COMMONWEALTH OF MASSACHUSETTS

TOWN OF FALMOUTH

SPRING TOWN MEETING

SPECIAL TOWN MEETING

Memorial Auditorium
Lawrence School
Lakeview Avenue
Falmouth, Massachusetts

MODERATOR: David T. Vieira

Tuesday, April 3, 2012
7:00 p.m.

Carol P. Tinkham
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THE MODERATOR: Okay, all Town Meeting Members please come forward, take your seats. Don’t forget to sign in. Attendance will be published in the Falmouth Enterprise.

I want to thank FCTV for providing live gavel to gavel coverage of Town Meeting. We’re now on Channel 15, the new government channel.

Our tellers this evening: in the first division will be Mrs. Tashiro; in the second division will be Mr. Dufresne; and in the third division will be Mr. Hampson.

Would all Town Meeting Members present please rise for the establishment of a quorum and the tellers will return a count.

[Pause.]

THE MODERATOR: In the first division, Mrs. Tashiro?

MRS. TASHIRO: 55.

THE MODERATOR: 55.

In the second division, Mr. Dufresne?

MR. DUFRESNE: 96.

THE MODERATOR: 96.

In the third division, Mr. Hampson?
MR. HAMPSON: 74.

THE MODERATOR: 74.

By a counted vote of 225 members, we have a quorum and I call the Annual Special Town Meeting — excuse me, the Special Town Meeting to order.

All present please rise for the presentation of the colors by Girl Scout Cadet Troop 75003.

THE MODERATOR: Please follow me in the pledge of allegiance.

[Pledge of Allegiance taken.]

THE MODERATOR: At this time George Hampson would lead our invocation.

MR. HAMPSON: Lord, when it comes to meeting and communicating with each other, help us to be good listeners. Help us to be open-minded, putting aside our own agendas. Help us to be honest without being intrusive. Help us to be respectful, without being too formal or artificial. Help us to question and to challenge without being harsh. Help us to be aware that this is just one moment, just one meeting. And lastly, help us to remember that you, too, are
always meeting and communicating with us. Amen.

THE MODERATOR: Colors post. Let’s have a round of applause for Girl Scout Cadet Troop 75003.

[Applause.]

THE MODERATOR: A couple of quick announcements. For those of you that weren’t with us last night, the Precinct 8 has provided some name tags for Town Meeting Members that would like to use them. They were prepared by Jude and Elizabeth Wilber. They’re out in the lobby of the auditorium and at the end of Town Meeting, whether that be tonight or tomorrow night, we ask that you drop your name tags in the boxes out front and they will reorganize the name tags and get them ready for the next Town Meeting.

Also, I got an email today from the League of Women Voters would like to make community announcement that the Governor’s Statewide Youth Counsel is looking for young people between the ages of 14 and 20 to serve as an advisory board to the Governor. They will choose two young people from each county in Massachusetts. So, there’s 14 counties; it’ll be
a total of 28 young people.

Anybody who’s interested in applying, the deadline is Friday, May 25th and you can go to the state website mass.gov and look up under the governor’s page for the application.

So, anyone watching on television or anyone here in the auditorium that can spread the word that the governor’s looking for some young people between the ages of 14 and 20 to serve on the statewide youth counsel.

At this time, I’ll ask for the dispense of the reading of the warrant, Madame Chairman.

CHAIRMAN FLYNN: Mr. Moderator, I move to dispense with the reading of the warrant except for the officer’s return.

THE MODERATOR: Okay, you’ve all heard the main motion to dispense with the reading of the warrant. All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]

THE MODERATOR: The ayes have it unanimous.
At this time, I’ll read the Officer’s 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, Constable Jim Crossen.

And Jim will be our constable again this evening. Thank you, Jim.

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

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

At this time, the Chair would entertain a motion for all Town employees who are not
residents of the Town of Falmouth to speak on any article before the Special Town Meeting. 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 unanimous.

At this time, I’ll recognize the Planning Board for a notification of public hearing.

MR. MEDEIROS: Good evening. Town of Falmouth amendments to the Zoning Bylaw. In accordance with Chapter 40A, Section 5, Massachusetts General Law, and Article 43 of the Town of Falmouth Zoning Bylaws, public hearings were held on February 28th on Articles 2, 3 and 4 for the Special Spring Town Meeting and all those who wished to speak were heard. Thank you.

THE MODERATOR: Okay, we’re going to kick off with the Special Town Meeting tonight, and when we finish that, we will go back to the Annual meeting.
I am not going to use a blanket tonight.

I’m going to get right off with Article 1.

So, Article 1, Madame Chairman for the main motion. Okay, Finance Committee.

CHAIRMAN ANDERSON: Mr. Moderator, I move that the Town vote to authorize the Board of Selectmen to purchase or take by eminent domain in fee a portion of Lot 68, Bernard St. Jean Drive in Falmouth Technology Park, and shown on Land Court Plan 31976K, now owned by Falmouth PMW, LLC, which area contains approximately 13,000 square feet in area and is the site of an encroachment of capped and buried trash associated with the Town’s former landfill, and to acquire an easement to maintain a monitoring well on Lot 68 as required by the Department of Environmental Protection, and further to appropriate the sum of $41,000 from Certified Free Cash as land damages for the acquisition of the land and easement as set forth herein, said sums to be expended under the jurisdiction of the Board of Selectmen.

THE MODERATOR: Okay, there’s the main motion on the overhead. An explanation, yes, Mr.
MR. DUFFY: Good evening. Frank Duffy, Town Counsel. We have kind of an unusual situation here tonight. We have a lot, Lot 68 in the Industrial Park, which abuts the former Town Landfill. The Town Landfill, as you know, is out of business; it’s been capped and there’s a lot of buried trash under it.

Now, in 2004, Falmouth PMW, LLC, which is the corporation owned by Phil Wesling, who owns West Falmouth Aluminum, bought this parcel from the EDIC and sometime subsequent to that they discovered that there is a portion of this lot that is encumbered by buried trash from the landfill.

The lot itself is about 5.5 acres and - next slide, please, Bob. Mr. Wesling is in the process of doing some development work. I’m not sure if this is a conceptual plan or an actual as built plan, but it just gives you some idea of what he intends to do with the property.

May I have the next slide, please. This slide shows the property line between Lot 68 here and the landfill over here, and as you can see
there is an area here that is shown being outlined and it’s got these diagonal lines. That is the area where the capped landfill, the trash, actually goes onto Lot 68. The total area is about 13,000 square feet.

Now, the presence of this trash on Mr. Wesling’s lot causes him a problem because it’s a liability to him and it’s an encumbrance. Under Chapter 21E of the General Laws, he could be responsible for the cost of removing this or subject to fines or any other potential liability. But it’s our trash, and we’re accepting responsibility for it.

The simplest way that we can see to do this is to have the Board of Selectmen exercise their power of eminent domain and take this small area here plus maybe a couple – maybe five or ten feet off that line. Return it to the Town of Falmouth, return it to the landfill where it is permitted under the capping regulations of DEP.

The article also asks for the sum of $41,000 to make a payment to Mr. Wesling which will cover three things. It will cover any damages that he may have incurred as the result
of the presence of this trash on his lot. It will also cover the lease, or, excuse me the easement of an area where there is a monitoring well, and it’s — no, it’s right on the lot. The monitoring well monitors methane gas from the capped landfill; it’s required by the Department of Environmental Protection. We have to maintain it for I think about 20 years.

And finally, it’s a substitution, as you will, for the cost to the Town of Falmouth of having to remove this trash if we were to have to remove it. Now, there’s about 13,000 square feet of surface area, so there could be several thousand feet or yards. I don’t know how — nobody seems to know how much trash is under there, but it’s quite a bit.

And, so that’s what this article is about. We’re going to have the Board of Selectmen exercise the taking, take the land back, be responsible for it like we should be as good citizens. This taking also does not cause Mr. Wesling any zoning problems because it’s a taking so we don’t have to go through the subdivision process in the — before the Planning
We do have an agreement. The agreement has been signed by Mr. Suso on behalf of the Town. He was authorized by the Board of Selectmen at their meeting earlier tonight to sign this agreement. The agreement contains all of the provisions which I think I just outlined for you.

Our engineering department will draw the necessary plans and the Town will pay the cost of recording the necessary documents in the Registry of Deeds and then everyone can go on with business as before.

Any questions?

THE MODERATOR: Questions on Article 1? Any discussion on Article 1? Hearing none, the question will come on the main motion as presented. 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. The Planning Board for the main motion.

VICE CHAIRMAN KERFOOT: Pat Kerfoot, Vice Chair of the Planning Board.

The Planning Board has recommended and I move Article 2 as recommended. The explanation is pretty much explanatory, but if there are any questions, I would be happy to entertain them.

THE MODERATOR: Okay, this is to amend Article 22, parking requirements of the zoning bylaw: handicap parking shall be provided as per the requirements of the Massachusetts Building Code or the Architectural Access Board, whichever is more restrictive. Any discussion on Article 2?

Hearing none, the question will 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 3.
VICE CHAIRMAN KERFOOT: The Planning Board has recommended and I move that the Town vote Article 3 as printed.

THE MODERATOR: Okay, as Article 3 as printed. This is to amend the official zoning map and amend Article 6, General Residence District and Article 14, Dimensional Regulations of the zoning bylaw by the four sections.

Any discussion on Article 3? Mr. Hampson.

MR. HAMPSON: Mr. Moderator, I’ve been asked to read a letter from Andy Massanian [sp?], who owns one of the parcels. And this for the Town Meeting. [Reading:] Rezoning my property at 28 Ellis Highway is before Town Meeting once again. I now believe that the solution sponsored by the Planning Board to rezone my property to General Residence as part of the Article 3 of the Special Town Meeting is best for the town and neighborhood and myself.

I understand I will need to obtain a special permit to use my property for professional offices. Thank you again for this opportunity to inform you on how my position has
involved.

I have a copy for you.


MS. VALIELA: [No mic:] Mr. Moderator, [inaudible] presentation of the Planning Board first.

THE MODERATOR: Okay, Planning Board want to make a presentation?

VICE CHAIR KERFOOT: Mr. Moderator, I wish to defer to our Town Planner Mr. Curry. He has slides and a very full explanation of this.

THE MODERATOR: Okay, Mr. Curry.

MR. CURRY: Will you go back to the first air photo.

Good evening, I’d like to take a moment just to orientate the Town Meeting Members as to where these proposed map changes would be taking place and I’ve – up on the screen, you’ll see an aerial photograph which pretty much coincides with the map that you have in your warrant book.

When we’re talking about those areas that will be north of Route 151, Nathan Ellis Highway, it may involve this lot here owned by
the Tribullises [sp?]. This is a lot owned by Mr. Minasian. This is the parking lot utilized by the Beach House, which is across the street. This is a pizza place right here, the real estate office. This is the parcel on the west side of 28A. And this is the parking lot for the daycare center that is here. This is a small office building. This parcel is owned by the United States of America, according to the Assessor’s; for whatever reasons compelled to Congress.

This is the Silver Square development.

This is Dean’s, here. This is the power substation owned by NStar. And this is the Laundromat, and I forget the nice lady who called me up who owns that.

This is County Road, here. And if you look at your warrant books, you’ll see that Article 3 is broken into four paragraphs. And the first two paragraphs are then broken down into Subsections a and b.

THE MODERATOR: Mr. Curry, could you pause for a moment. Could all Town Meeting Members please turn off their electronic devices or put them on a silent mode? Thank you.
MR. CURRY: All set?

THE MODERATOR: yes.

MR. CURRY: So, next slide, please. So I’ll go through this article step by step, paragraph by sub-paragraph so hopefully you’ll have a clear understanding of what the Planning Board is proposing for you tonight.

That area on the map you see in your warrant book, this area here coincides with paragraph 1a, which would rezone to Business Redevelopment that area zoned Business 2 and Residence B.

This area here, which includes Mrs. Tribulus and Mr. Minasian and a little bit of that parking lot I just showed you, that coincides with paragraph 1b, that would rezone Single Residence B to a General Residence district, and I’ll get into all those differences for you.

Paragraph 2a will take into this map change, here, which is zoned Light Industrial A today. It would go from Light Industrial A to Business Redevelopment.

And then paragraph 2b is this little
area right here that’s currently owned – owned.

It is zoned Business 3. And that will go from Business 3 to Business Redevelopment. So you can see that the article segregates out or segregates those types of map changes and your legend is there to the right for your understanding.

So I’ll very quickly get into some of the what’s can be developed between these types of zoning districts. I’m not going to get into any kind of PowerPoint presentation or comparison of statistics because I know how much the Town Meeting Members love zoning.

But I will give you some examples about what can be developed between say a Business 2 or a Light Industrial A zoning district and what can be developed at a Business Redevelopment District.

And the take-home message is that in Business 2 and Light Industrial A districts, the two types of uses are most different than a Business Redevelopment district. Involve retail sales and typically restaurants. In a Light Industrial A zoning district such as you have over here, retail sales are allowed as a matter
of right. That means that you simply go down to the Building Department and get your building permit after an administrative site plan by the Planning Board.

And in these areas that are zoned Light Industrial A or Business 2, those retail sales are unlimited. You can have a building of any size. So if a box pharmacy wants to move in tomorrow in that Light Industrial A district, well, they could.

Also in Business 2 districts such as we have over here, you can also have what’s known as a Class 4 or fast food restaurant with a drive-thru. A typical DUnkin’ Donuts with a drive-thru could apply to the Board of Appeals for a special permit for that site as it’s currently configured.

A Business Redevelopment district, the differences are that in your retail sales you can still have a building, say, of 10,000 square feet, but it must be subdivided into tenants of no more than 4,000 square feet. And an example of that would be Holly Park. Holly Park is a Business 3 zoning district, very similar to a
Business Redevelopment district. Even though it’s a larger building, you must subdivide it into those types of 4,000 square foot tenants.

In a General Residence District as opposed to a Residence B district, the big difference is that in a General Residence district you can have a three family dwelling, whereas in your typical – in you Residence B district, it’s single family uses, only.

And we’ll get into some of the other little changes that might occur pursuant to a special permit a little later on in the article.

The sort of dimensional changes between a Business Redevelopment and Business 2 and Light Industrial A districts, the important statistic is what’s known as lot coverage. And lot coverage in a Light Industrial A district and a Business 2 district is 40 percent of your lot area. So if I have a 40,000 square foot lot, I can put a building footprint of 16,000 square feet.

In a Business Redevelopment district, the take home key statistics of lot coverage is that you can only cover 20 percent of your lot.
So your 40,000 square foot lot zone Business Redevelopment, your building footprint is half of that. It can only be 8,000 square feet. So that, I consider that to be somewhat of a down zone in terms of use and dimensional build-out potentials.

Paragraph 3 of your article asks the Town Meeting to add a sentence into the General Residence District that would allow this area here, if you’re zoned General Residence and you have frontage on the northerly sideline of Route 151, from 28A to Old County Road -- which is over here and I have a slide to show you later, all right -- you are then eligible to apply to the Board of Appeals for a special permit for a professional office. This is the same type of special permit that’s available to the community on Palmer Avenue and Locust Street. And what Mr. Minasian refers to his letter that was just read.

The next slide, please. Now, Paragraph 4 of the article asks the Town Meeting to change the dimensional regulations of the zoning bylaw, and in essence it would ask you to right now the setback, the front yard setback, on Route 151 is
75 feet from Route 28A all the way to the Mashpee
town line, and it was put in place back in the
mid-‘80's. It was part of the whole curb-cut
moratoria on Nathan Ellis Highway.

In this slide you see here, this tan –
this line, here, is your 75 foot setback line
from the right of way of Nathan Ellis Highway.
This line here is your 25 foot setback. And
there are some 15 properties that are implicated
by this change. As you can see, there are some
single - and all these lots are developed. They
either had a single family house or a two family
house, or the restaurant here or the pizza place
here and - we don’t know what that is. I’m
sorry.

All right, losing train of thought.

So, we would ask the Town Meeting – the
Planning Board asks the Town Meeting to relax
that standard only because, you can see, it would
then consume this lot nearly in its totality.
So, no sense in going through a mapping exercise
to change the uses if in fact your front yard
setback leaves you this little still a wedge of
white here to do as you please.
The Planning Board believes that this is in keeping with some of the zone changes we’ve asked of Town Meeting you’ve passed down in Woods Hole Business Redevelopment, all along East Main Street. The Planning Board would like to bring this back to future Town Meetings in other neighborhoods as soon as they can reach out and have a discussion with the businesses that are there and the residents that use those businesses such as they did here.

