that
actually was.

THE MODERATOR: Mr. Cavossa.

MR. CAVOSSA: Well, right now as my
friend from precinct six I think, seven, pointed
out, the Department of Environmental Protection has
changed what’s happened with the waste stream.
And if you generate more than one ton of food
waste, I think it’s per month, is that correct?
Per week? Per week. If you generate more than
one ton per week, then what happens is you fall
under this waste ban. You cannot put that amount
of food into the waste stream.

So that food now has to be recycled.
And there are some small operations in Falmouth
that have cropped up that have started to do that.
Obviously a lot of people do it in their back
yards. Food waste now needs to – and I would
expect that regulation to go from one ton to a half
a ton to no tons. Everybody, we’re all going to
end up doing it.

And they’re taking – waste is weighed and
that’s how you pay for waste disposal, by weight.
Food’s the heaviest thing in the waste stream.

THE MODERATOR: Okay, Mr. Hargraves;
you were on the original list.

MR. HARGRAVES: Thank you. Peter
Hargraves, precinct 9. Thank you, Mr. Moderator.
I’d like to ask a question of Mr. Cavossa.

FROM THE FLOOR: Can’t hear you.

MR. HARGRAVES: I’d like to ask Mr.
Cavossa a question to clarify my understanding for
the vote.

After the discussion on Article 9, I
think your response was that you substantially do
the business that will be enabled by passing
Article 9 and Article 10. So my question is are
you currently aware of all the applicable
regulations and what substantial changes in your
business will be required by this being
implemented?

THE MODERATOR: Mr. Cavossa.

MR. CAVOSSA: Um. If I told you I was
aware of every regulation, it’s impossible. You
know, some of them are just being presented
tonight. This is the first step to get to the
point of where we want to go.

So, understanding a lot of the
regulations? Yes, I certainly do understand a lot
of the regulations. I’ve been working in the
waste industry for almost 20 years. All of them?
No, I do not.

MR. HARGRAVES: So, just one –

THE MODERATOR: Mr. Hargraves.

MR. HARGRAVES: – follow-up. So do you
believe, then, that possibly you’re out of
compliance with some of the regulations as you’re
operating today?
MR. CAVOSSA: Right now, today? I believe I’m not. I believe I am not out of compliance.

MR. HARGRAVES: Thank you.

THE MODERATOR: Mr. Latimer.

MR. LATIMER: Richard Latimer, Precinct 1. I am speaking against this rezoning article as I said with regard to the last article. This was the other foot on the double shift here the, you know, the double shuffle that’s being perpetrated on the voters of Falmouth.

Can we see the picture, again, of the Otis transfer station?

Now, Mr. Antonucci said let’s look at some facts. And I think we should look at some facts. See, that facility, that’s at Otis. The Town of Bourne, which I would hate to think has more civic intelligence than we do, has a facility like that and it’s owned by the town, it’s operated by the town and the town gets all the money.

Now, there’s no reason why, as Mr. Schmidt has said, that we can’t do the same thing in this town.

What we’re being asked to do instead,
which would be in the interest of all our voters
and which would meet our solid waste needs, is to
do a favor for, as Mr. Antonucci said, a good guy.
That’s not good government. That’s lousy
government.

THE MODERATOR: Mr. Latimer, I don’t
want to —

MR. LATIMER: Fact – fact –

THE MODERATOR: Mr. Latimer, I don’t

want to interject myself in the debate, but I do

want to be very clear that the Town of Bourne has a

permitted landfill. The Town of Bourne does not

own a transfer station. So if you want to talk

facts, talk facts, not innuendos and throwing

things on the voters like you just said earlier.

Okay? The fact is, the Town of Bourne has a

landfill permitted by DEP, not a transfer station.

So speak facts, Mr. Latimer.

MR. LATIMER: I am speaking facts.

THE MODERATOR: Because this is what

happens when Town Meeting Members don’t understand

the issue and then they -- somebody get up that

speaks about fact when it’s not fact.

MR. LATIMER: I am speaking fact, Mr.
Moderator. I have used that facility. It is a
transfer station. It takes trash. It takes
trash and it piles it up and it takes it to SEMASS.
It’s part of – it’s at the landfill, yes. It is
part of the landfill operation, the overall
landfill, but they have their own transfer station
where people take their trash and it is compacted
and taken off site.

I say this – I know this from personal –
I was just there this Saturday. I took a load up
cleaning out the basement of our church in North
Falmouth. I took a load up there. I know it’s
there. That’s a fact.

And it’s a fact that you weigh in and you
weigh out and the town collects the money. It
doesn’t go into the pockets of a good guy and a
form of corporate welfare, which is what we’re
being asked to do here for this good guy.

