

Vol. Two
173 pages

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.

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P R O C E E D I N G S

1
2 THE MODERATOR: Okay, all Town Meeting
3 Members please come forward, take your seats.
4 Don't forget to sign in. Attendance will be
5 published in the Falmouth Enterprise.

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

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

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

16 [Pause.]

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

19 MRS. TASHIRO: 55.

20 THE MODERATOR: 55.

21 In the second division, Mr. Dufresne?

22 MR. DUFRESNE: 96.

23 THE MODERATOR: 96.

24 In the third division, Mr. Hampson?

1 MR. HAMPSON: 74.

2 THE MODERATOR: 74.

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

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

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

12 [Pledge of Allegiance taken.]

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

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

1 always meeting and communicating with us. Amen.

2 THE MODERATOR: Colors post. Let's
3 have a round of applause for Girl Scout Cadet
4 Troop 75003.

5 [Applause.]

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

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

1 a total of 28 young people.

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

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

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

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

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

20 [Aye.]

21 THE MODERATOR: All those opposed, no.

22 [None opposed.]

23 THE MODERATOR: The ayes have it
24 unanimous.

1 At this time, I'll read the Officer's
2 Return of the Warrant. By virtue of this
3 warrant, I have this day notified and summoned
4 the inhabitants of the Town of Falmouth qualified
5 to vote on Town affairs, as said warrant directs,
6 by posting an attested copy thereof in Town Hall
7 and in every precinct in the Town. Signed,
8 Constable Jim Crossen.

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

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

13 At this time, the Chair would entertain
14 a motion for non-Town Meeting Members to sit up
15 front with their respective boards and
16 committees. So moved. All those in favor,
17 signify by saying aye.

18 [Aye.]

19 THE MODERATOR: All those opposed, no.

20 [None opposed.]

21 THE MODERATOR: The Ayes have it
22 unanimous.

23 At this time, the Chair would entertain
24 a motion for all Town employees who are not

1 residents of the Town of Falmouth to speak on any
2 article before the Special Town Meeting. So
3 moved. All those in favor, signify by saying
4 aye.

5 [Aye.]

6 THE MODERATOR: All those opposed, no.

7 [None opposed.]

8 THE MODERATOR: The ayes have it
9 unanimous.

10 At this time, I'll recognize the
11 Planning Board for a notification of public
12 hearing.

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

21 THE MODERATOR: Okay, we're going to
22 kick off with the Special Town Meeting tonight,
23 and when we finish that, we will go back to the
24 Annual meeting.

1 I am not going to use a blanket tonight.
2 I'm going to get right off with Article 1.

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

5 CHAIRMAN ANDERSON: Mr. Moderator, I
6 move that the Town vote to authorize the Board of
7 Selectmen to purchase or take by eminent domain
8 in fee a portion of Lot 68, Bernard St. Jean
9 Drive in Falmouth Technology Park, and shown on
10 Land Court Plan 31976K, now owned by Falmouth
11 PMW, LLC, which area contains approximately
12 13,000 square feet in area and is the site of an
13 encroachment of capped and buried trash
14 associated with the Town's former landfill, and
15 to acquire an easement to maintain a monitoring
16 well on Lot 68 as required by the Department of
17 Environmental Protection, and further to
18 appropriate the sum of \$41,000 from Certified
19 Free Cash as land damages for the acquisition of
20 the land and easement as set forth herein, said
21 sums to be expended under the jurisdiction of the
22 Board of Selectmen.

23 THE MODERATOR: Okay, there's the main
24 motion on the overhead. An explanation, yes, Mr.

1 Duffy.

2 MR. DUFFY: Good evening. Frank Duffy,
3 Town Counsel. We have kind of an unusual
4 situation here tonight. We have a lot, Lot 68 in
5 the Industrial Park, which abuts the former Town
6 Landfill. The Town Landfill, as you know, is out
7 of business; it's been capped and there's a lot
8 of buried trash under it.

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

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

22 May I have the next slide, please. This
23 slide shows the property line between Lot 68 here
24 and the landfill over here, and as you can see

1 there is an area here that is shown being
2 outlined and it's got these diagonal lines. That
3 is the area where the capped landfill, the trash,
4 actually goes onto Lot 68. The total area is
5 about 13,000 square feet.

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

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

21 The article also asks for the sum of
22 \$41,000 to make a payment to Mr. Wesling which
23 will cover three things. It will cover any
24 damages that he may have incurred as the result

1 of the presence of this trash on his lot. It
2 will also cover the lease, or, excuse me the
3 easement of an area where there is a monitoring
4 well, and it's - no, it's right on the lot. The
5 monitoring well monitors methane gas from the
6 capped landfill; it's required by the Department
7 of Environmental Protection. We have to maintain
8 it for I think about 20 years.