The up-zone part of this also is in Business Redevelopment you get what’s known as a mixed use development by right, and you can see those along East Main Street as an example. That, if you have, say, a restaurant on one floor or some commercial space on one floor, you can have those by right if you have residences above. Peking Palace is an example. There’s a restaurant along East Main Street and they redid their building and constructed apartments above. That you could do as a matter of right in a Business Redevelopment District up to 10,000 square feet. And that, after that, a special permit requirement ensues or review by the Cape
Cod Commission.

So, the Planning Board asks your consideration of this article tonight in keeping with some of their thinking. And if you have any further questions, I’d be happy to answer them.

THE MODERATOR: Okay, Ms. Putnam, to the left.

MS. PUTNAM: Rebecca Putnam, Precinct 9. Through you, Mr. Moderator, I have a few clarification questions for the Town Planner.

My question one is where the Light Industrial zone is, that is proposed to be re-zoned, is that going to be more restrictive or less restrictive?

MR. CURRY: It’d be more restrictive. Business Redevelopment is more restrictive than Light Industrial A.

MS. PUTNAM: Okay. And then where the real estate office, the pizza and the current parking lot is: less restrictive or more restrictive, for the B2 part?

MR. CURRY: For the B-2 parcel, where the pizza place and the real estate office is, it’d be more restrictive. For that area of the
parking lot that’s Residential B, it would be obviously less restrictive.

MS. PUTNAM: So, in that rezoned Business Redevelopment, what could be put on that entire corner, the entire parcel two put together?

MR. CURRY: In a Business Redevelopment District, just like in a Business 2 District, you can have single family homes, you could have a professional office, a bank, you could have a medical clinic. In Business Redevelopment, your retail sales no greater than 4,000 square foot per establishment. You could have a class one or a class two restaurant in Business Redevelopment. Class one restaurant: Coonamessett Inn [inaudible]. Class two restaurant: McMenamy Seafood.

By right, in a Business Redevelopment District under a special permit, you could have commercial accommodations, a bed and breakfast, or a multifamily dwelling, a multifamily dwelling up to - up to 8 units per acre by special permit through the Board of Appeals. A class 3 restaurant by special permit. A class 3
restaurant is like a D’Angelos restaurant. No drive-thrus.

If you had enough room, you could come and see the Planning Board for a special permit for a shopping center over 7,000 square feet, but I don’t believe it’s germane here.

MS. PUTNAM: Okay –

MR. CURRY: Those are the types of uses you could see in a Business Redevelopment District.

MS. PUTNAM: Okay. I think a lot of us know how that corner is and my particular concern is that entire corner being rezoned to allow a lot of those usages. Because it’s a difficult traffic area and it would become very congested and I believe that most of the neighbors – or the neighborhood of that area is very much against this and I would have to ask that, because of that portion of the rezoning, that we vote that down as a no. Thank you.

THE MODERATOR: Mr. Fleer.

MR. FLEER: Allen Fleer, Precinct 6. And I just want to remind Town Meeting Members that the last time we considered a comprehensive
rezoning here in November, 2010, we did not
consider changing the LIA property. And this is
a big change because it’s a big piece of
property.

When we have rezoned to Business
Redevelopment in the past, we’ve had either a
plan like we did for Bob Murray, or we had a plan
and a restrictive covenant, like we had with
Chris Wise in Woods Hole. And part of the reason
for those rezonings or the location of those was
because of the adequate infrastructure:
sidewalks, streetlights, crosswalks, etcetera,
which as Mrs. Putnam just mentioned, are really
lacking. I mean, there’s one street light on the
corner and one crosswalk across county road. So
that’s pretty inadequate.

But, to get back to the explanation.
The explanation says that this change to Business
Redevelopment he gives a by-right mixed use. But
in LIA there is no prohibition to retail with
multifamily. In fact, the special permit for
multifamily dwellings in LIA is really, it isn’t
a really difficult threshold. The requirements
for the Board of Appeals to find is that the
public good will be served, industrial zoned
would not adversely - be adversely affected, that
the uses permitted in the zone would not be
noxious to a multifamily use and shall not exceed
six units per acre.

And, as far as other uses, like gas
station, special permit uses like gas stations or
class 3 restaurants, they’re pretty much the
same. So, for me, at least, the issue is not
really the uses, but for me, it’s the setbacks.

Now, this property in the northwest
corner, there, has 50 foot setbacks in the LIA
district. And it’s beautiful. It really is.
It’s one of the nicest parts of this whole
intersection: the lawn, the picnic table, the
trees, etcetera. And if we go as far as the
zoning district, Business Redevelopment is a ten
foot setback on the side yard and a 20 foot
setback in the front yard. So that’s a lot of
setback that we will be losing. And I just don’t
agree with that.

Now, I know it’s been mentioned that,
you know, along Route 28A there’s a 35 foot
setback under 240, 68, A 1. But, you know, look
at what we’re doing along Route 151, or what is being proposed. It’s amending that exact same section of the bylaw to remove the 75 foot setback to go to 25.

So I’m just worried that if we were to allow this Business Redevelopment, you know, the implication is is that we would accept the 20 foot setback to maybe at some later date. It certainly would be not a hard point to make for Town Meeting.

So that’s really my concern there.

Because it’s nice as it is.

As far as the other business properties, they’re smaller. There are encroachment issues, there are easement issues. You know, I’m not really sure what more could really done with those lots. You know, I don’t know a lot of the case law. We’d have to ask Mr. Bobowski about that, but, you know, if we don’t make any changes, we don’t create any new issues for those lots with regard to compliance or conformity within a new zoning district.

And then we get to Mr. Minasian’s problems up there, where he bought a distressed
property and he’s left it derelict now for years. And Town Meeting’s supposed to reward him, now, to give him an up-zoning. You know, that’s something that I’m just not good with. And so I would ask Town Meeting to really vote this down in its entirety as we have before, multiple times. Thank you very much.

THE MODERATOR: Okay. Over here to my left.

MS. FINNELL: Margo Finnell, Precinct 8.

I would like to know if there have been any studies done as far as the increase in traffic that would happen on Route 151.

MR. CURRY: No current studies, no.

There have been, in the past, but –

MS. FINNELL: I believe Route 151 is an extremely dangerous road at this time, with the traffic it has on it now. We’ve had many, many accidents on 151 and I believe that this development that would be allowed would only increase the traffic and increase the number of deadly accidents on that road. So I would ask Town Meeting to vote this down.
THE MODERATOR: Okay. Ms. Lichtenstein, right the next one behind her.

MS. LICHTENSTEIN: Leslie Lichtenstein, Precinct 8. My only concern is that we now have the Shining Sea Bikeway going all the way from Woods Hole to North Falmouth to right behind what we’re looking to rezone from Light Industrial A. 151 along there is a bike route. There are bike route signs. We have bikes going down 151 to reach the parking lot for the Shining Sea Bikeway.

I am really, really worried about making less frontage requirements for those lots along 151. When you let buildings get closer and closer to the highway, cars intrude more and more and you’ve got a lot more possibility of cars going in and out, there.

Where Dean’s is now, you have to go in and around. So it’s a much safer environment. When you eliminate that and just let things build right down to 151, I envision some kind of catastrophe. We built a nice bike path and people come from all over the country to ride on our bike path. I think we would be doing a
disservice to that bike path to cause a problem on 151.

THE MODERATOR: Up here on the right.
Yes.

MS. TOBEY: Linda Toby, Precinct 4. I’m really afraid that we’re setting a very poor precedent as far as having somebody come to town, build a building, a professional building in a residential area and then come to us time after time until we have rezoned so that they are able to go ahead and use it as a professional building. I feel like it’s the tail wagging the dog and I don’t think — I think we’re doing a disservice to this town if we allow this to happen.

We’re in charge of this Town. It’s our town. And we need to take care of it and we need to prevent — if somebody wants to build a professional building, good, go over to one of the districts where you can build it and build one. But don’t come and build it in a residential area and then expect to have us change zoning rules so that you can use your building. I think we should vote this down.
THE MODERATOR: Mr. Murphy.

MR. MURPHY: Good evening, Town Meeting Members. If many of you probably remember, I spoke against this article when it came up last fall because it involved a property, which is the Beach House, which my wife used to be a partner in and I currently have an interest in potentially buying the building as the landlord there.

Mr. Fleer mentioned that we’re rewarding Mr. Minasian. We’re not rewarding Mr. Minasian by doing this. We’re rewarding the neighbors there by doing this. The neighbors to the opposite side of 151 had approached me after Fall Town Meeting. Mrs. Valiela asked me – thought she had a wonderful idea that could potentially work where he could have a home occupation business. A doctor who would run his office out of that location.

Well, I went and spoke to Mr. Minasian and after thinking about it myself, which doctor in his right mind would actually want to live in an office right there on 151 and also have his business there?
The neighbors there across the street, I know that folks think that we’re rewarding him, but you’re rewarding the neighbors. This is a blight on the neighborhood.

I realize that it’s next to a parking lot, but the rest of the neighbors don’t have a problem with the parking lot, they have a problem with that property. This is an opportunity to change that. Right, wrong or indifferent, we’re not rewarding him, we’re rewarding the neighbors there. This is not much of an impact on that street.

If anyone knows that neighborhood, there is traffic there. He would have to go for a special permit. The amount of traffic would be looked at, the amount of traffic would be studied. I ask you to vote this down, because I think – vote for this, because I think – [Laughter.]

MR. MURPHY: I think this is the last opportunity we have to help rectify this. This house has been like this in disrepair for as long as I can remember. Right, wrong or indifferent, it has been, and we have an opportunity to help
the folks who actually live next to the Beach House properties who face that and look at that property day in and day out.

For years, when he was trying to build the place, people would call me and say, “How does he keep a building permit?” I looked into it, well, he got a progress permit. Every six months, he’d put up another board and the permit stayed active. Well, do we want that to continue in this town, too?

It’s an appropriate site for I believe a general residence which could potentially lend itself to a doctor’s office or a lawyer’s office in that case. Thank you.

THE MODERATOR: Mrs. Johnson.

MS. JOHNSON: I take issue with what Kevin – I’m Pat Johnson, Precinct 5. I live in North Falmouth, that’s Precinct 5. However, one thing that that map up there on the wall is not particularly good is it doesn’t show you that all the LIA property is fully developed now, including the Silver Square, which is the biggest parcel there, was built in 2000 and is very attractive the way it is. And now to get back –
so I don’t think we need to rezone to Business Redevelopment. It doesn’t meet the purpose of having Business Redevelopment, which is in the bylaw. It says to make a pedestrian friendly area by allowing redevelopment of, you know, of retail office and having - not having parking lots in the front is another reason. Well, you know, we have that lot already developed fully. So I don’t think it’s necessary to change to the Business Redevelopment.

Now, down there where the General Residence area, where Mr. Minasian has the house, distressed house, and the next door neighbor, which is a vacant lot to the right, to the east, that property on the east has been granted a variance for a front yard so that they can build a building on that lot. It doesn’t look like if you had a 75 foot setback that you could build much. So the Board of Appeals granted a variance for that. And I also believe that Mr. Minasian’s property also has a variance granted on it.

So neither of those two properties need to have the 25 foot setback that is proposed by this board.
The other thing is, on that parking lot, it’s necessary for the parking lot for the proper functioning of a restaurant across the street. The setback is deceiving when you look at that lot now, because the town layout for that is existing now extends into the parking lot approximately 20, 20, 22 feet. You can see – you know, I don’t know. You can see right here. You can see how the parking – if you look at the cars up there when they’re parked, they’re on -- mostly the ones in the front row are on Town property, right now. So I think you should vote against this.

THE MODERATOR: Mr. Curry.

MR. CURRY: Just so, Pat, the variance that issued for the Tribulus property is under judicial review and there’s no variance on the Minasian or parking lot property.

THE MODERATOR: Okay, in the center.

Yes.

MR. MCCAFFREY: Charlie McCaffrey, Precinct 5.

As has been mentioned, we have at Town Meeting considered rezoning in this area several
times and rejected it. It was my understanding that as it was brought back by the Planning Board that they would have taken a more comprehensive look at business development at this important intersection and that we would see proposals that advanced a broader public interest and not merely the interests of one or two property owners.

I myself think that the Business Redevelopment proposed change is a good one. But I don’t see the overarching public purpose that’s achieved here with the way the zoning is proposed. We have an intersection and we have three different business zones on it. Why, if Business Redevelopment is appropriate on the northwest and northeast, it’s not appropriate on the southwest corner, which is vacant? If Business Redevelopment is appropriate on the northwest, why isn’t it extended to Holly Park? There’s nothing distinctly different about the nature of the development and how these areas might be developed in a way that advances public interest.

So I think more work needs to be done to have a meaningful set of zoning that reflects the
entire commercial area, here. And one is, as Mr. Curry said, in doing this – in looking and doing – changing zoning and others, there would be a conversation with the community as well as the business owners. To my understanding, there’s been no consultation with the community about any of this substantial rezoning, and more importantly why some areas were rezoned and some were not when they seem to exhibit similar circumstances.

THE MODERATOR: Mr. Herbst.

CHAIRMAN HERBST: Ralph Herbst, Precinct 8, Chairman of the Planning Board.

The Planning Board’s worked long and hard on this article, trying to improve the area. The lot that was mentioned, which is to the right of Mr. Minasian’s, is owned by Ms. Tribulus. And I have a letter to the – all of the Town Meeting Members, which you probably have a copy, sent by a relative of Ms. Tribulus, saying that she is in favor of this rezoning of her property.

It doesn’t indicate in this letter that she’s received any kind of a variance, but that she is grateful for the fact that the setback is
reduced from 75 feet to 25 feet. So that she can
develop her property as a residential property.

I’d also like to remind the Town Meeting
Members that Mr. Minasian did not build this
building, he bought the building.

And I’d also like to say that there has
been public input, considerable public input, and
I believe Mr. Curry can allude to that. We have
interviewed the majority of the people that would
be affected by this zoning, so I’ll let Mr. Curry
speak to that.

THE MODERATOR: Mr. Curry.

MR. CURRY: Okay. The Planning Board
did send out letters to all the property owners
prior to its public hearings. I think that’s
what Ralph is alluding to. The Planning Board
did hold public hearings where certified letters
went out to all the property owners and all the
abutters to abutters within I believe 300 feet.

We’ve gone through several iterations of
this and I believe the Planning Board’s thinking
on the matter is that they achieved full
disclosure.

THE MODERATOR: Okay, Mr. Putnam.
MR. PUTNAM: Thank you, Mr. Moderator.

Brent Putnam, Board of Selectmen, Precinct 9, Town Meeting Member.

I have two questions, I’m not sure if this would be directed to Mr. Curry or to the Planning Board, but Mrs. Johnson noted that this corner is – the corner at the upper left, the Light Industrial, is fully developed, and so the one - the first question I have is: if it’s fully developed, why are we rezoning it? What is the logic behind rezoning a property that’s already developed?

And then the other question I have is the long, thin parcel there at the upper left, it was noted that that belongs to the U.S. government. Now, that is right alongside the existing railroad right of way, I believe, and my other question is if we rezone it, how does that affect the federal government’s potential use of this land in the future if they wanted to develop it for some reason associated with the railroad?

THE MODERATOR: Mr. Curry.

MR. CURRY: I’ll answer your second question first, Brent. The United States is a
sovereign unit. It’s immune from any zoning at
the local level.

The first question was whether or not
the properties – can you go back to the air
photo. The air photo. The second question is
whether or not the properties are fully built
out. The property for Silver Square is about 2.3
or 2.4 acres. My sense here is that it’s not
completely fully built out. There could be some
additional room to go up, but I don’t have a good
square footage estimate for you at this point.

In other words, there could be a
marginal increase, but I don’t have a good, firm
- I can’t give you a firm number tonight.

THE MODERATOR: Mr. Putnam.

MR. PUTNAM: My question, though, is
what is the logic behind rezoning if it’s already
developed?