Now, now, I want to – one more fact, one
more fact, and this is a very salient fact.
Nobody here even understands what we’re talking
about. We’re talking about, “Oh, it’s going to be
subject to regulations”. How many here, raise
your hands, know what those regulations are, what
they mean? Mr. Cavossa said that he can’t even - he says he knows them generally but he can’t even tell us what they are.

None of us here know what the regulations are, what they mean. Oh, and well, should we make him get the permit first and then have the - we’re asking to buy a pig in a poke, here. That’s not good government, either. Thank you.

Vote no on this, please.

THE MODERATOR: The question will come on Article 10 as amended. All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[No.]

THE MODERATOR: It’s the opinion of the chair that the ayes have it by a two-thirds majority.

Is there a challenge? There’s a challenge to the chair. All those in favor signify by standing and the tellers will return a count.

[Pause.]

THE MODERATOR: Mr. Netto, we need to
add one. The clerk was taking some notes. So, Mr. Netto in the first division.

MR. NETTO: 39.

THE MODERATOR: 39.

In the second division, Mr. Dufresne.

MR. DUFRESNE: 58.

THE MODERATOR: 58.

In the third division, Mr. Hampson.

MR. HAMPSON: 34.

THE MODERATOR: 34.

All those opposed signify by standing and the tellers will return a count.

[Pause.]

THE MODERATOR: In the first division, Mr. Netto.

MR. NETTO: Six.

THE MODERATOR: Six.

In the second division, Mr. Dufresne.

MR. DUFRESNE: 27.

THE MODERATOR: 27.

In the third division, Mr. Hampson.

MR. HAMPSON: 32.

THE MODERATOR: 32.

By 131 votes, the necessary two-thirds
passes and the article passes.

[Applause.]

THE MODERATOR: Article 11. Article 11 is the Finance Committee – Ms. O’Connell?

MS. O’CONNELL: Did I miss the count, Mr. Moderator? It was 131 in favor and how many against?

THE MODERATOR: And 65 opposed, so the necessary is 131 – 130.666 and you round up.

MS. O’CONNELL: Thank you very much. I just wanted – missed the number, thank you.

THE MODERATOR: Yes. So, for this one, it passed by four-tenths of a vote and the last one passed by one vote.

Article 11. Madame Chairman for the main motion.

FROM THE FLOOR: [No mic:] Point of order. Recount if it’s that’s close?

THE MODERATOR: In 2000, I set the precedent that too close is not the reason for a recount.

FROM THE FLOOR: Half a vote?

THE MODERATOR: Unless a teller believes that they can’t count and has a problem and tells
me that they'd like to do it, if we had the habit
of every time it gets close just doing a recount,
it'd be like the 2000 election in Florida. And it
was actually the 2000 Town Meeting that someone
tried to pull that at Town Meeting.

And that is a definitive vote. If you
want to put an article, come back at a future town
meeting and change a decision, you’re more than
welcome to do that. The vote is final.

Article 11, Madame Chairman.

CHAIRMAN MAGNANI: Mr. Moderator, I move
Article 11 as recommended.

THE MODERATOR: As recommended. This
is to transfer the sum of $115,000 from Certified
Free Cash for the purpose of finalizing a pending
lawsuit with the Ballymeade Property Owners
Association and the Town of Falmouth related to
water pressure issues.

Mr. Duffany held this article.

MR. DUFFANY: Thank you, Mr. Moderator.

Michael Duffany, precinct 6. I do intend to
release my hold on this, but I did want to bring it
up because for a number of years, now, we’ve been
reading a lot of negative editorials in the paper
and so forth and a lot of negativity toward the Town of Falmouth over the water pressure issues in Ballymeade. And I just would like to say that this - this really gripes me that we're going to be paying this amount of money for something that was inherited by the folks that - the good folks that purchased their land in Ballymeade. And the subsequent water system that supposedly came with the deed and so forth just ended up not working out.

They extended the water main, our water main to their subdivision in order for them to procure water. Which I don't think any of us really have a problem with, but then, at the end of the day, the water pressure is an issue because the land is so high. And, as you know, we spent a lot of money on water towers and maybe they should have been higher so this wouldn't have been an issue.

But, right back to my original point, this was a situation that was inherited by the residents up there and I just hope that the negativity from their - on their behalf to the Town of Falmouth would stop, because I think they're really going to - they're really making out very
well on this here. And I release my hold.

THE MODERATOR: Okay. Any further discussion on Article 11?

Mr. Kapp.

MR. KAPP: Thank you, Mr. Moderator.

Paul Kapp, precinct 3.

First line, last word “finalized”. We bought these people booster pumps, is that correct?