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

17 And, so that's what this article is
18 about. We're going to have the Board of
19 Selectmen exercise the taking, take the land
20 back, be responsible for it like we should be as
21 good citizens. This taking also does not cause
22 Mr. Wesling any zoning problems because it's a
23 taking so we don't have to go through the
24 subdivision process in the - before the Planning

1 Board.

2 We do have an agreement. The agreement
3 has been signed by Mr. Suso on behalf of the
4 Town. He was authorized by the Board of
5 Selectmen at their meeting earlier tonight to
6 sign this agreement. The agreement contains all
7 of the provisions which I think I just outlined
8 for you.

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

14 Any questions?

15 THE MODERATOR: Questions on Article 1?
16 Any discussion on Article 1? Hearing none, the
17 question will come on the main motion as
18 presented. All those in favor, signify by saying
19 aye.

20 [Aye.]

21 THE MODERATOR: All those opposed no.

22 [None opposed.]

23 THE MODERATOR: The ayes have it
24 unanimous.

1 Article 2. The Planning Board for the
2 main motion.

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

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

9 THE MODERATOR: Okay, this is to amend
10 Article 22, parking requirements of the zoning
11 bylaw: handicap parking shall be provided as per
12 the requirements of the Massachusetts Building
13 Code or the Architectural Access Board, whichever
14 is more restrictive. Any discussion on Article
15 2?

16 Hearing none, the question will come on
17 the main motion. All those in favor, signify by
18 saying aye.

19 [Aye.]

20 THE MODERATOR: All those opposed no.

21 [None opposed.]

22 THE MODERATOR: The ayes have it
23 unanimous.

24 Article 3.

1 VICE CHAIRMAN KERFOOT: The Planning
2 Board has recommended and I move that the Town
3 vote Article 3 as printed.

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

9 Any discussion on Article 3? Mr.
10 Hampson.

11 MR. HAMPSON: Mr. Moderator, I've been
12 asked to read a letter from Andy Massanian [sp?],
13 who owns one of the parcels. And this for the
14 Town Meeting. [Reading:] Rezoning my property at
15 28 Ellis Highway is before Town Meeting once
16 again. I now believe that the solution sponsored
17 by the Planning Board to rezone my property to
18 General Residence as part of the Article 3 of the
19 Special Town Meeting is best for the town and
20 neighborhood and myself.

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

1 involved.

2 I have a copy for you.

3 THE MODERATOR: Okay. Any further
4 discussion? Ms. Valiela.

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

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

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

13 THE MODERATOR: Okay, Mr. Curry.

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

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

22 When we're talking about those areas
23 that will be north of Route 151, Nathan Ellis
24 Highway, it may involve this lot here owned by

1 the Tribullises [sp?]. This is a lot owned by
2 Mr. Minasian. This is the parking lot utilized
3 by the Beach House, which is across the street.
4 This is a pizza place right here, the real estate
5 office. This is the parcel on the west side of
6 28A. And this is the parking lot for the daycare
7 center that is here. This is a small office
8 building. This parcel is owned by the United
9 States of America, according to the Assessor's;
10 for whatever reasons compelled to Congress.

11 This is the Silver Square development.
12 This is Dean's, here. This is the power
13 substation owned by NStar. And this is the
14 Laundromat, and I forget the nice lady who called
15 me up who owns that.

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

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

1 MR. CURRY: All set?

2 THE MODERATOR: yes.

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

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

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

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

24 And then paragraph 2b is this little

1 area right here that's currently owned - owned.
2 It is zoned Business 3. And that will go from
3 Business 3 to Business Redevelopment. So you can
4 see that the article segregates out or segregates
5 those types of map changes and your legend is
6 there to the right for your understanding.

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

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

18 And the take-home message is that in
19 Business 2 and Light Industrial A districts, the
20 two types of uses are most different than a
21 Business Redevelopment district. Involve retail
22 sales and typically restaurants. In a Light
23 Industrial A zoning district such as you have
24 over here, retail sales are allowed as a matter

1 of right. That means that you simply go down to
2 the Building Department and get your building
3 permit after an administrative site plan by the
4 Planning Board.

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

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

18 A Business Redevelopment district, the
19 differences are that in your retail sales you can
20 still have a building, say, of 10,000 square
21 feet, but it must be subdivided into tenants of
22 no more than 4,000 square feet. And an example
23 of that would be Holly Park. Holly Park is a
24 Business 3 zoning district, very similar to a

1 Business Redevelopment district. Even though
2 it's a larger building, you must subdivide it
3 into those types of 4,000 square foot tenants.

4 In a General Residence District as
5 opposed to a Residence B district, the big
6 difference is that in a General Residence
7 district you can have a three family dwelling,
8 whereas in your typical - in you Residence B
9 district, it's single family uses, only.

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

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

22 In a Business Redevelopment district,
23 the take home key statistics of lot coverage is
24 that you can only cover 20 percent of your lot.