MR. CURRY: Okay, some of the logic
that the Planning Board has applied here is not
always with the uses that may be allowed, and the
potential build out in the future. Remember the
building that could get ripped down, could be
replaced with a wholly different building of a
different character that’s there today.

So the Planning Board is trying to also avoid problems perhaps in the future by down-zoning this to something that can only be developed to about half the size you see there today. So, some of the Planning Board’s thinking is also there’s a present issue here and there may be future problems that could be avoided by this rezoning change.

THE MODERATOR: Okay, Mr. Latimer.

MR. LATIMER: Thank you. Richard Latimer, Precinct 2, member of the Planning Board. Actually, Mr. Putnam just asked the question that I wanted Mr. Curry to explain to this body why this is a sound planning purpose for this rezoning. Why it is in the interest of the greater public good, because we are and have been anticipating future development of these properties.

So I thank Mr. Putnam for asking the question and giving Mr. Curry the opportunity to answer that.

I would also want to point out we’ve heard somebody talking about having a doctor’s
office building next to their residential property as if that was horrific. Well, when we were looking last night at the larger public good, two-thirds of us believed that having a contractor’s yard next to somebody’s residence was okay, as long as it’s in the larger public good, and I would suggest that this is even more so and not only that, this is not spot zoning.

Thank you.

THE MODERATOR: Okay, right over here to the right, yes. Mr. Young.

MR. YOUNG: Bob Young, Precinct 5, and I’m speaking as a long-time North Falmouth resident and former treasurer of the Precinct 5 Association, not to be confused with the Village Association.

I support this article and I support what Kevin Murphy said. There has been a lot of public comment and going back and forth on this property. I think the Planning Board may have cast a net a little too wide, here, and they may be trying to help with this Minasian situation. I think he’s the second or third owner of that property and it was always kind of a joke or a
comment, we’d drive by and six months later the Tyvek was covered up, or something had been done, a bulldozer’s moved, somebody’s doing something, something’s gonna happen there, people were getting excited. Nothing has happened. That house has been there in that state for five to ten years and we need some relief for that particular piece of property.

Maybe if they hadn’t cast such a wide net we could get something done up there, thank you.

THE MODERATOR: Mr. Buesseler, you’re on my list. Mr. Ament and then Mr. Buesseler.

MR. AMENT: Thank you, Mr. Moderator. I’m Bob Ament, I’m an attorney in Falmouth and I represent the owner of the Silver Square property, the 2.37 acres on the west side of Route 28A.

I don’t represent Mr. Minasian.

This is a difficult article for Town Meeting because different Town Meeting Members may oppose this article based on one aspect of it, the setback on 151, or they may oppose the
article because of what’s proposed on Route 28A.
So, to muster 2/3rds seems like it could be
difficult.
My concern is with the Light Industrial
A property and the rezoning to the Business
Redevelopment. My client, the owner of that
property, wants that to happen. My client wants
this article to pass. Not for Mr. Minasian or
anybody else, he wants it to pass because of the
Silver Square property.
And to answer Mr. Putnam’s concern, why
would an owner want what truly is down-zoning, it
is because there are some differences,
significant differences in what uses are allowed
in the Light Industrial A District and what’s
allowed in the Business Redevelopment District,
and my client doesn’t want Light Industrial A
uses and he does want Business Redevelopment uses
and he needs this rezoning in order to fill a
vacancy in his building.
Ask yourselves if this property on the
west side of 28A were vacant, would anybody here
be voting in favor of Industrial zoning for it as
opposed to the most restrictive Business zoning?
I don’t think so.

You know, the question always comes up when you have zoning articles, just like it did last night: well, what’s going to happen on this property and how is it going to be used? And some people say, and there’s a lot of merit to it: we don’t zone based on the – what somebody says they’re going to use the property for or what the present use of the property is for. We rezone property on what is the most appropriate zoning for the location, and for the neighborhood. And industrial zoning is not the most appropriate use for this property on 28 A.

Mr. Fleer suggests that he’s concerned that a future Town Meeting might change the present setback which requires a 35 setback on 28A. I don’t think that speculation is a reason to oppose this. I appreciate that he said that the property, my client’s property has been developed in an attractive way. My client isn’t proposing any changes to what’s there. But that’s really not why you should vote to change this zoning from Light Industrial A to Business.

I’ll tell you that the building to the
north, that’s the building that isn’t Dean’s
Market, is 95 feet away from the northerly
property line. There’s plenty of room for a
large expansion of that building, approximately
4,000 square feet on just the first floor, even
with Light Industrial A zoning. And if the
property is Light Industrial A as it is, and that
expansion were to be made and the use of that
building was converted to some kind of a bulk
retain or wholesale sales, then the parking
requirements become one for 300 square feet,
instead of one for 200 square feet, as they are
for the present business uses. And one could
put that addition on that property and change the
use to a different type of use. And you could do
that under the present zoning, by right, without
increasing the parking.

The point is that Business
Redevelopment, particularly because of the
parking requirements, is a much more restrictive
use. But don’t be shortsighted. These buildings
have a lifetime. And somebody will come along
who wants a big enough piece of property who’s
willing to take those buildings down someday and
put a big store there. Which on Light
Industrial, they'd be able to do. But not in
Business Redevelopment, where the biggest store,
the biggest business can be 4,000 square feet, as
Mr. Curry said.

So I'd like to urge you, on behalf of
the Silver Square owner, at least with respect to
his property, to vote favorably on this article.
And if it turns out that, because of concerns
about other aspects of the article, I hope you'll
have an opportunity to vote on this portion of
the property. We were interested in this
rezoning because of the interests of my client to
have the right uses on that property before it
became involved as this global solution to the
problem.

We had the article drafted, we had it
signed, we were ready to submit it, but the
Planning Board wanted to submit the same rezoning
as part of this bigger solution, and it seems
like a good idea. But I think it'd be a shame if
this property stayed Light Industrial A, which is
not the right zoning for this area, for any of
the reasons that have been cited, or because it’s
tied into other parts of the article.

Thank you very much.

THE MODERATOR: Okay, Mr. Buesseler.

And we have the gentleman in the back aisle, come on down here.

MR. BUesseLer: Thank you, Mr. Moderator, Ken Buesseler, Precinct 2.

As we’ve heard, there’s lots of parts to this article. There’s also a lot of voices of concern from in front of the tape and I would like to offer the floor to one of the abutters from Summer Wind behind this who wanted to speak on this article.

So I’d like to give the floor, if I could, to Alec Wang who’s a resident and a homeowner of Summer Wind.

THE MODERATOR: If there are non-Town Meeting Members that are in the back that would like to speak, if you can stand up or waive your hand like the Town Meeting Members do to get on the list. I’ll give the gentleman the floor, but I don’t want to get a practice of Town Meeting Members preempting my list by yielding floors to non-Town Meeting Members.
So, anyone that’s a non-Town Meeting Member that wants to speak, stand up, waive your hand, get my attention to get on the list, but I’ll yield the floor to the gentleman.

MR. WANG: Thank you. So, I’m one of the abutter would going to be directly affected by this rezoning, and a couple points and just keep it short.

One is I don’t think the neighborhood, especially the Summer Wind, properly involved in the discussions. So, one of my two neighbors next door to me, I talked to them and they haven’t shown me, you know, they said they haven’t received letters from the Town Meeting. They all said, “I don’t know.”

So, for me, I only know this until last minute. So, which is basically I got notice to the Town Hall. So, and the discussion part I’m not aware of it.

Second point, so the – you know, when we bought a house about a couple of years ago and we loved the neighborhood basically because it is residential area. This is not something, you know, for big business or mid-sized business
development. We like that area so that we bought a house and pretty much all the neighbor in the neighborhood have the same kind of thinking.

So, so this gonna really change pretty much all the thinking we had in the past.

So I think, you know, I’m not – I was not involved in any of the discussion in the past. You know, people mentioned that several times, there’s a rezoning articles in the past few years. But I’m not aware of that, but the – I think the owner of the house, north of 151, the rezoning is, you know, from proposal is from single family resident to a single residence to a general residence, they know this is a single family when they bought it and it’s been going on for quite a few years. I don’t see there’s a difference between this one and based on what I read from the past. So what is the reason to have that?

Another point is that once we rezone, this basically open up all kinds of possibilities down the road. So, what if the property sell out in the – sold out in a couple years, what’s going to happen down the road? The neighborhood don’t
really know. And even though you have a special
permit, but that involve a lot of energy for all
the people get involved. Is there really the
need for this intersection?

So, I don’t see the need. You know, if
you talk about the neighborhood and I don’t see
anyone, you know, want to have a big [inaudible]
in an intersection. Maybe Town does want to have
this happen, but I don’t see the neighborhood
want this happen. Thank you.

THE MODERATOR: Okay, the other
gentleman in the aisle.

MR. NICKERSON: Good evening. My name
is Jeff Nickerson. I’m an attorney here in town.
I’m not a Town Meeting Member. I actually
represent Ms. Tribulus. She owns property to the
right of Mr. Minasian. It’s a little bit easier
to see on the aerial photo. Through the back
portion of her property, you can see a diagonal
from 28A down to 151; that diagonal is an
electrical easement, and so it’s very difficult
for her to develop her property with a 75 foot
setback because the back portion of her property
is taken up by that easement. The variance that
she obtained is actually the current - it is, as
Ms. Johnson mentioned, it’s a subject of
litigation right now. So, by changing the
setback from 75 to 25 feet, the litigation
essentially goes away.

She’s owned the property since 1980.
Five or six years after she bought it, the
setback went to 75 feet, which has basically made
it difficult if not impossible for her to develop
that without a variance. So, on her behalf, I’d
ask that you approve the article.

THE MODERATOR: Okay, I think we’re
about ready, here. We have almost an hour in
this. Ms. Kerfoot.

VICE CHAIRMAN KERFOOT: There has been
a question as to the Planning Board’s thinking on
this. When we took a look at the corner -- as
you know this is the second time we’ve come to
you on this - there’s the Light Industrial A
consequences if anybody should want to demolish
any of those buildings and do anything that they
are allowed under LIA. Mr. Ament very eloquently
spoke to what could happen there and the desire
of his client to not go in that direction.
But, more critical, in our thinking, was the other part of that corner which houses the real estate agency and the pizza hut. That is more likely in its present condition, I would say, to have redevelopment there. That’s sufficient space to get a kind of development that you may not want in that neighborhood.

It would be disingenuous if I claimed that we were not looking at the problem with Mr. Minasian. We are. But that wasn’t the total stimulus for what we were doing because we looked at that before, and we’re looking at other areas in town that might be amenable to this type of rezoning.

If you look at what we’re trying to do, the corner there with the real estate agency and the pizza hut, we’re trying to put a transition in there between the industrial use, the business use and residential. So you get a gradient of usages towards the residential. So that was our thinking of what we are attempting to do on this corner. We’re starting with that side of it, now, and hope you will see our point of view on it.
THE MODERATOR: Okay, Ms. Valiela.

MS. VALIELA: Virginia Valiela, Precinct 5. I appreciate the time that the Planning Board has spent working on this issue and Town meeting. I respectfully request, however, that you vote this article down.

I have four points I want to make and I want to make sure - there we go.

Okay, the first has to do with the setback on Route 151. As we know, this is a major artery for the town from the west to the east, and the setback originally was 35 feet. In 1986, the Planning Board presented to Town Meeting a vision for Route 151. They called it a major transportation corridor and they wanted to provide safe and scenic travel on that corridor.

In April of 1986, they asked Town Meeting to change the setback from 35 feet to 75 feet, and they gave two reasons out of the ten goals that they had established. And they were that that setback would allow for possible future expansion of the highway and would maintain a vegetated buffer so you would basically have a scenic road.
No one on the Planning Board now was on the Planning Board in 1986. And so I think they’ve forgotten this vision and I don’t think we should reverse the vision without good reason. You travel that road and it is a heavily traveled road. It is an artery. But it does look good and we shouldn’t be eroding that.

Moving to my second point, it has to do with the residences in this area. This is all residential and the lots in question here, including the parking lot, are all zoned Residential B. These are all very nice homes. They’re very nicely landscaped, many of them are on full acres and are worth more than 400,000. These small houses on these smaller lots, here, I have visited them. They are again very tastefully landscaped and they use a series of fences along their property line to screen out, with bushes, trees and wood, the impact of the travel on Route 151. It’s effective. These are pleasant places to live, they’re clearly residential.

If you examine the five lots here that cannot exit into a private road like Beaman Lane
or Willow Nest or over here, Old County Road and Summer Wind, let’s look at what we have. This is Mr. Nyhigian [sp?]. He is an electrician. His house meets the 75 foot setback and he exits onto Old County Road. He owns this lot, also, and he uses it to store equipment, his trucks and so on. He has put a fence - again, very attractive, all along the front, which screens, gives him privacy, reduces noise from the road, and he has put bushes and trees in front of that.

This is the property owned by Mrs. Tribulus. She and her husband bought it in 1980, and in 1986, when the setback was changed, obviously that affected her property. So when she wished to develop it, in 2009, she went to the Zoning Board of Appeals and explained her case. They very carefully reviewed the situation of the electrical easement that goes along the back and concluded that she did have a hardship and they gave her a setback which is 42 feet, as I remember. So she was able to build a house that she had proposed and worked with the open space of the power line behind her.

Mr. Minasian did take her to court and
changing this setback isn’t going to solve her problem because he said he’s damaged because her house is farther forward and therefor screens out and obstructs the view of his house.  

[Laughter.]  

MS. VALIELA: So – I read the entire case in the Zoning Board of Appeals yesterday. So this — allowing her to now move to 25 feet certainly isn’t going to resolve this case.  

Mr. Minasian’s lot was originally owned by Michael Shanahan. And, in the year 2000 when he wanted to build, he went to the Zoning Board of Appeals again because the power line was there and the setback was 75. The Zoning Board gave him relief, also, and so his relief was to have a 65 foot setback, and that’s the house that he started but then was not able to finish, went into foreclosure. Mr. Minasian bought it as a distressed property.  

Now, the parking lot. This is also zoned residential. Clearly they’ll have problems if a single family house, which is what is allowed now, goes in there and my point is that, just like all these other lots, they should go to
the Zoning Board of Appeals. You do not need to change the zoning on 15 lots when in fact you only have one lot that really has an issue and it has a way to solve it by going to the Board of Appeals which looks at the specific issues, allows public input and you arrive at a community solution that works for everybody.

My third point has to do with safety. It’s been mentioned about traffic here. Right now, in the winter, on a busy Saturday, the cars back up to Mr. Minasian’s driveway. In the summer, they go farther back. If you leave it Single Residence zoning now, you will have one driveway per lot, and that is all of the impact that you will have. If you change this to General Residence – this is a handout that was given at the hearing by the Planning Board -- you can have a one family house, but you can also have a two family house or you can have a three unit dwelling if one of those units is affordable, and by special permit you can have commercial accommodations and we know you can have professional offices as well.

So you intensify the use if you make
this change in zoning. And you make it less safe
by changing the setbacks.

Because of all the effort that Town
Meeting and the Planning Board have put into the
issue of Mr. Minasian -- he's filed seven
petition articles - I called him after the Town
Meeting last November and I said, “You have a
house that’s built.” He’d given me a tour of it.
He had told - he had said that he bought it as an
investment for a commercial use. And I said,
“Well, there is a part of the Town bylaw, Town
Code, that will allow a home occupation with a
special permit, but the condition is that the
owner of the business must live on the property.”
He said to me, “Thank you very much for that
information. I’m familiar with the Town Code. I
have direction; I will tell my real estate
agent.” And I thought, “Great.”

So I was really amazed when I saw the
warrant for the Annual Town Meeting that he had
filed an article. So - another petition article.
So I called him and I said, “Why did you
do that?” And he said, “I wanted to keep my
issue in front of the town.” And I said, “Well,
the Planning Board is doing some thinking for the
whole area. Do you support their article?” And
his answer to me was, “I’m waiting to see what
they give me.”

So I agree with a former speaker, that
in a way we are upgrading a person who’s really
just doing this as an investment.

We all live in North Falmouth. We want
this area to be tasteful. I do not think
increasing any kind of density here or use is
appropriate.

My last comment has to do with the Light
Industrial and the changes here. Those may be
good ideas and they may not, but they really have
not been vetted in the North Falmouth community.
The owners of those properties are aware of it,
but the rest of the community as a whole is not.
And the gentleman from Summer Wind is an
indication.