FROM THE FLOOR: No.

MR. KAPP: No? We haven’t paid for new pumps? How did we cure their water pressure problem?

THE MODERATOR: We didn’t; that’s the problem.

MR. KAPP: But we’re paying them $115,000 and it goes away?

FROM THE FLOOR: Yes.

MR. KAPP: Forever? They have no recourse to come back ten years from now?

FROM THE FLOOR: Right.

MR. KAPP: Cool. Thank you.

[Laughter.]

THE MODERATOR: Mr. Jones.

MR. JONES: The Board of Selectmen has
been dealing with this issue for quite a few years.
We met in mediation with the Ballymeade people in
March and with that meeting with a retired federal
d Jurge, we are to come up with this plan to make
sure that this issue is dealt with.

It does require an additional $50,000
that we’ve already set aside. The Board of
Selectmen very strongly encourages you to vote in
favor of this for the total amount of $165,000 and
the issue will then be put to rest.

THE MODERATOR: Okay. Any further
discussion? Hearing none, then the question is
going to come on the main motion as - yes, Mr.
Nidositko.

MR. NIDOSITKO: Jim Nidositko, precinct
2.

Just a point of information. How is it
that the houses have a water pressure problem but
the fire hydrants are okay? The fire hydrants are
also in the same elevation. I don’t understand the
reasoning?

Chief, could you -

THE MODERATOR: Well - or --

MR. NIDOSITKO: Mr. Moderator, could the
chief through you explain that?

THE MODERATOR: Yes, I’ve got two people

MR. JONES: Most of the issue for the
houses is on the second floor, and the fire
hydrants are not on the second floor.

MR. NIDOSITKO: Okay.

THE MODERATOR: Okay. Mr. Duffy, is
that the same answer you were going to give? Yes,
we’re good, okay.

Did I have another question? Did I see
a hand down here in the front? Did you have a
question or?

FROM THE FLOOR: Is it 115 or 165?

THE MODERATOR: It’s 115, because the
Selectmen had access to 50,000 –

FROM THE FLOOR: [Inaudible.]

THE MODERATOR: I’m answering that, if
you listen. The Selectmen had access to 50,000
already, so they’re only asking you to appropriate
115. You don’t have to appropriate the 50,000
that they had access to already. Okay.

Any further discussion on the main
motion? Hearing none, the question will then
come.

All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[No.]

THE MODERATOR: The ayes have it by a majority.

Article 12, the recommendation initially was indefinite postponement.

Madame Chairman for a new main motion.

CHAIRMAN MAGNANI: Mr. Moderator, I move the town vote to raise and appropriate $170,000 for the purpose of Article 12, to be expended under the jurisdiction of the Town Accountant.

THE MODERATOR: Okay, this is for the Police Federation Contract, $170,000 to raise and appropriate. Any discussion on Article 12?

Hearing none, the question will then come on the main motion.

All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.
[None opposed.]

THE MODERATOR: The ayes have it unanimous.

Article 14. Article 14, this is the adding the Treasurer/Collector’s position.

Madame Chairman for the main motion.

CHAIRMAN MAGNANI: Mr. Moderator, I move Article 14 as recommend - as printed, with the following amendment: the end hourly rate should not be 48.46, but 45.08.

THE MODERATOR: Okay, 45.08, that is the end of the Grade 9 classification.

CHAIRMAN MAGNANI: Yes.

THE MODERATOR: Okay, discussion on Article 14?

Hearing none, then the question will come on the main motion as printed, changing the final number to 45.08.

All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[No.]

THE MODERATOR: The ayes have it by a
majority.

Article 15. There was a hold on Article 15. The recommendation of the Finance Committee is indefinite postponement. Is there someone that wants to make a positive motion on Article 15?

FROM THE FLOOR: There’s no hold.

THE MODERATOR: No, when I went through the second time somebody held it. So who held this article? I didn’t get a name but it was on the second run-through. Everybody up here is telling me it’s true.

So, anybody? Who yelled Hold when we went through it the second time? Somebody who went home at the break, okay.

[Laughter.]

THE MODERATOR: Madame Chairman for the main motion.

CHAIRMAN MAGNANI: Mr. Moderator, I move Article 15 as recommended.

THE MODERATOR: As recommended, which is indefinite postponement.

All those in favor, signify by saying aye.

[Aye.]
THE MODERATOR: All those opposed no.

[None opposed.]

THE MODERATOR: The ayes have it unanimous.

Article 17, Madame Chairman.

CHAIRMAN MAGNANI: Mr. Moderator, I move Article 17 as recommended.

THE MODERATOR: As recommended. This is to transfer the amount of $278,000 from Certified Free Cash for the purpose of supplementing the Fiscal '15 Special Counsel Budget approved at the April Town Meeting.

Who held the article? Ms. Davis.

MS. DAVIS: Linda Davis, precinct 8.

Mr. Moderator, through you to Ms. Petit, could you delineate more specifically those expenses, please? Thank you.

MS. PETIT: Yes, there is a –

THE MODERATOR: Ms. Petit.

MS. PETIT: Excuse me, there is a slide of – it’s right there up on the board, right.

[Pause.]

MS. DAVIS: All right. Um, if you can possibly furnish some more specifics on litigation
for $175,000.

MS. PETIT: I will defer the answer to either Town Counsel or the Town Manager.

MS. DAVIS: Thank you. Mr. Duffy.

THE MODERATOR: Mr. Duffy.

MR. DUFFY: Frank Duffy, Town Counsel.

Prior to this Town Meeting, I reviewed all of the cases that we have pending with outside counsel to determine if there was enough money in our Special Counsel Budget to get us through the fiscal year. I determined there was not.

So therefore I surveyed the attorneys who are doing the outside work on various cases to determine how much money we would need to get us through the end of the fiscal year, and that is the requested amount, is as you see on the screen.

Now, this year we have a very heavy load of labor cases. Probably the heaviest load we’ve had in a number of years. The recommended amount to get us through to the end of the fiscal year on just labor cases alone is that 186,500.

You also, and everybody in this room knows we have ongoing litigation involving the wind turbines. There are actually four cases that are
ongoing involving litigation for the wind turbines. One of them is handled in my office and that is not included in this recommendation because we get paid a salary, we don’t get paid when we send bills into the Town.

But, for the other cases, the estimate to get through the end of the fiscal year, which is June 30th, is $175,000, and when you take those two and add them up, it comes to 361,050. There’s a balance in the account right now of 83,500. So the amount we need to get to the end of the fiscal year is 278. And of course Town Meeting only meets twice a year. So the reason we are asking for this money now is because in April we will have probably depleted the account and will be unable to handle the ongoing litigation.

So it’s in the basis of that that I made this recommendation and I asked the Town Manager to put this article in.

All of these cases have very significant – very significant cases for the Town. We have a huge investment in the wind turbines that we’re trying to preserve and also we have a number of labor cases which must be attended to and there are
consequences if we cannot defend those cases.

Thank you.

THE MODERATOR: Ms. Davis.

MS. DAVIS: Yes, one more question.

This $278,000 request, how much is this above the approved budget for Special Counsel in the 2014 budget? How much more is this?

MR. DUFFY: I’m going to ask the Town Finance Director, but I think the budget’s 125. It’s $125,000. We have been requesting $125,000 for special counsel for many years, but it’s only an estimate because we really don’t have any idea what it’s going to be.

So, periodically, during - in years past, we have gone to get additional money on a Reserve Fund transfer, but this is not appropriate under these circumstances. It’s really appropriate to come to Town Meeting, let you know how much money we’re spending and need to spend to successfully defend these cases.

MS. DAVIS: Thank you.

THE MODERATOR: Mr. Donahue.

MR. DONAHUE: Bob Donahue, precinct 3.

Through you, Mr. Chairman.
What would it take to hire people so that we would have enough of people on staff to do this work? Would it bring the budget that much higher than the 278,000 you’re asking for today plus whatever – ? You know, we never get full totals of what you’re spending.

So, you requested 125. Now you want 278. Next month, you might want another 100.

MR. DUFFY: No.

MR. DONAHUE: And don’t say no, because you don’t know what somebody could sue for.

So, so, it’s possible that somebody could put in a suit tomorrow morning and be requesting multi-millions of dollars and you’d have to hire an outside counsel again.

I’m saying – and I guess more to the Selectmen, I think we should enlarge the attorney’s office and hire staff. We’ve been hiring staff for the Accounting Department. We don’t seem to want to hire any staff for our Legal Department.

And I think that might cut down these costs a great deal. Thank you.

THE MODERATOR: Okay, Mr. Latimer.

MR. LATIMER: Thank you. Richard
Latimer, precinct 1 to Mr. Duffy.

To what extent is this unanticipated increase in legal expenses due to increased complexity of some of the cases that we’ve been involved in and therefore the increased number of hours that the outside counsel have to bill us?

Can you break that down for us.

THE MODERATOR: Mr. Duffy.

MR. DUFFY: No, Mr. Latimer, I’m really not able to break it down.

The part of the issue is remember that this budget was put together in December of last year, for a fiscal year that began July 1st. So a lot of information has come into play since then that has resulted in this request.