I’ve had calls from people over here on
Willow Nest and I’ve talked to these folks, here.
And they’re not aware of what’s going on over in
this corner and they don’t know whether it’s a
good idea or not.
So I ask you at this time to vote this down. If we need to do further zoning change, let's do it on a community effort, a neighborhood effort. Not on Town Meeting floor sort of rearranging things. Thank you for your time.

[Applause.]

THE MODERATOR: Okay, the question will come on Article 3, the main motion as printed. This requires a two-thirds. All those in favor of Article 3 signify by standing and the tellers will return a count. All those in favor of Article 3 as printed.

[Pause.]

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

MR. HAMPSON: 8.

THE MODERATOR: 8.

In the first division, Mrs. Tashiro.

MRS. TASHIRO: 21.

THE MODERATOR: 21.

In the second division, Mr. Dufresne.


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

[Pause.]

THE MODERATOR: In the first division,

Mrs. Tashiro.

MRS. TASHIRO: [Inaudible]

THE MODERATOR: Something one.

MRS. TASHIRO: 31.


In the third division, Mr. Hampson.

MR. HAMPSON: 54.

THE MODERATOR: 54.

And in the second division, Mr. Dufresne.

MR. DUFRESNE: 68.

THE MODERATOR: 68.

By a counted vote of 55 in favor and 153 opposed, the article fails.

Mr. Hampson.

MR. HAMPSON: Ladies and gentlemen, Mr. Moderator, I’d like to ask for a reconsideration for Mr. Missanian’s property and I will not speak to this. His attorney Bob Ament will speak to this. But essentially, it would give the Town Meeting an opportunity to take care of this
parcel and to separate the questions and
consideration rezoning the LIA lot alone.

THE MODERATOR: Okay -

MR. HAMPSON: In other words, it would
be specifically focused at his property. And I'm
doing this for the reason that in my own little
way, trying to help to solve this issue which
we've lived with for so many years. That's the
only reason why I agreed to do this. But I will
not speak to it. Bob Ament will speak to it if
you pass it.

THE MODERATOR: Mr. Ament had asked me
whether or not the motion to divide the question
would be in order if Town Meeting chose to
reconsider the article and whether or not that
would be new information.

So, since the motion to divide the
question, which would be to vote on subsections
1, 2, 3 and 4 separately was not made during the
debate, I will consider that substantially new
information to allow you to choose an up or down
vote on each of the subsections.

So we would have number one and you'd
vote up or down; number two, up or down; number
three, up or down; number four, up or down.

But, in order for us to do that motion
to divide the question, you must reconsider
Article 3. Okay, that’s the first question
before Town Meeting. If you choose to
reconsider, then we’ll take a motion to divide
the question. Do you have a point of order?

MR. ROWITZ: Yes.

THE MODERATOR: Microphone down here to
my right, please.

MR. ROWITZ: Thank you, Mr. Moderator.

Ray Rowitz, Precinct 5. Was Mr. Hampson
referring to Mr. Minasian’s article in the
regular Town Meeting, or this Article 3?

THE MODERATOR: He was referring to
this article so that there could be the motion to
divide the question.

MR. ROWITZ: Thank you.

THE MODERATOR: Okay, so the question,
it’s a majority vote whether or not to reconsider
Article 3. All those in favor of
reconsideration, signify by saying aye.

[AYE.]

THE MODERATOR: All those opposed, no.
THE MODERATOR: It’s the opinion of the chair that the no’s have it and the motion to reconsider fails.

Article 4. Article 4, Planning Board for a main motion.

VICE CHAIRMAN KERFOOT: Excuse me, please.

THE MODERATOR: Yes, folks. Madame Vice-Chairman for the main motion.

VICE CHAIRMAN KERFOOT: The Planning Board has recommended and I move that the Town vote Article 4 as printed.

THE MODERATOR: As printed. This is to amend Chapter 240 of the Zoning Code of Falmouth.

VICE CHAIRMAN KERFOOT: The explanation is pretty much straightforward. I would be willing to field any questions if you have any.

THE MODERATOR: Okay, discussion on Article 4. Yes.

MS. SIEGEL: Deborah Siegel, Precinct 6. In our precinct meeting, Nancy Hayward pointed out a typo that we think happened in here on point 4. It says 240-240G, and somebody was
going to look into that because all of the other
numbers are dash two digits and a letter. So,
before we vote on that, could you tell us whether
or not that is correct?

VICE CHAIRMAN KERFOOT: Our assistant
planner is looking this up right now.

MS. SIEGEL: Thank you.

MR. CURRY: If the Town Meeting Members
could just put a dot, so it would say 240-240.G.

THE MODERATOR: So it is still 240.

MR. CURRY: It’s still all the same.

Just put a – where it says 240-240, then it
should be “dot G”, parenthetical 1, parenthetical
B. So we’re missing a dot; I apologize.

THE MODERATOR: Okay. Okay, any
further discussion on Article 4?

Mr. Latimer.

MR. LATIMER: Since the – even though
it’s only a dot, dots count in legal matters. I
think a motion to amend would be in order to
amend this to read amend Section 240-240 dot G so
that it’s very clear that that’s what we’re
voting on.

THE MODERATOR: The Chair will consider
that scribner’s error and the Clerk has made the
note that the dot is now in the article.

You missed a dot in all the other
subsections, too, but anyways.

So, any other discussion on the
substance of the article? 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.

[No.]

THE MODERATOR: The ayes have it by the
two-thirds majority and I so declare.

Article 5. This was to vote a sum of
money for the purpose of funding the salaries and
wages of Town employees for the remainder of
Fiscal Year 2012. The recommendation for the
Finance Committee is indefinite postponement. Is
there anyone that would like to make a positive
motion?

Hearing none, Mr. Chairman for the main
motion.

CHAIRMAN ANDERSON: Mr. Moderator, I
move Article 5 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 6, Mr. Chairman.

CHAIRMAN ANDERSON: I move Article 6 as recommended.

THE MODERATOR: Article 6 as recommended. This is to transfer $136,010 within the Fiscal Year 2012 budget. Any discussion on Article 6?

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

Article 7. Mr. Chairman.
CHAIRMAN ANDERSON: Mr. Moderator, I move Article 7 as recommended, with the following correction: in the second line of the recommendation, just after $120,000, the correct line item number should be 01220-51130.

THE MODERATOR: Okay, you’ve all heard the main motion as recommended and fixing the line item number. Any discussion on Article 7?

Hearing none, the question will then come on the main motion as recommended with the correction. 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 8, Mr. Chairman.

CHAIRMAN ANDERSON: I move Article 8 as recommended.

THE MODERATOR: Article 8 as recommended. This is to transfer $818.87 from Certified Free Cash for the purpose of paying the following unpaid bills. Any discussion on
Article 8?

Mr. Rhodes.

This requires a nine-tenths vote.

[Laughter.]

MR. RHODES: Scoba Rhodes, Precinct 8.

Mr. Moderator and to the — hello?

THE MODERATOR: Go ahead.

MR. RHODES: I have a problem. These are unpaid bills. The fiscal year ended 30 June, 2011. Nine months later, we’re paying bills that weren’t received before 30 June?

THE MODERATOR: That’s what they’re asking you to do.

MR. RHODES: I mean, if somebody waits six months to send you a bill, should they get paid?

[Laughter.]

THE MODERATOR: Any further discussion?

[Laughter.]

THE MODERATOR: Mr. Donahue.

MR. DONAHUE: I have a question, Mr. Moderator. I see towing charges. What’s being towed?

[Laughter.]
MR. DONAHUE: And who’s having their vehicle towed? Is this out of parking lots during summertime, the beach parking, and are we picking up the tab if somebody doesn’t pay the bill for their car, or? I just wonder why are we paying towing charges and what are they for?

THE MODERATOR: We’re going to have the Chairman first, Mr. Chairman.

MR. BRAGA: David Braga –

THE MODERATOR: Mr. Braga, the Chairman first and then I’ll let you have --

MR. BRAGA: Okay.

THE MODERATOR: Mr. Chairman.

CHAIRMAN ANDERSON: In many of these instances these were car accidents where the individual either was towed from the accident and the bill was not paid or the car was abandoned.

THE MODERATOR: Mr. Braga? Okay.

Further discussion, Article 8?

All those in favor, signify by saying aye.

[aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]
THE MODERATOR: The ayes have it by the 9/10.

Article 9, this has two parts to the motion. One portion of the appropriation is going to be recommended by the Community Preservation Committee, and then we will vote on that. And then there’ll be a second motion for Article 9 by the Finance Committee.

Chairman of the Community Preservation Committee for the first motion.

CHAIRMAN CLARK: Thank you, Mr. Moderator, Peter Clark, Precinct 1 and chair of the CPC. Our portion of this was – in the refinancing was debt on property, and I recommend – I move it as recommended, the $4,877 from our fund for our piece of this.

THE MODERATOR: Okay, any discussion on the first motion, the $4,877 in the CPC? Hearing none, the question will then come on the main motion. All those in favor, signify by aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]
THE MODERATOR: The ayes have it unanimous.

Mr. Chairman for the second motion.

CHAIRMAN ANDERSON: Mr. Moderator, the Finance Committee has reviewed Article 9 and supports the CPC recommendation. Additionally, I move Article 9 as recommended by the Finance committee.

THE MODERATOR: Okay, the Finance Committee recommendation, the sum of $24,768 from the Wind Energy Reserve fund, the sum of $24,374 from the Waterways Reserve Fund and the sum of $25,580 from Certified Free Cash, and appropriate the sum of $79,599 to fund line item 01754-59915.

Any discussion on the second main motion?

Hearing none, the question will come on the 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 10, to appropriate a sum of
money to continue funding a part time energy coordinator. The recommendation of the Finance committee is indefinite postponement. Is there anyone who would like to make a positive motion on Article 10?

Hearing none, the Chair will entertain the main motion from the Finance Committee.

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 10 as recommended.

THE MODERATOR: As recommended, 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 11, Mr. Chairman.

CHAIRMAN ANDERSON: I move Article 11 as printed.

THE MODERATOR: Article 11 as printed.

This is to vote to accept the provision of the General Laws Chapter 32B, Section 20, which is a law providing for the establishment of other
post-employment benefits, liability trust funds in Massachusetts municipalities. Any discussion on Article 11?

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 12, Mr. Chairman.

CHAIRMAN ANDERSON: I move Article 12 as recommended.

THE MODERATOR: As recommended. This is to appropriate the sum of $20,000 from Certified Free Cash for the purpose of starting to fund the OPEB Trust Fund. Any discussion on Article 12?

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

Article 13. Article 13, the recommendation of the Board of Selectmen is indefinite postponement. Is there any who would like to make a positive motion on Article 13?

Hearing none, the Chair would entertain a main motion from the Board of Selectmen.

CHAIRMAN FLYNN: The Board of Selectmen moves the article 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.

[No.]

THE MODERATOR: The ayes have it.

Article 14, Finance Committee for the main motion.

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 14 as recommended with the following change: the fourth line down of the recommendation beginning with the word
“expended”, please change “Beach Commission” to “Beach Department”.

THE MODERATOR: Okay, this is to transfer the sum of $10,000 from account 01431-52294, Fiscal Year 2012, Waste Management Facilities Recycling, and appropriate the sum of $10,000 for the purposes of Article 14 to account 01632-52272, Beach Department, Fiscal Year 2012, to be expended under the jurisdiction of the Beach Department. This is for the Menauhant Beach portable bathroom/lavatory facilities.

Any discussion on Article 14?

Hearing none, then 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 15. The Board of Selectmen is recommending indefinite postponement on Article 15. Would anyone like to make a main motion on Article 15? Yes, microphone.
FROM THE FLOOR: [No mic] I’d like to hold it for the petitioner.

THE MODERATOR: We need a motion on the floor. Yes.

FROM THE FLOOR: I make a motion we hold it.

THE MODERATOR: Well, we’re not holding it. We’ve got to actually put a motion - as printed?

FROM THE FLOOR: Yes.

THE MODERATOR: Okay, so we have a main motion for Article 15 as printed. This is talking about de-funding the CPC and withdrawing from the Community Preservation program.

Mr. Finneran.

MR. FINNERAN: Good evening. Thank you, Mr. Moderator. Just one second before they load that.

[Pause.]

MR. JOHNSON: [No mic:] Mr. Moderator, point of order.

THE MODERATOR: Yes.

MR. JOHNSON: [No mic:] This proposal is not legal [inaudible].
THE MODERATOR: It’s an article that the Selectmen put on the warrant by a petitioner and we have a chance to vote on it. If we can’t do it, then it ought to be a pretty quick discussion.

MR. FINNERAN: Okay. This article reads with 2600 acres already purchased for open space, and then, more than 25% of the town’s landmass, should the taxpayers be allowed to decide by ballot question whether to de-fund the CPC and apply those monies where needed. Such as the capital projects that we’ve been talking about of late and the more than $100 million in unfunded Town liabilities. Thus eliminating the need for a Proposition 2 ½ override or any of the other clever financial maneuvers that we’ve been speaking of.

When Mr. Boyer first described his override and in a series of articles he had in the newspaper, of course everyone was thinking where we could get money. I mean, I think this is an obvious place. It’s extra. Times have changed since we voted this in. There’s a huge amount of land in open space now and I think the
money can be put in better places and I just
don’t think that we can afford it anymore. And
if we were able to vote this in, I think that we
should be able to vote this out.

Can I have the next slide, please? Now
I noted in my first thing that it was 25% of the
town’s land and then there was a letter from the
Community Preservation Committee or the 300
Committee or whatever that said that it was
untrue, but this is from the DEP’s website and
the reality is that, according to their figures,
that over half of Falmouth is open space or
wetlands or forest as it is. And I think that’s
a fairly decent number. I think that the amount
of money that we spent already is excessive and
people can ill afford it.

Can I have the next slide, please? This
came out of the 2009 Recreation or the Planning
Board’s figures on open land. Now, if you can
see there, if you add that together, those
properties, in computing the Community
Preservation, the Conservation Restrictions, the
state owned, the Town owned land, it amounts to -
FROM THE FLOOR: Point of order. We can’t see that.

MR. FINNERAN: I know, it’s tough. I’m sorry. Well, can you see it? Some people can see it.

It adds up to 13,645 acres out of the Town’s 28,134 acres. So that’s about 48 percent of the Town’s land as open space, restricted, and unusable for development. So whether the figure is 48 or 50, I think that we have a fair amount of open space and I don’t really think we can afford it anymore.

Can I have the next slide, please?
This, again, you’re not going to be able to read it, it doesn’t matter, but that’s from the same booklet. That’s a list of all the properties that the Town owns or the state or whatever. There’s 30 more pages like that. We have an incredible amount of open space and I honestly think at this time we could put our money to better things.

Could I have the next slide. There’s one of the projects that the CPC did. I mean, it’s a very fine job, it’s a nice building, or
whatever, but the reality is the taxpayers spent $300,000 of their money to refurbish a radio station. I think there’s many people in this town that could have spent that money better on their own properties.

Can I have the next slide, please? And the last time around, last fall, the article was historic preservation, the doors for St. Barnabas’ church. At that point in time, Mr. Clark said that they had a hard time even getting enough historic applications for funding and, again, I just think that we can spend our money better.

Can I have the next - can you skip to the next slide after that? Please. And, again, I’m not against churches, I’m not against religion. We spent $200,000 plus to re-roof and fix the Waquoit Congregation Church? I really think there’s a lot of people that think that their money could perhaps be spent better and when did we get in the business of maintaining churches? I just question that.

This article only asks for the taxpayers to have the right to vote this thing yea or nay.
Can you go to the previous slide?

Right there. This article was – I pulled from the Enterprise; it was in October, 2004. When Selectmen first debated this, Troy Clarkson was concerned about the very same thing that I’m concerned of. And he was assured by Selectman Valiela, and I will read this directly if you can’t read that, that Town Meeting voters and voters at large would have an opportunity every year to vote out the Community Preservation Act.

Further, it states that she doubts that they would be allowed to spend monies that they didn’t have. And that is actually what’s gone on. I mean, obviously there’s a certain amount of this money that is mortgaged out till 2020; we would obviously have to live up to those obligations.