One of the problems we have, the Legal Department and every other department that this Town has, is that the budget cycle’s one year, but you actually start planning it almost a year in advance of that.

THE MODERATOR: Okay, any further discussion on Article 17? The question will come on the main motion.

All those in favor, signify by saying
aye.

[Aye.]

THE MODERATOR: All those opposed no.

[No.]

THE MODERATOR: The ayes have it by a majority.

Article 18. This is the omnibus Capital Budget.

Madame Chairman for the main motion.

We'll do this one and this will be it for the night.

Madame Chairman.

CHAIRMAN MAGNANI: Mr. Moderator, I move the Town vote to appropriate the sum of – this is a – I just want to give you a heads up, which, I'm changing the number.

Mr. Moderator, I move the Town vote to appropriate the amount of $4,179,770 for the purpose of Article 18. And to meet this appropriation, the Town transfer the sum of $4,135,634 from Certified Free Cash, and $44,136 from Article 25 from the November, 2010 Annual Town Meeting. Said funds to be expended under the jurisdiction of the Town Manager.
And if you will go to your chart, and in
the first group under General Government, it’s the
last one in that group, and it’s Facilities
Improvement Consolidated Dispatch. And the
Finance Committee originally recommended $50,000
and reconsidered it and changed it to the $250,000
which was the requested amount.

THE MODERATOR: Okay, so the main motion
is as recommended, just changing the Facilities
Improvement Consolidated Dispatch up to $250,000,
and then adjusting the totals at the top.

Okay, I think we have a presentation on
the Capital Budget before we open it up.

CHAIRMAN MAGNANI: May I just say one
thing before that?

THE MODERATOR: Yes, Madame Chairman.

CHAIRMAN MAGNANI: For your information,
the November, 2010 Annual Town Meeting voted to
fund Article 25 in the amount of $250,000 to
replace aging water mains in Siders Pond Road. The
work has been completed, and that’s why that money
is used in this article.

THE MODERATOR: Mr. Netto.

MR. NETTO: Joe Netto, precinct 9.
Mr. Moderator, in looking at the complexity of this article, the time - I’m not going to ask for adjournment - the time it is. To give due diligence to this article of $4 million. I’m tired, tonight, of having such a short time frame in doing something such as important as this.

No, I’m not moving adjournment. What I’d like to do is table this article to tomorrow night and take the next article up in sequence. At a quarter of 11:00, I don’t think it’s time to start discussing $4 million of the taxpayer’s money, with everybody wanting to go home.

So let’s do another article, and my motion is to table this article and bring it up first thing tomorrow night after the Special. Thank you.

THE MODERATOR: Okay, there’s a motion to table this article. This is a two-thirds. All those in favor of tabling the article, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[No.]

THE MODERATOR: It’s the opinion of the
chair that the ayes have it and the article is
tabled.

Article 19. Article 19, the original
recommendation from the Finance Committee was
indefinite postponement.

Madame Chairman.

CHAIRMAN MAGNANI: Mr. Moderator, I move
that the Town vote to authorize the Board of
Selectmen to purchase or take by eminent domain a
parcel of land with a building thereon known as 25
King Street, Falmouth, Mass, assessors parcel 47B-
01-017-000, now or formerly owned by Peter M.
Donahue and being a portion of the land described
in a deed recorded in the Barnstable County
Registry of Deeds in Book 6445, page 154. And to
transfer the sum of $435,000 from Certified Free
Cash for the said purpose – for said property to be
under the jurisdiction of the Board of Selectmen
for municipal purposes, with said sums to be
expended under the jurisdiction of the Board of
Selectmen.

THE MODERATOR: Okay, so the main motion
is $435,000 from Certified Free Cash to purchase
the property with all of the appropriate deeds
Registry references.

Madame Chairman, anything else?

CHAIRMAN MAGNANI: Hmm?

THE MODERATOR: Anything else?

CHAIRMAN MAGNANI: No.

THE MODERATOR: Okay.

Discussion on Article 19.

Mr. Stecher.

MR. STECHER: Thank you. Bernie Stecher, precinct 3.

I’m just curious, is this the amount of money that the property is actually evaluated at by the Assessor?

THE MODERATOR: Mr. Suso.

MR. SUSO: Thank you, Mr. Moderator.

Julian Suso, Town Manager.

Two appraisals were conducted on this property. The first appraisal by the Town certified appraiser, and there was a second appraisal conducted by the property owner’s certified appraiser. Two different individuals, obviously. And the recommended purchase price is the average of those two appraisals. Both by certified appraisers and my understanding is that
both of those – the information on both of those
would be part of the public record.

THE MODERATOR: Further discussion?

Mr. Dufresne. Yes, Mr. Dufresne.

MR. DUFRESNE: Adriene Dufresne, precinct 2.

I’ve been sitting here in Town Meeting for about 45 years, and one of the things that I’ve always been very, very leery is an eminent domain taking. Eminent domain takings in the past have cost the Town of Falmouth lots of money.

When we built the fire station there was a number of studies made that did not recommend that site. However, this Town Meeting did build the fire station in that location.

There were those of us that thought a more suitable location and a more –

THE MODERATOR: Yeah, Mr. Dufresne, if I could just interrupt briefly. We have a signed purchase and sale agreement for this.

MR. DUFRESNE: Sir?

THE MODERATOR: We have a signed purchase and sale agreement for this.

MR. DUFRESNE: Oh, that was not said.
THE MODERATOR: Okay.

MR. DUFRESNE: I didn’t hear that.

THE MODERATOR: That’s why I’m just adding it, so it’s not an – yeah, go ahead.

MR. DUFFY: Frank Duffy, Town Counsel.

Mr. Dufresne, we always word land purchase articles to include the power of eminent domain. In this particular case and in the case of almost all purchases that come before this body, we have a purchase and sale agreement so we do not have to exercise the power of eminent domain. But we need the power occasionally if we encounter a title problem or some other problem that has to be addressed through the power of eminent domain. But we would never exercise it unless it were by agreement of the owner with an agreed upon price.

MR. DUFRESNE: It’s a good policy in an eminent domain taking to have a legitimate purchase and sales agreement and I’ll agree with Town Counsel.

I still find it very difficult to accept the fact that we’re going to spend a hundred and plus thousand dollars to build a parking facility for a couple of meeting rooms that were built in
the fire station.

We’re taking away some residences that
are probably needed. Affordable housing, sober
house. I believe there’s a sober house and another
house in that location that have been occupied.
The property used to belong to my uncle about 75
years ago.

But, anyway, I think they’re residences
that should not be torn down to make parking lots.
That’s a personal opinion. Thank you.

THE MODERATOR: Mr. Shearer.

MR. SHEARER: Dan Shearer, precinct 6.
I’d like to know what we assessed that
property as on our tax bills, if we could.

[Pause.]

THE MODERATOR: Oh, I’m sorry, there’s a
presentation. I thought that you would just
answer the –

So, Mr. Shearer, can we just have the
presentation? I didn’t realize that there was
another presentation to be made on this.

CHIEF SULLIVAN: Hi, I’m Mark Sullivan,
Fire Chief.

There’s been negotiations to purchase
property to make parking for the fire station. As everyone may know, we have an active training room that’s upstairs and when the new fire station was built, the addition part and process from the Selectmen was that we could have that meeting room and open up the public meeting rooms as long as we could do some parking on King Street, on the side, on the right-hand side.

And that has turned out not to work out so well.

The training room’s also used as our emergency operations center, and we have a lot of training functions there. We have more than the parking is what needed. We only have eight parking spaces on the King Street side.

I’m not sure if you can see that very well, but here’s the Fire Station right here. This is the property that’s being talked about, it’s 25 King Street. This is the one that Mr. Dufresne mentioned was also part of it; it’s in the back lot. That’s not the one. This is the one, right here, where you have the continuous parking right here.

So as you see, we have that – that’s the
training room itself, which is - can be split in half when it’s not used. That’s set up as the emergency operations center right now. And it can be split in half and have two meeting rooms, and we have a lot of training functions going on there.

Good, Bob. That’s how we are set up for the parking on the side of King Street. And during these events, we have a LEPC local monthly meeting. There’s one in particular - well, there’s neighbors that make complaints to the Police Department all the time, which interrupts the meetings. People have to move their vehicles if they’re parked on the wrong side.

It’s just, it’s not a good situation.

That’s the current parking lot which has about eight existing parking spaces out in the front.

MR. HAMPSON: Mr. Moderator. Could we continue -

THE MODERATOR: After 11:00? All those in favor -

MR. HAMPSON: - after 11:00 until this article is done?

THE MODERATOR: Okay, all those in
favor of staying after 11:00 signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[No.]

THE MODERATOR: The ayes have it by a two-thirds I so declare.

Go ahead, Chief.

CHIEF SULLIVAN: This is the proposed design for the parking area. Here’s the headquarter station, here’s the King Street entrance, here’s the existing parking, and this is if that building was to be torn down, that would be where the parking lot is.

And these folks, here, this house would exist, it would still - it would have a right of way of going through there.

So we think if we did this it would provide some safe off-street parking. We could get full use of the facilities in the room, and importantly for the Fire Department operations, the Emergency Management operations, we wouldn’t have any issues with parking when we activate our EOC, which fortunately isn’t that often, but it needs to be done.
And we’re trying to be good neighbors to
the folks on King Street.