Now, when – excuse me, I’ll find this. Before it was the Community Preservation Committee, it was the Land Bank, and that fell under Chapter 44B, Section 16. And at that point in time it was written in that any time after the expiration of five years that Section 327 had been accepted – and it’s been longer than five
years that we’ve had the CPC — that the voters, again, would be allowed to vote it out in part or completely. And it was special legislation that brought this in, and if it requires special legislation to vote it out, I think the taxpayers should at least have an opportunity to decide what’s done with their money. And the question’s that simple. And I would leave it at that.

I also would like to — one more point. I went to the CPC meeting on the 22nd of March, I believe it was, because this was on their agenda. And while I was there they were reviewing a proposal and I quote, “To build expensive affordable housing on Shore Street”. I think that many people work all their lives to get a home or a second home south of 28 on a place like Shore Street. And I’m not against affordable housing by any means. My father worked in affordable housing in the state of Vermont for an extremely long time, and — but I do not believe that expensive affordable housing is something that taxpayers want their money spent on. And, again, it just asks for them to decide. And it asks you to give them the opportunity. And I
rest my case.

THE MODERATOR: Okay, Mr. Clark.

[Applause.]

CHAIRMAN CLARK: I would like just to put a slide number – my number 8 slide if I can, Bob.

The CPA legislation was a very good deal for this town. The Town had, as you can see up here, a need to pay off debt for land purchases. Not just until 2020, but with the golf course to 2035. The amounts of money amount to $11,925,000 paid to date and $19,353,000 going out. That’s a lot of money. You’re going to have to raise that money. By using CPA legislation, you have been able to leverage $8,971,000 of state match money which has made other projects available.

So, as you’ve been paying off the debt, you’ve also managed to have the state help the Town do important things like preserve historic resources, build affordable housing and, in some cases, add to open space.

Each of those recommendations has been brought to town meeting; each has been voted on my town meeting.
This is, I think by Town Counsel’s opinion, illegal to ask for this to happen at this time. We may ask the Town Counsel to help us with that.

THE MODERATOR: Mr. Duffy.

MR. DUFFY: Well, when I was asked to look at this by several -- the Town Manager and a few others, I checked with the statute, Chapter 44B, which is the Community Preservation Act, and it does say that in any town in Barnstable County which substituted the CPA for the Land Bank, you can’t revoke acceptance until 2020.

THE MODERATOR: Okay. Mr. McNamara.

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

Mr. Moderator, Bob, thank you. I’d like to make an amendment to this article. I move that the Town vote to authorize the Board of Selectmen to petition the General Court to allow the Town of Falmouth by special act, notwithstanding any provisions of Chapter 298 of the Acts of 2004, or Chapter 44B of the General Laws to the contrary, to reduce the amount or revoke the so-called Community Preservation Act
surcharge on real property upon the approval of
Town Meeting, and approval of a majority of
voters voting at the next regular municipal
election or at the next regular state election
following Town Meeting approval. Any reduction
or revocation of the surcharge would become
effective on the first day of the fiscal year
following the fiscal year in which the voters of
the Town of Falmouth approve the change. Or to
do or take any other action on this matter
necessary to allow the town of Falmouth to reduce
or revoke the Community Preservation Act
surcharge on real property.

Mr. Moderator, we were challenged by the
Chairman of our Finance Committee at the
beginning of last evening for us to start to be a
little bit more creative and think out of the
box. As Mr. Duffy, Town Counsel, indicated that
by adopting the so-called Cape Cod Amendment back
in 2004 by substituting the CPA for the Land
Bank, that legislation, which was special
legislation just for the Towns on Cape Cod, was
allowed to use state funds, enter into the Act
and, in the bargain, not to be able to reduce or
remove what – or to revoke the amount of the surcharge.

But, quite frankly, if we got into this by special legislation, we could also modify it by special legislation as well. So, though it might be seen as illegal at the moment under Chapter 298 of 2004, if we request special legislation and we go through the effort of bringing it to Town Meeting and bringing it back to the voters, we could also modify this.

Quite frankly, when we approved this in 2005, although the Acts were approved in 2004, the world was a very different place. People hadn’t lost their homes. We didn’t have furlough days for Town employees. We had a substantial amount of money at that time. We also at that time had a pledge from the state, as Mr. Clark said, that we would get 100 percent match from the state for all of the money that we raised for the surcharge. That percentage has gone from 100 percent down to approximately 20 percent as estimated by the CPC for Fiscal Year 2013.

This amendment that I’m proposing does not say that we will revoke or de-fund the CPC,
as Mr. Finneran has suggested, but rather allow us to select those items that are good for us, and that we can afford.

Bob, if you could move to the next slide, please. This is a brief fiscal analysis. Assuming for the moment that we did not revoke the surcharge, but rather reduced it. And reduced it only enough so that we could continue to pay for all of the debt that we’ve incurred through the Land Bank and all of the other funds that we’ve borrowed for land purchases.

Now, as this slide will show you, the real estate surcharge that is imposed right now through the CPA increases every year. The surcharge, if you look at your tax bill, is on top of everything that creates that tax rate. So last night when you voted an $800,000 increase in your taxes for a capital exclusion, the surcharge is on top of that.

Each year as the levy increases by 2 1/2 percent, the surcharge is on top of that. When we raised money for the filtration plant, when we raised funds for our capital improvements through the DPW, the surcharge is on top of that.
We have raised, simply through the surcharge, not including any state funds, almost $2,400,000 in fiscal 2012. The Land Bank debt, based on the information that the CPC has given us, is about $1.9 million. Minimum balance: close to $500,000.

Now, I say, again, not including the state match, because, take that out of the equation. As I said, if the pledge from the state had given us the full 100 percent, this year that would have been $2.5 million. In Fiscal Year 2013, we will only be - we are estimating to get less than $500,000. And last night we approved, by blanket vote, about $150,000 in administrative funds just to get that $500,000 from the state.

Next slide, Bob. Thank you. Now, $500,000 might not seem a whole lot to you. But let’s put it into perspective. It’s not an insignificant amount. We just funded the Fire and Police Department overtime at $305,000. This money would have paid for it. It would pay for all of the veteran’s services that we budget in Fiscal 2013, all of the Human Services budget,
double the amount on the Counsel on Aging, the
entire Recreation Budget, Waterways. And, if we
added this amount onto the schools, based on what
the spent last year, we would have double the
amount of the instructional supplies.

It would also pay for nearly all of our
beach expenses. And, based on a calculation from
the Board of Selectmen, it would pay for the
turbines debt in operating costs estimated to be
about $524,000 annually.

So $500,000 goes a long way.

Now, I’m not suggesting that we stop
purchasing open space, or preserving any of our
historic issues. We can still do this. We’ve
already spent $26.5 million, based on a media
release from the CPA, on all of these issues.

Bob, next slide, please.

Over the years that the CPA – since the
CPA was adopted, the CPC has amounted reserves of
$1.5 million. One and a half million dollars
that hasn’t been spent yet. Why? Just one
slight example is at last Town Meeting Peter
stated, “It is true that we have money in our
Historic Reserve Account now from past years
because we did not have enough projects that were
of the quality that were needed for us to spend
money on them.”

Now, I’m not saying that that $1.5
million is available to us now. I’m not
suggesting that any of the projects that we
agreed to fund, based on the recommendation of a
hard working committee, weren’t good decisions.
But times have changed. We could take, if we
were able to amass another $1.5 million over the
next several years because we don’t have quality
applications, it would pay for nearly all of the
capital improvements that we looked at last night
in Article 21.

So, again, in summary - and thank you,
Bob, for the help - if we get into this by
special legislation, we can modify it by special
legislation. It won’t occur overnight, but we
don’t have to be necessarily stuck with the
decisions we made before the fiscal arena changed
dramatically.

Thank you, Mr. Moderator.

[Applause.]

THE MODERATOR: Okay, discussion on
the amendment to Article 15. Let’s go.

Discussion on the amendment to Article 15. Any discussion? Ms. Hayward.

MS. HAYWARD: Mr. Moderator and Town Meeting –

THE MODERATOR: With a microphone please.


Mr. Moderator and Town Meeting Members, I am a representative of Precinct 5. This is a very serious modification of this article. I don’t see, without precinct discussion and thorough discussion in the community, that we really are doing our appropriate business if we vote on this modified article.

This is completely different. We had an indefinite postponement for Mr. Finneran’s article originally.

THE MODERATOR: It’s the opinion of the Chair that it’s within the scope to petition the state legislature to allow you to do what was posted in the warrant that you were going to come and vote on that you by law, by state law,
couldn’t do. You’re not asking the state legislature to do something outside of the scope of the article that was posted, you’re just figuring out how the law works and trying to then get the remedy that was posted in the article legally. So the amendment’s in order.

MS. HAYWARD: This was not discussed at the precinct meeting. Thank you.

THE MODERATOR: Well, we’re at Town Meeting, so let’s discuss it. Any – Mr. Putnam.

MR. PUTNAM: Brent Putnam, Board of Selectmen, Town Meeting Member Precinct 9. Well, this is an interesting turn of events, now, isn’t it?

I would like to thank Mr. Finneran for asking the question, and I’d like to thank Mr. McNamara for phrasing it in a way that, well, it’s thinking outside the box, ladies and gentlemen.

We have before talked about putting things to the voters. Usually it’s in the phrase of an override, and this body has said, “You know what? Let the people decide.” And so tonight I’m going to support Mr. McNamara’s amendment and
I’m going to ask you all to let the people decide.

Ms. Hayward has a very good point: this was not discussed in the precinct meetings. But we’re not going to have this discussion in the precinct meetings, we’re not going to have it across town, if we don’t let the people talk about it, if we don’t move forward with this idea, and let’s see what happens.

Now we personally may not like it. But the reality is is that, as has been mentioned so many times in the past few days, things have changed. And there’s good reason to think outside the box. Let’s let the people decide. Let’s put this on the ballot, let’s have that discussion across the town.

The worst thing that could happen, ladies and gentlemen, is that we have more money to work with at a time when we need more money to work with. Please support this amendment.

THE MODERATOR: Okay, Mr. Latimer.

MR. LATIMER: Mr. Chair –

THE MODERATOR: Could we put the amendment back up on the overhead, please.
MR. LATIMER: We are – things have changed since 2008 for one reason: because investment bankers on Wall Street were allowed to play games with our mortgages. That has nothing to do with our problems we’re having in this town. The problems we’re having in this town has everything to do with the fact that people are in trouble financially; we don’t have the resources to raise the funds we need. But, one thing is very clear: buying land is not – getting grants to buy land is not the free puppy. Because every time we buy an acre of land, that is land that has low maintenance, it’s open space, we don’t pay for it. No, we don’t get taxes on it, no we don’t. But when we let that acre go into development, that development puts demands on us, on our municipal services, that we don’t have the means to pay for.

So that, when we take this money from CPC, and when we pay it, yes, on the short term it hurts, it costs money. But in the long term it saves us money, it saves us money in terms of not having to pay for additional services or suffer as we’ve been suffering for loss of
services: police, fire, schools, libraries. All
those things, you know, they have to expand as
the population expands.

So buying land is the best investment we
can make and it also protects the water table.
Because when we’re talking about spending money
and where are we going to find money, that’s the
huge gorilla in the attic, here. I don’t know if
that’s a good metaphor or not.

[Laugher.]

MR. LATIMER: But it might as well be
because we’re talking about millions and millions
of dollars to protect our aquifer. Again, buying
land, which is one of the primary things we’ve
been doing through the CPC, or the most important
thing, is protecting that aquifer because every
time we let that acre of land that doesn’t go
into open space and we let a house be built on
it, we’re putting stuff in the ground that’s
polluting our aquifer. And we’re going to have
to spend billions of dollars either to clean up
or to sewer, and it’s just not – the approach is
not to simply take away a potential funding
source. We’re paying for this now, yeah, but
once – once we buy the land, it’s paid for and it doesn’t cost us any more money.

So I would strongly urge that we not vote this amendment and we not vote this article; we follow the recommendation of indefinite postponement. Thank you.

THE MODERATOR: Mr. Herbst, next on the list.

I’ll add you to the list.

MR. HERBST: Ralph Herbst, Precinct 8. Planning Board representative to the Community Preservation Committee since the first day.

We need to remember the chronological sequences of what has happened here. When the town voted to adopt the Land Bank Bill, we had a choice. We could tax ourselves one percent or two percent or three percent. So the town voted the full three percent because we believed that open space made sense. It was important to protect it for all of the reasons that Mr. Latimer just mentioned, the critters, every other thing that makes sense to protect open space.

What we decided to do was to buy a lot of land with bonds, pay for the bonds over time,
and that’s what we’re currently doing, we’re paying off those purchases that we made a long time ago. With that three percent. Granted, there’s a little surplus right now but it’s an insignificant amount of money when you talk about what it would do for this Town’s budget.

There’s several reasons why the state doesn’t match the 100 percent when we first started this in 2005. Two main reasons: one, the economy. Because money going into the fund was a surcharge on real estate transactions, and we all know what has happened to the real estate market in the last ten years. It’s gone down. So there were many fewer real estate transactions contributing to the fund. So the fund that was established to give back to the towns, not raising your taxes, has been going down.

The other reason that the fund is not matched as it was originally is because more towns in the state of Massachusetts have been adopting the Community Preservation Act. In fact, the towns that have adopted the Community Preservation Act fund a coalition that lobbies the state legislature to encourage improving the
match, in other words raising slightly the fee
for real estate transactions, but they also lobby
against legislation that would destroy the
Community Preservation Act.

Now the Community Preservation Act is
exactly what it says. It’s preserving things.
And the main thing that we’re preserving with it
is open space. But the legislators also said,
"Let’s improve community housing. Let’s preserve
historic resources. Let’s put some money towards
recreation if we can."

So this amendment just doesn’t make any
sense to me at all. None. We voted to tax
ourselves three percent, and yes it’s gone up –
that three percent goes up a little bit because
your tax bill goes up a little bit. But the
match that comes back from the state is pure,
unadulterated gravy. It’s gravy that we can
spend and through applications to the CPC, who
then interview these people.

We evaluate the proposals and then what
do we do with it? We come back to you, Town
Meeting. Only you can approve those
expenditures. And I’d like to remind you that in
the seven years, coming up on eight years that
we’ve been coming to you for recommendations, you
have never turned down one recommendation that we
brought to you for these categories, all of which
do things for this town. They do things for you
and me.

This legislation is absolutely the most
outrageous thing I can think of. And I have no
confidence at all that it would be of benefit to
this town. Thank you.

[Applause.]

THE MODERATOR: Mr. Lowell, you’re next
on the list.

Okay, folks, let’s go.

MR. LOWELL: Nick Lowell, Precinct 5.
I’m also a member of the Finance Committee, but
we did not speak about this amendment, so I’m
certainly not talking about that.

I did want to bring - recognize Nancy
Hayward’s point. Technically, this may be within
the scope of the original article, but for a
practical matter the original article was --
creatively written, shall we say? And it was
fairly clearly not legal. So as far as getting
very much consideration, it got very little at
the precinct meetings and at any of the prior
discussions.

So now to have something on here that is
generally specific in what it’s trying to do, it
really has not been vetted prior to the last 15
minutes or so, and I think that in the past we’ve
seen with Town Meeting when we rush a decision,
we don’t generally make good decisions. So I’d
recommend that we vote this amendment down and
vote indefinite postponement for the overall
article. Thank you.

THE MODERATOR: Okay, Mr. Turkington,
next on the list.

MR. TURKINGTON: Thank you, Mr.
Moderator. Eric Turkington, Precinct 1. I was
in the legislature when we first created the Cape
Cod Land Bank, and that was adopted by this Town
by a margin of 58 percent at the ballot box with
a three percent surcharge. And included in that
language at that time was the premise that we
were going to be borrowing a lot of money and
that we needed a revenue stream that we could
count on to pay it back. So that’s where the
business about the year 2020 came from. No town
would be out borrowing money to buy open space if
it thought the revenue stream to pay it off could
be ended in a five year or a ten year period.

Bonding is generally for 20 years for
these kind of things and that’s – we wanted to
make sure that that revenue stream would be
available to pay off those bonds for the entire
20 years. So that’s why that 20 year piece is in
there.

This premise about let the people vote,
the people voted once, 58 percent in favor of the
Land Bank. The second vote they had a chance was
when it moved over to this Community Preservation
Act. They voted 85 percent in this town in favor
of that. And the reason for that was, it was, as
has been pointed out, a a sheer, unadulterated
gift. While every other town in this state,
except those on Cape Cod, had to raise their
taxes to get the state match that was promised
under the Community Preservation Act, the Cape
towns did not have to raise their taxes because
they already had. We raised them for the Land
Bank.
So the legislature in its wisdom did something right for Cape Cod, which doesn’t happen every day. They said, “You can count that money that you were raising with your Land Bank, and we’ll match it with a Community Preservation Act match.” So every year, we would raise two, two and a half million dollars to pay for these bonds that we’d bought land for, and we’d get a two and a half million dollar check in the mail. We got more money from CPA than we got from Local Aid. So it was an unadulterated benefit for years and years and years.

Now it’s down to 28 percent because all the towns across the state have gotten in on the act. The 28 percent is still a pure gift because we never had to raise our taxes by a single penny to get that match. So that’s the reason for that piece.

The other piece I’m hearing a lot about is let the people vote. The people who can vote on every single expenditure out of this Community Preservation Fund is you, here, tonight, and every night. If you don’t like the $140,000 that they’re spending on administration, vote no. If
you don’t like spending money on fixing the
Waquoit roof, vote no. You don’t have to ask the
legislature for permission to do anything about
that, it’s in the warrant book in front of you
and not one penny gets spent without your
approval in this room at a Town Meeting. It
doesn’t get any better than that.

[Applause.]

THE MODERATOR: Mr. Boyer. Let’s go.

MR. BOYER: Mr. Moderator, Peter Boyer,
Precinct 5. These are tough acts to follow. I,
too, oppose this. I suspect that the – it is a
beguiling idea that we would then have free money
to spend elsewhere. That’s not the case. All
you will see is the removal of that money from
the surcharge on the tax bill. It doesn’t mean
that you have, in the case of the excess half a
million dollars to apply to Capital projects or
some other demand for service or expense. It
means that the tax surcharge is eliminated, if it
were even possible to do under Mr. McNamara’s
suggested amendment.

So you’re not freeing up money for other
purposes, you are reducing a person’s taxes by,
in the aggregate, the half million dollars a
year, over and above the obligation for debt that
we must continue to carry through the 2020 or the
2025 or however long the debt tail may be.

But it doesn’t mean that you have that
money, and I suspect that part of the interest in
this is that, yes, we have heard so much about
other needs that we ought to be able to spend it
on those other needs. Well, you can’t. You can
only spend it for these purposes and the three
percent surcharge is available only for these
purposes.

So, any replacement revenue would have
to be via an override. Thank you.

THE MODERATOR: Okay, Ms. Taylor, next
on the list. With the microphone, please.

MS. TAYLOR: Mr. Boyer said just what I
was going to say: we are constrained. We cannot
raise our general revenue by more than 2 ½
percent a year, which we’re already doing, and so
if we eliminate this three percent, it does not
give us the opportunity to, quote, think outside
the box with that money and spend it on something
else, and I’m really kind of shocked that Mr.
Putnam doesn’t know that.

THE MODERATOR: Mr. Bidwell was next on the list. No, he’s off. Okay, Mr. Patrick.

Then Mr. Clark.

MR. PATRICK: Matthew Patrick, Precinct 7. I, too, was in the legislature with Representative Turkington when this bill passed and I agree completely with his analysis and I also want to state that it is a very complicated amendment, all due respect to my good friend Mr. McNamara. It’s a lot for us to digest in a very short time.

We also have a practical reason not to do this now. The legislature is nearing the end of its session. It will not – it will be very, extremely difficult to get a home rule petition before the end of the session. That means it would have to be filed with the new session, which wouldn’t be until January of next year. So you have time to digest this, analyze it, let the Finance Committee look at it and come back either next fall Town Meeting or even next spring before we send something to the legislature, a home rule petition to the legislature. Thank you.
THE MODERATOR: Mr. Clark.

MR. CLARK: I’ll be brief. I didn’t come prepared to defend the life of CPA, for the very reasons that some people have mentioned. But you’ve got a very selective set of pictures up there. Let me remind you that most of the money we have spent on other projects has gone to Town projects: the School Administration Building, the Long Pond Pumping Station, the Edward Marks House, 39 units of housing at the School House Green for disabled and elderly people, the fields out at Sandwich Road. Those are all Town projects. A lot of this money went right to very important things that you have wanted. Thank you.

[Applause.]

THE MODERATOR: Okay, folks, let’s do the anything new. Mr. Dick, you’re next on the list; anything new?

MR. DICK: I just to say –

THE MODERATOR: Microphone, then, if you’re going to speak.

MR. DICK: I did want to add that the CPA is an investment in the town. When I came
here, there was a lot less polluted water and
there was a lot more Cape Cod to enjoy. And our
major income is from tourist industry, and by not
acquiring open space, by not preserving the
church steeples that make our town look historic
and old New England, and by not providing our
employees with this affordable housing, we are
going to hurt our community as we gradually
veneer develop the whole thing and the water
table becomes more and more polluted.

[Applause.]

THE MODERATOR: Ms. Peterson, something
new?

MS. PETERSON: Laura Peterson, Precinct 3.

The new thing I have to add is we’ve
been pointed at and told that we’ve all voted on
these things, and that’s true. But I’ve also
heard comments made, “Well, we have to spend the
money. What else are we going to do with it?”
And I think it’s important that we add that to
the conversation and say, “You know what? That’s
a luxury, what we’ve done.” And we’ve done good
things. It doesn’t discount what we’ve done.
It’s served its purpose. We’ve bought a lot of amazing pieces of property. But now we’re looking at where we’re at right now, and I remember looking for full day kindergarten and I had to bring in - they said it’s like what a bag of groceries would cost a family, that would add that to your taxes for the year.

Well, when I look at $120 on my tax bill going to the CPC, I think to myself, “I’d rather put that in a fire truck. I’d rather put that in books for my kids at school.” So, maybe the discussion needs to continue and be had and I’m - thank you for bringing this forward.

[Applause.]

THE MODERATOR: Ms. Schneider.

The last couple here and then we’re going to vote on the amendment.

MS. SCHNEIDER: Barbara Schneider, Precinct 4, former chair of the CPC.

I came before all of you numerous times and presented incredible projects, projects that you voted for overwhelmingly. Every year, the CPC does an open discussion on what our priority should be and what you want to see. In fact,
that exact assessment is happening next Thursday
night. We have invited everybody, from all the
departments to all the public, to come to those
sessions and speak on what they want to see.

While you all sit here and think about
what you would like to save, and I appreciate
that $120 means a lot, but know that every time
CPC comes to you and asks you to fund a town
project, that is freeing up dollars that the Town
would have had to have spent on windows that are
decaying and need replacement or roofs that need
replacing.

And, I will remind you, for open space
you could have had 160 units on Spring Bars Road.

Now, some of you are sitting here saying
you’d like the revenue from that. Others are
saying that will destroy everything we stand for.
I stand before you speaking with a long A because
I’m from the Midwest, but I happily transferred
myself to the east coast to this area
specifically because I loved what the people
stood for here, what was important to them, the
quaintness and the small town feeling, and not
those developments and the strip malls that I
came from in the Midwest.

We did not simply redo a radio station.

We chose to ask you to fund replacing the exterior on something that was a key component to entering Woods Hole.

We did not simply help a church that should have helped itself. We funded a beautiful steeple that is the most gorgeous entryway to the entire area of Falmouth.

That’s what you do with your $120.

That’s what you continue to build in what you live for and you represent by living in this community, and I ask you all to look in your hearts and ask why do you live here and not in Downer’s Grove, Illinois or somewhere like that.

[Applause.]

THE MODERATOR: Okay, Mr. McNamara.

Let’s go, come on.

MR. MCNAMARA: Thank you. At least I got some emotion going in Town Meeting.

[Laughter.]

MR. MCNAMARA: First of all, this is not – this amendment is not an anti-open space amendment, anti-preservation, anti-anything.
This doesn’t revoke the CPA, doesn’t take away your ability to discuss it. It only asks you to throw it into the hands of the Board of Selectmen. It authorizes the Board of Selectmen to request this special legislation or do or take any other action.

We’re going to have more discussion, we’re going to have it in a more cozy atmosphere with the Board of Selectmen.

It doesn’t turn down any state handouts that we might get. All it’s doing is enabling the voters. Yeah, we have all been able to vote— I’d like to disagree a little bit with former Representative Turkington. Of course we can vote on each particular article. What we don’t have the ability to vote on right now is the tax. It’s a mandatory three percent surcharge.

We can still buy open space. We can still think about what we can afford. And I’m surprised at Mr. Boyer saying that this doesn’t free up additional money, because think of what we did last night. The message that the Selectmen, the Finance Committee, the Capital Improvement Committee have all said to you is,
-the $800,000 that you voted last night really
was an increase in your taxes, but the way it was
presented to you was that it was no change in the
tax effort.

So, if we don’t change our tax effort
and we choose to tax ourselves three percent,
we’ll have a half million dollars a year for
things that we might choose to do, including
buying open space. Thank you.

THE MODERATOR: Okay, the question’s
going to come on the amendment – Mr. Shearer,
something new?

MR. SHEARER: [No mic.] No.

FROM THE FLOOR: No, no.

THE MODERATOR: Okay. The question’s
going to come on the amendment to Article 15 as
presented that was up on the overhead, to
authorize the Board of Selectmen to petition the
legislature. 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 no’s have it by a majority.

The question is now on the motion -- the main motion as printed. All those in favor of the main motion as printed 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 we’ll stand in a 15 minute recess.  

[Whereupon, recess taken.]

THE MODERATOR: We took a break on Article 15; we’re going to be returning on Article 16 of the Special. Once we re-establish this quorum.  

[Pause.]

THE MODERATOR: Okay, here we go. Let’s re-establish the quorum. All Town Meeting Members present please rise and the tellers will return a quorum count.  

[Pause.]

THE MODERATOR: In the first division, Mrs. Tashiro.  

MRS. TASHIRO: 47.
THE MODERATOR: 47.

In the third division, Mr. Hampson.

MR. HAMPSON: 62.

THE MODERATOR: 62.

And in the second division, Mr. Dufresne.

MR. DUFRESNE: 88.

THE MODERATOR: 88.

By a counted vote of 197, we have a quorum and the Special Town Meeting is back in session.

Article 16, the recommendation of the Finance Committee is indefinite postponement.

This is to appropriate a sum of money to install communication equipment at Falmouth High School to improve emergency communications. Is there any positive motion on Article 16?

Hearing none, the Chair would entertain the main motion from the Chairman of the Finance Committee.

CHAIRMAN ANDERSON: I move Article 16 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, Mr. Chairman.

CHAIRMAN ANDERSON: I move Article 17 as recommended.

THE MODERATOR: As recommended. This is to vote to transfer the sum of $40,000 from the Waterways Reserve Fund to purchase and install two outboard engines for the Harbormaster’s 27 foot Boston Whaler.

Any discussion on Article 17? Yes, Mr. Stetcher. With the microphone, please.

MR. STETCHER: Bernie Stetcher, Precinct 3. Sorry about that.

I just wonder, it seems like the problem is that there was a leak, and I’m just wondering if routine maintenance would have picked that up. I’m not trying to lay blame on anybody, but just wondering if perhaps this thing could have been caught in time before it ruined the engine.
THE MODERATOR: Mr. Frazier. He’s coming down the aisle behind you, there.

MR. FRAZIER: Greg Frazier, Harbormaster.

We found out about this problem the beginning of last season. We do have the engines serviced on a very regular basis. This issue came up early last season. We had the engine looked at by the mechanic we normally use and another mechanic at Atlantic Boats, both of which recommended that the boat not be used except for emergencies. And we’re talking about the primary patrol boat. So it did sit at the dock a lot last year.

And the explanation as was given to us basically is that there’s corrosion inside the engine caused by salt water. It’s making the mounts move, which is putting pressure on the seals inside, but it’s a very expensive job because you have to tear the power head out to get at the problem, and neither mechanic recommended that, given the age and the fact that they were up for replacement last year. It was much more cost effective to move forward with
replacing them, trading them in and then starting
off with new engines.

THE MODERATOR:  Okay, further
discussion on Article 17?

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

Article 18, Mr. Chairman.

CHAIRMAN ANDERSON:  I move article 18
as recommended.

THE MODERATOR:  As recommended. This
is to vote to transfer the sum of $40,000 from
Certified Free Cash for the contract for ongoing
ingineering and consulting services at the
Department of Public Works facility on Gifford
Street, the Senior Center on Dillingham Ave., and
Chamber of Commerce Building on Academy Lane for
groundwater monitoring, inspections and reporting
as required by the Massachusetts Department of
Environmental Protection.

Any discussion on Article 18?

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

Article 19, Mr. Chairman.

CHAIRMAN ANDERSON: I move Article 19 as recommended.

THE MODERATOR: As recommended. This is a vote to transfer the sum of $36,372 from the Waterways Reserve Fund to fund the debt payments due during Fiscal Year 2012 for the Town Marina project authorized by Article 16 of the April 5th, 2010 meeting.

Any discussion on Article 19?

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

Article 20. This is a Community Preservation Committee article. Mr. chairman.

CHAIRMAN CLARK: Mr. Moderator, Peter Clark, Precinct 1, Chairman.

I move Article 20 as recommended.

THE MODERATOR: As recommended. This is a vote to appropriate the sum of $40,000 from the Community Preservation Fund estimated receipts for open space recreation for beach nourishment to preserve and protect the Ellen T. Mitchell building and abutting dunes.

Any further discussion?

Hearing none, then the question will come on the main motion 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.
Article 21. Mr. Chairman.

CHAIRMAN CLARK: Mr. Moderator, I move Article 21 as recommended.

THE MODERATOR: As recommended. This is a vote to appropriate the sum of $136,424 from the Community Preservation Fund for Historic Preservation. $49,697 from Estimated Receipts and $86,727 from Historic Resources Reserves for the exterior restoration of the Waquoit Congregational Church.

Any discussion on Article 21?

Hearing none, then the question will come on the main motion as recommended. 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 22, Mr. Chairman.

CHAIRMAN CLARK: Mr. Moderator, I ask your permission to show a information slide for just a second.

That would be number 16, Bob.
I want Town Meeting Members and the community at large to know that we’re going through annual processes. I’d like to call your attention to the fact that on April 5 there will be an information workshop at 4:30 in the Selectmen’s conference room for anyone interested in applications for the November Town Meeting. Those applications will be due June 11, so people who are interested in those applications should come to that meeting or see the Community Preservation Planner for an application and consultation.

We also hold an annual hearing on the needs and resources in the community. That hearing has been advertised and will be held as part of the April 12 meeting at 7:00 at School Administration Building. We welcome you to come and tell us what you feel are the needs and resources.

And finally, we have been designing a town-wide survey. Unfortunately it wasn’t ready to give to you tonight and perhaps we have to go redesign it a little bit and look at the questions that we have there. But we will be
 Putting that out within the next couple of weeks.

It’ll be available. We’ll post how to get to that survey and try to circulate it.

Thank you, Mr. Moderator.

I would move Article 23 as recommended.

THE MODERATOR: 22?

CHAIRMAN CLARK: 22, excuse me.

THE MODERATOR: 22, this is to vote to appropriate the sum of $400,000 for community housing. $219,211 from Estimated Receipts and $180,789 from the Community Housing Reserve Account to support the engineering and construction of the sewer extension and related pump station on Spring Bars Road for proposed community housing.

Any discussion on Article 22?

Yes, Mr. McNamara, and then Mr. Shearer.

MR. MCNAMARA: Matt McNamara, Precinct 7. Thank you, Mr. Moderator.

I just have several questions; I just gave Peter a copy of them so that we can move this along, and just I’ll read them quickly.

In 2005, the Town denied a sewer connection to the Little Pond Landing affordable
housing project on this same site. Why has the
Town changed its position?

Two, how does this extension and pump
station fit into the Comprehensive Wastewater
Management Plan?

Three, has the pump station been
designed to serve this project only or will it
also serve Maravista?

Four, how is the amount of $400,000
calculated and by whom?

Five, who will build the extension and
pump station, the Town or the developer?

And six, will the extension and pump
station be built prior to project construction?
If so, what happens if the housing project is
never built? Thank you.