Answer any questions?

THE MODERATOR: Okay, Mr. Dufresne.

MR. DUFRESNE: Mr. Moderator, through
you.

Is this — will this become a public
parking facility or will this facility be
restricted strictly to Fire Department meeting
rooms and Fire Department organizational meetings?

THE MODERATOR: Mr. Suso.

MR. SUSO: Yes, thank you, Mr. Dufresne
and Mr. Moderator.

The intent would be to post the parking
spaces as intended for those conducting business
within the fire station, and we would be hoping for
voluntary cooperation with that. Similar to what
we have now at Town Hall. That would be our
intent.

MR. DUFRESNE: My only comment to that,
Mr. Moderator and fellow Town Meeting Members, is
we all know what happens in Town Hall Square when
there’s a need for parking along Main Street.

What we’re doing here is we’re creating a municipal
parking facility with no restrictions on it.

If it’s going to be a parking facility
restricted to Fire Department use or the use of the
meeting rooms, as a representative of precinct 2 I
can probably understand that. But I take
exception to building a municipal parking facility
in that section of residences.

THE MODERATOR: Okay. Mr. Suso.

MR. SUSO: Mr. Moderator, I just want to
affirm that I’m in total agreement with the
statement just made, and if we need to tighten up
controls, we’ll certainly do that as needed to
ensure that the parking facility, if Town Meeting
in its wisdom allows us to go forward -- to ensure
that it’s utilized properly and with the intent
represented.

THE MODERATOR: Okay, now Mr. Shearer, I
cut you off, there, because of the presentation.
Would you like the floor again?

And Mr. Finneran, I’ve got you on the
list.

MR. SHEARER: [No mic: inaudible.]

THE MODERATOR: No, no, it’s right
there.
MR. SHEARER: Dan Shearer, precinct 6.

What I asked was: what was the value, tax assessed value of that property?

THE MODERATOR: Mr. Suso.

MR. SUSO: Yes, Mr. Moderator, the annual taxes on that 25 King Street are $3,734.71.

MR. SHEARER: No, that's not what I asked. I'm sorry, sir.

THE MODERATOR: Do we have the assessment? Ms. Petit, do you have the assessed?

MS. PETIT: Yes. The assessed value is $462,800.

MR. SHEARER: Okay. Thank you.

THE MODERATOR: Okay.

Mr. Finneran.

MR. FINNERAN: Yeah, Mark Finneran, precinct 6.

I'm completely aware of the need for this parking lot. I have friends who are police and whenever they have meetings there the police get called by the neighbors and, you know, what do the police need to waste their time dealing with the Fire Department?

But my question is: I've been told by
someone on the Finance Committee that the – one
assessment came in at 390 and then another
assessment, which I assume is the homeowner’s
assessment, came in at 485, and we split the
difference. Um, why? And doesn’t that seem like
a wide range, over 25 percent, for supposedly
professional real estate assessors?

THE MODERATOR: Mr. Suso.

MR. SUSO: Certainly, Mr. Moderator.

This was the item I already commented on
earlier. Two separate certified appraisers, both
licensed, working independently came up with two
different values.

And the determination was made in
speaking with the Town’s appraiser, who came up
with a $390,000 figure, that a figure within a five
to fifteen percent variation from her value, given
when it was determined and her assessment of the
other elements raised, would be appropriate. And
I believe this figure is 12 percent above the
amount that she initially determined. So it was
within that five to fifteen percent range and she
felt it was appropriate and a fair value and that
is why we bring it forward to Town Meeting.
THE MODERATOR: Mr. Finneran.

MR. FINNERAN: If you split the difference, that’s $47,250. I mean, you have a difference here of 25 percent. It’s not 12 percent. It’s --.

THE MODERATOR: It’s 12 percent above the Town’s appraisal, is what he meant.

MR. FINNERAN: Hmm, still, $100,000 range just seems odd for licensed – where’d they get their license?

THE MODERATOR: Mr. Vieira.

FROM THE FLOOR: Question, question.

THE MODERATOR: Almost there.

MR. VIEIRA: Jim Vieira, precinct 6.

And I support the purchase of this parcel, but I would hope that we would learn a lesson from this and the next building we build, we put it on a parcel that’s adequate for its future use. Thank you.

[Applause.]

THE MODERATOR: Okay. Madame Chairman.


Can you –
THE MODERATOR: No, no, no, I had the Chairman and then you’re on my list.

MS. O’CONNELL: Oh, I’m sorry.

THE MODERATOR: Yes, Madame Chairman.