CHAIRMAN CLARK: Mr. Moderator?

THE MODERATOR: Mr. Chairman.

CHAIRMAN CLARK: Thank you, Mr.
McNamara, those are important questions.

The Town supported this. We went to the
Board of Selectmen. We had done a study to look
at the flow that would come from our development
and from the buildings that would have been along
that extension were it to be built. That study
found that it was a reasonably small amount. We
took that to the state to see if they would allow
it within the plan, which they have done. That’s
been approved by the state at this time.

It has been approved on quite a narrow
basis, to apply from our property going up to
Spring Bars Road and down to 28A and not for
further extension.

The pump being designed, therefore, is –
under this article is just for any future
development on the Spring Bars Road property.
And not for a further extension than that.

The $400,000 were calculated by our
having asked the – and I don’t have the name of
the firm.

FROM THE FLOOR: Sterns and
Wheeler.

CHAIRMAN CLARK: Sterns and Wheeler and
now G.H.D. And they have looked at the design
and they have provided us with an estimated
budget and this is based on that.

The extension would be built by the
developer when the developer is selected under
the supervision or oversight and to the standards
of the Town for this project. And, as I’ve just
said, it would not be built, then, until there
was a developer selected under an RFP. So, the
money will be set aside for that project.

It is important to have it passed
because we believe that for a developer to look
at that sensitive area, it is very important to
have a process in place and support in place that
is absolutely efficient and holds no threat to
the wetlands or to Little Pond through the
development.

That’s particularly in light of the
history of that site, and it’s limited to the 30
units that we have brought to you before.

THE MODERATOR: Okay, Mr. Shearer and
then Mr. Dufresne. Mr. Smolowitz.

It’s on it way down, right here.

CHAIRMAN CLARK: Slide 14, Bob.

MR. SHEARER: Dan Shearer, Precinct 6.

I only have one question. I know the
sewer right now is having some problems with the
DEP. They’re saying we’re putting too much
nitrogen or it’s escaping from it. It’s coming
in - it will be coming into West Falmouth Harbor in seven years.

So I would ask that we put this off until that is settled and we see what the DEP is going to allow because at the moment the suit is saying, “No more hookups going into that plant.” And but that’s in court, so I don’t know what’s going to happen to it, but I’d say put this off until next fall or next spring.

THE MODERATOR: Mr. Dufresne.

MR. DUFRESNE: Adriene Dufresne, Precinct 2.

One question, please, to Dr. Clark. In the event that this pump station is built, will the cost incurred for the ongoing maintenance, should the project be built and this sewer project is completed, years from now, whose responsibility is it to maintain it and ensure the residential abutters of this property that there will not be any odor problems or any kind of problems in the future?

CHAIRMAN CLARK: The developer, the RFP is to build and maintain the housing on that property. So it becomes part of what we will be
looking at in terms of the expertise and history of the developer to make sure that they show us that they either have themselves or can bring to the project the expertise to maintain that.

MR. DUFRESNE: I didn’t hear the last comment, Mr. Clark.

CHAIRMAN CLARK: The RFP is to have a developer build and maintain the housing and the wastewater and all other elements of the project.

So we will be - the Town will be looking at the credentials of a developer, that person, that organization, itself, or whomever that organization brings to this element of the project. So it’s the developer’s project, the developer’s maintenance.

MR. DUFRESNE: Okay, one last question. Will the residents of this project also be charged a sewer rate on their water rate?

CHAIRMAN CLARK: I don’t know the answer to that. I don’t expect they will be, no. They’re not - this is only for that development. Someone who is better knowledgeable about how hookups might take place and what the legal -

THE MODERATOR: Yes -
CHAIRMAN CLARK: - requirements are on that.

THE MODERATOR: - I think we have an answer on that, here.

MR. DUFRESNE: I do believe that these are questions that should be answered by probably the water main people.

MR. POTAMIS: I’m not the water man.

THE MODERATOR: He’s the sewer man.


To answer your question, everybody that connects into the sewer system has to have metered water. And, as an element of conservation, we charge every gallon that people use of their drinking water, we get charged for - we charge them for wastewater.

So the answer is, if you’re connected to the sewer, you pay a sewer fee. And it’s based on the water use.

To answer a previous question is: the Secretary of Environmental Affairs has approved this project as a modification to the West
Falmouth plant. I have discussed this project before, after and recently with DEP. They wholeheartedly support the 4,000 gallons going in. What litigation may or may not result in is anybody’s guess, but I categorically state right now that the Secretary of Environmental Affair’s signature has said this project, for 4,000 gallons, is acceptable.

I can also clarify that that is only for this project. No one else has a right to tie into this project unless they go through a sewer extension permit. I know some people are saying, what about the mall and this and that. The mall could apply for a sewer extension permit and it would have to go through the careful planning that the CPC did.

The project in part was not supported by the Town because it was outside the Comprehensive Wastewater Management Plan for West Falmouth. The CPC did what they were supposed to do, they checked with the state, they asked the state how could this be approved at all. The state said you do a flow study, you come in to us, you show that there’s adequate capacity. And that’s what
that study showed, that there was more than
adequate capacity that was allocated through
previous engineering studies and approved by the
DEP that this project could go forward.

So I hope that answered a bunch of
questions.

THE MODERATOR: Okay. Mr. Smolowitz.

MR. SMOLOWITZ: Ron Smolowitz, Precinct

8.

I’m against this article. I think it’s
a missed opportunity. This Town Meeting has
urged the Town to consider alternative strategies
to sewers. What more perfect project than this
for alternative sewer technology? And we’re not
doing it. All we’re doing, whenever the
opportunity arises, connect up more to the sewer
plant. This should be a perfect demonstration
project for alternatives to sewers. And it would
be a low cost project.

This is affordable housing. Something
like composting toilets don’t have sewer bills.
We would be paying the costs up front for the
wastewater strategy for this development. I
think that the CPC should examine its two birds
with one stone. Besides an affordable housing
project, this could be a key demonstration
project for alternatives to sewer technology.
And I’m wondering how come that hasn’t been
considered.

I asked this at precinct meeting and -. This needs to be an alternative strategy, right
here. This is a perfect opportunity.

THE MODERATOR: Mr. Clark.

CHAIRMAN CLARK: The CPC is very aware
of the sensitive nature of this environment and
of the demands that the state had put on the
Little Pond Landing development for zero
contribution.

And it is rental housing, not ownership
housing. So the issue of whether composting
toilets as an alternative is the best - that this
is the best place to try that alternative I think
was a worry to us. It was a worry in the sense
of attracting developers to a project and needing
them to know that they were not going to be
challenged in any way because of the technology
used or the nature of the site.

So that’s the reason we went to this.
MR. SMOLOWITZ: Well, it’s always easy to find reasons not to take that extra step, but if we don’t start addressing this now, we’re all going to be confronting a six hundred million dollar to a billion dollar cost. We need to start somewhere and this is an excellent opportunity to start right here. Thank you.

[Applause.]


You’re on the list, Jude.

MS. PUTNAM: Rebecca Putnam, Precinct 9.

My family is very much involved with 40B projects and also owning affordable deeded rental properties and I understand that you’re expecting a developer to come in and all 30 units are going to be – are they going to have the standard restrictions on the rental rates? And are you aware of what the rental rates are? Are they one, two bedroom units, three bedroom units?

THE MODERATOR: Mr. Chairman.

CHAIRMAN CLARK: I can answer that question very clearly. We developed the RFP with
the help of a Mass. Housing Partnership consultant, so we’re very aware of those rates. They all are to be at affordable levels in perpetuity and we’ve had that very carefully in mind as we’ve gone along.

But this – we’re moving from a discussion of wastewater treatment to housing, at this point, but –.

THE MODERATOR: Yes.

MS. PUTNAM: I’m sorry, Mr. Moderator, he did not answer my question. If these are two bedroom rental units, do you know the rate that the restriction is for the rental?

CHAIRMAN CLARK: I don’t have it at the top of my head, but we studied it carefully, as we did the RFP’s, and we know that the other issue with the housing is that it cannot be economically feasible without tax credits and so the ability to get tax credits is a key issue for any developer taking on this project.

MS. PUTNAM: Okay, I just want to make Town Meeting aware of the fact that a two bedroom unit is capped at $850 per month. It’s not like a condominium complex. You have a sewer rate
that is not going to be charged to these tenants.

So, even with tax credits, those are not forever, and I think you’re going to have a very hard time finding a developer to come in and to accept paying the sewer rates when you have a cap of 850 per month on a unit for affordability.

I really think that Town Meeting needs to consider these numbers and at this point vote it down. Thank you.

THE MODERATOR: Mr. Smolowitz. Mr. Zweig, I’m sorry.

MR. ZWEIG: Thank you, Mr. Moderator. Ron Zweig, Precinct 1. I just want one -

FROM THE FLOOR: Can’t hear you.

MR. ZWEIG: Oh. Ron Zweig, Precinct 1. Just one other option on this is that, in terms of alternatives, and you mentioned composting toilets is one that you had considered, but did you also consider onsite denitrifying systems that might be more cost effective?

In other words, was there a full comparative analysis done of options that are already sanctioned by the state for a site like
that? That’s the question. Or is in terms of cost, particularly cost, investment costs and operating cost. Thanks.

THE MODERATOR: Mr. Chairman.

CHAIRMAN CLARK: The quick answer is that we did not do a complete study but we do know that, while building an onsite denitrification system may be less expensive, there is for the developer the ongoing issues of operating that plant for the life of the housing, which is a major undertaking.

So, I don’t have a detailed analysis to show you, no.

THE MODERATOR: Mr. Wilber.

MR. WILBER: Jude Wilber, Precinct 8.

I have to agree with Ron Smolowitz, and again it’s not because he’s my boss. And also Mr. Zweig, because it’s an ideal place to launch into this.

I understand Mr. Clark’s argument that I heard that he’s afraid of balking contractors in this thing. Contractors need jobs, Peter. You know, they’re not going to balk at something as minor as an alternative technology that they’re
going to - that there’s very - is actually not
that alternative anymore. It’s fairly standard
stuff to put in.

So, I don’t see that that has much
weight in this argument, that balking
contractors; I see that as a red herring.

I also see here that the amount of money
is “to support the engineering and construction”.
To support it to what extent? What’s the final
cost on this? Is this the final cost, $400,000?
I don’t read it that way. It’s just to support
the engineering and construction. To what
extent, ten percent, twenty percent? To 50
percent?

I do really, really think that this is
the time and place for Falmouth to jump outside
the box, not just think outside the box, jump
outside the box.

THE MODERATOR: Mr. Chairman.

[Applause.]

CHAIRMAN CLARK: I’m looking for
corroboration on this, but I believe the $400,000
covers the total cost of that. I think it was
382 or 385,000, was our estimate.
The other issue that I need to raise is that in our advice relative to composting toilets is that it is not a well enough established practice that the tax credits - that they may threaten the tax credit applications. And that's an essential piece of the financing for this project; you can't build them without those tax credits.

THE MODERATOR: Mr. Duffany.

MR. DUFFANY: Thank you, Mr. Moderator, Michael Duffany, precinct 6.

I'm certainly not going to talk against affordable housing because I think we certainly need as much as we can - as we're able to put together here in town, but it does scare me, if you will, that we're going to allow someone else to operate a pump station, having already had bad experience with two that I know of in town where odors were a problem.

And if it were - I think that we'd all agree if it were a private developer, we'd probably still be having problems. The Town took care of it because it was the Town's pump station over there at Shiverick's Pond and the
one up on Palmer Avenue.

The only other one that I’m aware of is the one at the high school. There may be one in Woods Hole. But any of the others are, I believe, owned by the Town.

So, I have to commend Ron on asking us to step outside the box. I think it is an ideal time to do so and, you know, this concept does leave me with some trepidation, where a private owner is going to – or developer is going to own this station. Thank you.

THE MODERATOR: Ms. Hayward, and then Mr. Patrick.

MS. HAYWARD: Nancy Hayward, Precinct 5.

We’re getting a little bit – we’re talking about paying for a sewer. I do want to address the topic of denitrifying septic systems. Little Pond is one of the estuaries that have been in the Mass. Estuaries Series of estuaries. This estuary or pond is to have zero input of nitrogen. As far as I know, there are no denitrifying systems which put out zero nitrogen.
And I would also like to say that I think that the various toilets are new technology; we’re having trouble with one other type of new technology. I do want to see a sewer put to this development and we have an article before us dealing with that. Thank you.

THE MODERATOR: Mr. Patrick.

MR. PATRICK: Matt Patrick, Precinct 7, and I’m on the Water Quality Review Committee – Management Committee.

And I just want to clarify one point, that composting toilets are indeed approved by the state for use in all buildings. They can be put in multi-storied buildings quite readily and they have toilet commodes that look very conventional. Thank you.

THE MODERATOR: Okay, Ms. Lowell.

MS. LOWELL: Vicky Lowell, Precinct 1.

I just also am thinking about the gray water and that has some nitrogen in it, so there would have to be a system for handling that, too.

THE MODERATOR: Mr. Potamis, you had your hand up.

MR. POTAMIS: I’ll go down there.
Jerry Potamis, Wastewater Superintendent. Compost toilets are indeed legal. They’ve probably been legal for a while. I’d like to see a show of hands how many have them in their house. How many would invest in a project which you don’t know if anybody else wants them?

We do know at a green seminar sponsored by advocates of alternatives, which was very informative, we had an international expert come from Australia. They put this to an extensive discussion and, lo and behold, after hearing the pros and cons, they said, “We don’t want compost toilets.” We may say we want them, but it’s not an issue I think for us to dictate to any builder how they will choose to invest their money.

As part of zero nitrogen, if you remember in the past, Little Pond Landing was expanded a little bit because to obtain the extra nitrogen that would go into Little Pond, they had to bring in Fair Trades or Fair Winds next door. In other words, they had to extend the sewers so the amount of wastewater going in didn’t exceed the total that went in before the developed,
which means you have to take some of the sewers out.

I just recently got a report from a very innovative technology that is probably one of the ones we’ll be looking at. They could not match what we’re doing at the treatment plant now, and that was right up in Mashpee. This is right out of their annual report.

They had another project in their annual report that they did almost as good as we did. Centralized treatment. And then they had another project that did better.

So I will assert right now that, although some of these technologies have promise, none of them are tried and true for municipal projects that can meet the strict standards for the environmental protection.

I think we also have an issue that was before the Selectmen last week, shell fishing, which is going to aquaculture, which will remove some amount of nitrogen. Even the shellfish people say, “We don’t know if shellfish can survive. We want to do a test to see if they can survive. After we determine if they survive,
we’re going to have to determine growth rates and things like that.” Personally, I think they will survive and they will help with nitrogen.

As far as lift station and pump stations, every private entity that goes into the sewer that doesn’t go in by gravity, has a lift station. Now, let’s get our terms correct. We’re talking about an E-1 station, basically a package plant that’s 4,000 gallons a day. Odors come from the fact that you don’t pump it out as often as you can. That’s not really a maintenance issue; that’s a design issue.

The design of this treatment plant has in it – because I actually had to go over it today for another reason – an extra pipe so that we can insist that they put in an odor control problem – control system if it becomes a nuisance. And that’s only if it becomes a nuisance.

Every private property in this town is responsible for maintaining their wastewater system. It doesn’t matter whether it’s a pump station or a septic system. If they don’t operate it, we have laws and regulation.
So, I think the CPC properly thought this out over two or three years. There was a lot of debates. There were a lot of — it’s cross pollinated, for lack of a better word -- Planning Board members, Conservation Commission members, and things like that. We can have this lead into a debate of sewers, but it shouldn’t lead into a debate of sewers.

I will assert that if someone might be able to do something cheaper, they may not be able to do it better. And they may not be able to do it based on the permitting that we know that they might have to go through. Thank you.

THE MODERATOR: Mr. Dick.

MR. DICK: One rarely gets up a Town Meeting and talks about personal experience with commodes, but we have a place out in Oregon that has a composting toilet that is absolutely horrible. And I just get nightmares when I think about the composting toilets being installed in a development until a summer and a half ago when I got out there and landed on National — on State Park land and had to use a facility which was just as nice and clean and easy to deal with as
the toilet in my house. Composting toilets have
come a very long way, and I think that to say
otherwise is disingenuous. Thank you.