MS. O’CONNELL: Excuse me.

CHAIRMAN MAGNANI: Could we go back to the picture of the map. No. That’s it, thank you.

I’m getting like Andy Dufresne, but many, many, many years ago, there was an old couple who lived on the corner of Main Street and King Street, and they both died. And there was a group of people in town who wanted the Town to buy that land. They said, you know, in the future, you’re going to have to build onto the Fire Department. And it didn’t happen. And you see what we have here, and it makes sense to me that if we have land that’s abutting the fire station, we should buy it now while we can. Thank you.

THE MODERATOR: Okay, Ms. O’Connell.

MS. O’CONNELL: Yes, very quickly, Mr. Moderator.

Somebody tell me how many parking spots that is?
THE MODERATOR: Mr. Suso.

MR. SUSO: Our Town Engineer’s preliminary layout indicates 23 spaces, including two handicap spaces.

MS. O’CONNELL: Thank you.

THE MODERATOR: Mr. Kapp, do you have something?

MR. KAPP: Thank you, Mr. Moderator, Paul Kapp, precinct 3. We just tabled a Capital Improvement, looking for $4 million. Everything’s going up in price. We’re going to pay $435,000 for this property. We’re going to lose almost $4,000 a year in real estate taxes. We still have to pay to demolish it and to pave it. How much more is that going to cost and is it really, really in the best interests of the Town fiscally?

THE MODERATOR: Okay. Any further discussion? I see a hand back there somewhere.

MR. PETERSON: Tom Peterson, precinct 1. I’m just curious as to what the cost is going to be to demolish that house and to pave it, so we can get an idea of the total cost of that parking lot.
THE MODERATOR: Madame Chairman.

CHAIRMAN MAGNANI: That is Article 20, and the total is $165,000 for demolishing the building and constructing a parking lot.

THE MODERATOR: Okay, yes, microphone over there.

MR. MARSHALL: Mr. Moderator, Joe Marshall, precinct 9.

Now that we know what the price tag is, when these rooms are opened up, are we going to derive any revenues from them?

THE MODERATOR: Are you going to charge rent to use rooms at the Fire Station, is the question.

Mr. Suso.

MR. SUSO: Mr. Moderator, to the best of my knowledge, as long as it’s been a community group that has asked and scheduled the use of the room, that’s been made available.

Were that policy needed to be changed, that’s certainly within the purview of the Board of Selectmen.

THE MODERATOR: Okay.

Go ahead, Mr. Thrasher.
MR. THRASHER: Scott Thrasher, precinct 4.

Just for a little clarification,
originally the station wasn’t to be intended on Main Street. We didn’t have the room. And we put it where we were asked to put it, on Main Street. They wanted us to have a Main Street presence.

And that parking lot is for you folks, really. I mean, the firefighters park on the other side. So we have people pulling oil burner permits, getting blood pressures checked, cub scouts trying to find a place to park to get a tour. I mean, it’s all day, it’s in and out, it’s quite a busy spot.

Some of the administration parks over there. That’s your entrance on that side.

So, it would behoove you - you know, I don’t use it, but I think it would behoove you folks to take advantage of this.

And he’s got something we want; he’s next door to us. That’s where we sit. We missed the corner lot years ago. I wasn’t around for that. But, you know, it’s your call. Is it a lot of
money, yes, but we have a parking issue.

It’s not getting any less busy over there. The LEPC room meets regularly upstairs. We have training. With the Coast Guard, they ask to use it because they train us for free.

Our training initiative has increased over there. We have more people coming in and out of the station, and we ask them not to park on King Street so we don’t upset the neighbors.

So that just – maybe that’ll help you with giving you a little picture as to what we’re dealing with now.

THE MODERATOR: Okay, the question will come on the main motion, Article 19.

All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[None opposed.]

THE MODERATOR: It’s the opinion of the chair that the ayes have it by a two-thirds majority and I so declare.

This meeting will stand adjourned. We’ll convene the Special Town Meeting tomorrow at 7:00
and then we will re-convene the Annual Meeting when
we adjourn the Special.

[11:06 p.m., whereupon meeting adjourned.]
CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF BARNSTABLE, SS

I, Carol P. Tinkham, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing is a true and accurate record of Falmouth Fall and Special Town Meeting, taken by me on November 17, 2014. To the best of my ability the within transcript is a complete, true and accurate record of said Town Meeting.

In witness whereof, I have hereunto set my hand and Notary Seal this 18th day of December, 2014.

_____________________________
Carol P. Tinkham, Notary Public
My Commission Expires: April 21, 2017

PLEASE NOTE: THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT CONTROL AND/OR DIRECTION OF THE CERTIFYING REPORTER.