THE MODERATOR: Ms. Lichtenstein.

MS. LICHTENSTEIN: Leslie Lichtenstein,
Precinct 8.

I think maybe it’s time for the Town of
Falmouth to put its money where its mouth is.

A few years ago when we built our first
sewage treatment plant, we did sand filtration
bids just like the rest of the world, but we also
did a spray irrigation. It was innovative and it
was the first one in the state. How can we
expect private people to put these things in
their homes and private developers to come in if
the Town doesn’t take the lead and require – or
at least ask some people to do this?

THE MODERATOR: Mr. Netto.

MR. NETTO: Thank you. Joe Netto,
Precinct 9.

I stand just to give comment on some
other comments that were made about composting
toilets and I want to reiterate what Mr. Dick
said.
Some people seem to think that they’re new. If you travel southbound on Route 95 and leave New Hampshire and come back to the glorious State of Massachusetts and stop at the state-run rest stop there, for over 20 years there’s been a composting toilet there that I’ve stopped in more than 20 years. And I’ve stopped there just about every time I leave my house in Maine.

On top of that house – that place, you see photovoltaic cells and solar hot water. And that’s the state of Massachusetts rest area. So when someone can tell me that the state doesn’t believe in composting toilets or they’re new, I wonder where I’ve been stopping the last 20 years.

Secondly, if you go to any ski area, getting rid of wastewater on a mountain is a major problem. Almost every ski place I’ve been to between here and Colorado has waterless urinals and composting toilets.

I think it’s time for us to take the lead and keep – we always want somebody to do something. Well, this is a great opportunity.

And the discussion is starting getting to the
alternatives – yes, Mr. Potamis, it is a sewer question. The big pipe versus the alternatives.
And I guess I’m an alternative person. And I think that this is an excellent opportunity to show if this technology works.

And last, a question that I don’t think has been answered, and I’m really confused, on Mr. Dufresne’s question, the answer by Mr. Potamis and then the comments by Mrs. Putnam. Who is going to pay the water bill and the sewer? Mr. Potamis told me the person using it. Mrs. Putnam told me that – has told us and she’s well adapted, this is her business and I believe her, that the rent is capped at $850. So therefore I guess I’m paying the sewer bill? I think that’s the answer that Mr. Dufresne was looking for.

Thank you.

THE MODERATOR: Mr. Chairman, do you want to address that?

CHAIRMAN CLARK: The management company pays the bill. It’s a rental – it’s a rental development. It’s not a home ownership development.

The issue of whether the finances will
work out is one that we will learn when we put
out an RFP and see whether there are developers
who feel they can make it work.

I do want to stress also, separately
from that argument, that the Community
Preservation Committee has drafted an RFP that is
– attempts to be very demanding in terms of
energy and other kinds of low impact landscaping
and other kinds of things. We don’t intend this
to be a standard affordable housing development,
or a housing development at all. We are looking
to be innovative in lots of ways, but we have not
chosen to be innovative in this way because we
felt it was the clearest, cleanest way for a
developer to approach the project.

THE MODERATOR: Ms. Poole.

MS. POOLE: Thank you. Diane Poole,
Precinct 9.

I’m just curious if you have a private
developer responsible for the pumping station,
what happens if they go out of business?

Who takes over?

THE MODERATOR: Mr. Chairman.

CHAIRMAN CLARK: The – that issue is
one that the Town does not have to take over but
has to manage the sequence of ownership in that
situation. I would turn more to Mister - I guess
Town Counsel, to talk about the details of how
that gets handled. But it is not envisioned that
the Town ends up running that project.

THE MODERATOR: Mr. Wilber.

MR. WILBER: Jude Wilber, Precinct 8.

This is something I’m going to mention
again and again on various issues in this town.
Falmouth needs to start to think of itself as
experimental: experiment Falmouth, experiment
Falmouth. We’re running up against here with a
strict EPA, zero tolerance policy. Well, we want
to run an experiment, Mr. EPA, and see what
happens with this new technology at its highest
grade.

It’s an experiment. We don’t know if we
can do it or not unless somebody does it.

So I find it very frustrating in these
discussions where we run up against some sort of
a mandate from somewhere that says you absolutely
have to do this that prevents us from doing
anything else. And I think this town needs to
challenge those mandates on every issue where we can serve to be a leader.

[Applause.]

THE MODERATOR: Mr. Murphy.

MR. MURPHY: Yes, Mr. Moderator, through you to Mr. Potamis, a question. Did I hear you right tonight saying that no one else would be tying into this sewer main extension, and if so how does that violate the Town sewering bylaw, which if I’m not mistaken mandates anyone who is on a sewer main that they tie into that sewer main?

If you remember, folks, we had the same situation happen at the Flying Bridge. We brought the main down that road on Scranton Avenue. The developer of the Ward Condominium project sought and gained the opportunity to tie into that main. We had no intention of allowing that, but in fact we had a sewer bylaw.

So my question is are we going to allow those folks that we go by to tie into it and how much more capacity, keeping in mind if it goes by folks, it might actually be touching the land of the Falmouth Mall.
MR. POTAMIS: To answer I probably should defer to Town Counsel, but I won’t. I’ll use my better judgment.

[Laughter.]

MR. POTAMIS: The state—the state has to approve all future tie-ins. If you’ve been following the permit development, long gone are the days that we’re going to act on our own with a permitted groundwater facility, no matter where it is. We might have a bylaw; the state might trump it and say, “You can’t tie in if you don’t have your act together.”

So I don’t know what the answer is.

You’re absolutely right, I’ve had this discussion before. All I answered the question was, that the CPC got and received permission for allowing them to tie in. Is there capacity for the remainder half-dozen houses in a small development? Of course. It wouldn’t be a good municipal project.

Is the pipe oversized? No. It isn’t. You have to understand how pipes are sized and things like that.

So the question could come back to the
Board of Selectmen whether they want to do battle with the State over an NPDS permit if the State – a groundwater permit if the State says you can connect in but you connect in potential of violating a groundwater permit.

So, yes, we have a bylaw that I will respect and do what you guys direct me to, but it’s not my decision. It will be other people that will say, “Allow this” or “not allow it”.

Did I answer your question, Mr. Murphy?

MR. MURPHY: Thank you.

THE MODERATOR: Okay, Mr. Donahue.

Let’s tighten up our comments here because this list is getting long and I want to do the budget tonight.

[Laughter.]

MR. DONAHUE: Okay –

THE MODERATOR: We are going to do the budget tonight.

Mr. Donahue.

MR. DONAHUE: Pick on me.

My question is this, ladies and gentlemen, is that this is going to be a rental, low-income, housing development. So that means
that the rents are going to be controlled by who
controls low rent.

Now, if this developer gets into
trouble, he’s going to come to the Town and say,
“I cannot maintain this sewer pumping station,”
and we are going to be stuck with it, I think.

My point is why don’t we take it on from
the very beginning and stop fooling around? If
we’re taking $400,000 out of CPA to build this
thing, if it needs another 100,000 to make it so
that in the future we can connect to the other
houses down that street and maybe even connect
into Maravista, I think this would be the time to
do it.

Let’s look long-sighted and not short-
sighted. I don’t know if this would mean that
the project would come into some other
classification, but it’s too risky, to me, to
have some guy who could go bankrupt, he could
have other problems and then we would wind up
being the – I think the fall guy and have to pay
the bill in the end. Thank you very much.

THE MODERATOR: Okay, Mr. Herbst.

MR. HERBST: Ralph Herbst, Precinct 8.
Planning Board representative to the CPC.

This situation, I think, as Mr. Clark pointed out correctly, won’t even go forward if the developer’s unable to get tax credits because you use alternative wastewater systems. So, you shoot it down. But let’s say that he can. So I’d like to ask the advocates of alternative systems to provide the CPC with a list of 30 families that qualify for affordable housing that are willing to move into this development with alternative systems.

If you can do that for us, when I understand the County of Barnstable has offered a cash incentive and they’ve had no takers, the entire county, go ahead and provide us with that list. Because you think that the CPC is going to develop a multi-million dollar project with alternative wastewater systems and we can’t rent them? Then who’s going to be stuck with it?

THE MODERATOR: Okay, anything new?

Ms. Valiela, something new? I think the issues are on the table, here, so we’re –

MS. VALIELA: Right. A question and a comment. The question is, Peter, is this a
pressure main or is this a gravity main from the
property to the connection on Davis Straights?

CHAIRMAN CLARK: There needs to be a
pump to go up to Spring Bars Road and then it’s a
gravity feed from there down. So, Mr. Potamis
may have to give you the specifics of that but it
does require pumping up to Spring Bars Road –

MS. VALIELA: I see.

CHAIRMAN CLARK: – and I don’t know
what that elevation is, exactly.

MS. VALIELA: Okay. I was told by the
engineer for the previous Little Pond development
that it was possible to connect from that
property to Davis Straights with a gravity main,
no pump station. Which would remove a lot of the
concerns that you heard tonight.

Was that discussed with the developers?

CHAIRMAN CLARK: Yes, the –

MS. VALIELA: I’m sorry, with your –

CHAIRMAN CLARK: With the designers.

MS. VALIELA: – designers.

CHAIRMAN CLARK: The designer looked
carefully at that and the decision was that it
couldn’t be done that way. It would require –
and I’m not sure whether physically Spring Bars Road is above Davis Straights, but it would require such a deep trench going through that area that I think, at least for that reason, it was considered not feasible to do.

MS. VALIELA: And then my other question is: if this decision is made in the fall instead of now, how does that affect your schedule and your planning and are there any drop dead dates between now and the fall that would seriously affect the project?

CHAIRMAN CLARK: Well, we expect to be discussing a draft RFP with the Board of Selectmen this coming Monday. And it then needs to move forward in a way that we hope we can get that advertised and get responses to it before the November Town Meeting.

It would be then a whole process of selection and negotiation that goes beyond that. So it would be, I think, very helpful to have this piece of the total project in place so that’s a known as the RFP goes forward.

MR. POTAMIS: Peter -

THE MODERATOR: Mr. Potamis.
MR. POTAMIS: Through you to Peter to Virginia, or something like that. We did look at, in fact, the previous engineer did look at a gravity. And you had to – as you said, it had to go so deep that it was not a good recommended way of doing it for the piece of property.

We also looked at what’s the likelihood if we ever got to Maravista, would a sewer come down Maravista. And the answer to that was probably no, because just about in front of the Mall is a low point. And that it’s highly unlikely that if we get to Maravista would we come down that way.

So, what was engineered was pretty reasonable.

Whether the Mall can tie in is an entirely different legal question. I don’t know if it abuts it or whether it’s within the 100 feet, but the state would have to approve it and it could change the design. And they would have to pay for the extension of the sewer and all the connections to get to it. And I know I have discussed that with the designer that represents the mall. I laid it out to him, I says, “I’d be
glad to discuss with you what I think your
options are.” They never came back to me.

THE MODERATOR: Okay, Mr. Pinto.

MR. PINTO: Move the question.

THE MODERATOR: We have a motion to
move the previous the question. It’s to close
discussion. All those in favor of closing
discussion on this article signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[No.]

THE MODERATOR: The ayes have it by the
two-thirds majority and the discussion is closed.

The question will now come on Article
22, the main motion as recommended by the
Community Preservation Committee. All those in
favor of Article 22, 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 first division, Mrs. Tashiro.

Mrs. Tashiro: 16.

THE MODERATOR: 16.

In the third division, Mr. Hampson.

MR. HAMPSON: 32.

THE MODERATOR: 32.

In the second division, Mr. Dufresne.

MR. DUFRESNE: 43.

THE MODERATOR: 43.

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

[Pause.]

THE MODERATOR: In the first division, Mrs. Tashiro.

MRS. TASHIRO: 32.

THE MODERATOR: 32.

In the second division, Mr. Dufresne.

MR. DUFRESNE: 45.

THE MODERATOR: 45.

In the third division, Mr. Hampson.

MR. HAMPSON: 30.

THE MODERATOR: 30.

By a counted vote of 91 in favor and 107
opposed, the article does not pass.

Mr. Chairman.

CHAIRMAN CLARK: Mr. Moderator, we are required by law to spend ten percent in the area of housing. This money needs to be put into the Housing Reserve Account for future use so that we meet that legal ten percent since it did not pass in this article.

Would you like me to make a motion, or?

THE MODERATOR: Yes. So you can make a main motion under this article.

CHAIRMAN CLARK: I move that the Town vote to transfer the sum of $400,000 to the Community Preservation Community Housing Reserve.

THE MODERATOR: Okay, you’ve all heard another main motion to put the money that we were going to use for this article into the reserve.

All those in favor, signify by saying –

Do you have a question? Do you have a question? Yes. Do you have a question? Get up and ask it.

MR. LEWIS: [No mic. Inaudible.]

THE MODERATOR: Come on down with the microphone, or use that one.
MR. LEWIS: The article only—this is Gardner Lewis, Precinct 6.
The article only asks for 219,211—
FROM THE FLOOR: Can’t hear you, can’t hear.
MR. LEWIS: Well, that’s—
THE MODERATOR: Speak into the mic.
MR. LEWIS: I am. The article only asks for $219,211 from the Estimated Receipts.
The rest is already in the Reserve account.
THE MODERATOR: And $180,789 from the Community Housing Reserve. So, Peter, it’s $219,211 into the Reserve?
CHAIRMAN CLARK: 219,211 is from Estimated Receipts. The 180,789 needs to go back into the Housing Reserve so I—
THE MODERATOR: Well, you didn’t take it out.
CHAIRMAN CLARK: Well, fine.
THE MODERATOR: Okay, so the main motion—
CHAIRMAN CLARK: Let me move to—
THE MODERATOR: —is to remove $219,211 into the Community Housing Reserve.
CHAIRMAN CLARK:   Right. Thank you.

THE MODERATOR:   Any further discussion on Article 22?

Hearing none, the question will 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 23, the Board of Selectmen for a main motion.

CHAIRMAN FLYNN:   Mr. Moderator, I move Article 23 as printed.

THE MODERATOR:   As printed. This is to accept the doings of the Board of Selectmen with laying out four roads. Any discussion on Article 23?

Mr. Wilber.

MR. HAMPSON:   Mr. Moderator —

THE MODERATOR:   Oh, Mr. Hampson.

MR. HAMPSON:   Five minutes to go. I move we go after 11:00.
THE MODERATOR: Okay. The motion to extend after eleven o’clock. All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[No.]

[Laughter.]

THE MODERATOR: We’re going to see you tomorrow night and Thursday night.

This meeting is adjourned; we’ll come back on Article – well, actually, let’s if we can get this one – whoa, whoa, whoa, hold on. Let’s see if we can finish this in the five minutes. If not, we’ll adjourn at 11:00.

Mr. Wilber.

MR. WILBER: I’ll be very brief on this. I only want to point out that when a Town takes roads, the – it’s always been said there’s a hundred percent betterment assessed to the lands of the people along the road that receives the benefits.

I also want to point out that over the last decade the Town has taken hundreds of miles of roads and all those roads, after the hundred
percent betterment is paid, belong to us and belong to the Department of Public Works. And I’m not saying that it’s not a good idea to take these roads and bring them up to standards, I’m just saying to realize it when the Department of Public Works is asking for increases in budget to do basic services, a lot of it has come through the taking of roads, where the initial betterment was paid, but the ongoing maintenance of these roads is no longer – is a part of our task.

Thank you.

THE MODERATOR: Any further discussion on Article 23? Hearing none, the question will then come on the main motion of Article 23 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.

Article 24, Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Moderator, I move that all articles approved at this Town
Meeting be funded as voted for a total of $1,104,434.87.

THE MODERATOR: Okay, you’ve all heard the main motion to fund this meeting for $1,104,434.87. Any discussion on the main motion? Hearing none, the question will come. All in favor say aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]

THE MODERATOR: The ayes have it unanimous.

Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Moderator, I move the April, 2012 Special Town Meeting be closed.

THE MODERATOR: You all heard the main motion to dissolve this meeting. All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[None opposed.]

THE MODERATOR: The ayes have it unanimous.
This meeting is adjourned. We’ll see you tomorrow night for the Annual at 7:00.

[10:58 p.m.]

[Whereupon, this matter adjourned.]
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 Annual Town Meeting, taken by me on April 3, 2012. 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 11th day of June, 2012.

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

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