1 So your 40,000 square foot lot zone Business
2 Redevelopment, your building footprint is half of
3 that. It can only be 8,000 square feet. So
4 that, I consider that to be somewhat of a down
5 zone in terms of use and dimensional build-out
6 potentials.

7 Paragraph 3 of your article asks the
8 Town Meeting to add a sentence into the General
9 Residence District that would allow this area
10 here, if you're zoned General Residence and you
11 have frontage on the northerly sideline of Route
12 151, from 28A to Old County Road -- which is over
13 here and I have a slide to show you later, all
14 right -- you are then eligible to apply to the
15 Board of Appeals for a special permit for a
16 professional office. This is the same type of
17 special permit that's available to the community
18 on Palmer Avenue and Locust Street. And what Mr.
19 Minasian refers to his letter that was just read.

20 The next slide, please. Now, Paragraph
21 4 of the article asks the Town Meeting to change
22 the dimensional regulations of the zoning bylaw,
23 and in essence it would ask you to right now the
24 setback, the front yard setback, on Route 151 is

1 75 feet from Route 28A all the way to the Mashpee
2 town line, and it was put in place back in the
3 mid-'80's. It was part of the whole curb-cut
4 moratoria on Nathan Ellis Highway.

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

16 All right, losing train of thought.

17 So, we would ask the Town Meeting - the
18 Planning Board asks the Town Meeting to relax
19 that standard only because, you can see, it would
20 then consume this lot nearly in its totality.
21 So, no sense in going through a mapping exercise
22 to change the uses if in fact your front yard
23 setback leaves you this little still a wedge of
24 white here to do as you please.

1 The Planning Board believes that this is
2 in keeping with some of the zone changes we've
3 asked of Town Meeting you've passed down in Woods
4 Hole Business Redevelopment, all along East Main
5 Street. The Planning Board would like to bring
6 this back to future Town Meetings in other
7 neighborhoods as soon as they can reach out and
8 have a discussion with the businesses that are
9 there and the residents that use those businesses
10 such as they did here.

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

1 Cod Commission.

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

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

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

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

15 MR. CURRY: It'd be more restrictive.
16 Business Redevelopment is more restrictive than
17 Light Industrial A.

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

22 MR. CURRY: For the B-2 parcel, where
23 the pizza place and the real estate office is,
24 it'd be more restrictive. For that area of the

1 parking lot that's Residential B, it would be
2 obviously less restrictive.

3 MS. PUTNATM: So, in that rezoned
4 Business Redevelopment, what could be put on that
5 entire corner, the entire parcel two put
6 together?

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

18 By right, in a Business Redevelopment
19 District under a special permit, you could have
20 commercial accommodations, a bed and breakfast,
21 or a multifamily dwelling, a multifamily dwelling
22 up to - up to 8 units per acre by special permit
23 through the Board of Appeals. A class 3
24 restaurant by special permit. A class 3

1 restaurant is like a D'Angelos restaurant. No
2 drive-thrus.

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

7 MS. PUTNAM: Okay -

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

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

21 THE MODERATOR: Mr. Fleer.

22 MR. FLEER: Allen Fleer, Precinct 6.
23 And I just want to remind Town Meeting Members
24 that the last time we considered a comprehensive

1 rezoning here in November, 2010, we did not
2 consider changing the LIA property. And this is
3 a big change because it's a big piece of
4 property.

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

17 But, to get back to the explanation.
18 The explanation says that this change to Business
19 Redevelopment he gives a by-right mixed use. But
20 in LIA there is no prohibition to retail with
21 multifamily. In fact, the special permit for
22 multifamily dwellings in LIA is really, it isn't
23 a really difficult threshold. The requirements
24 for the Board of Appeals to find is that the

1 public good will be served, industrial zoned
2 would not adversely - be adversely affected, that
3 the uses permitted in the zone would not be
4 noxious to a multifamily use and shall not exceed
5 six units per acre.

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

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

22 Now, I know it's been mentioned that,
23 you know, along Route 28A there's a 35 foot
24 setback under 240, 68, A 1. But, you know, look

1 at what we're doing along Route 151, or what is
2 being proposed. It's amending that exact same
3 section of the bylaw to remove the 75 foot
4 setback to go to 25.

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

11 So that's really my concern there.
12 Because it's nice as it is.

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

23 And then we get to Mr. Minasian's
24 problems up there, where he bought a distressed

1 property and he's left it derelict now for years.
2 And Town Meeting's supposed to reward him, now,
3 to give him an up-zoning. You know, that's
4 something that I'm just not good with. And so I
5 would ask Town Meeting to really vote this down
6 in its entirety as we have before, multiple
7 times. Thank you very much.

8 THE MODERATOR: Okay. Over here to my
9 left.

10 MS. FINNELL: Margo Finnell, Precinct
11 8.

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

15 MR. CURRY: No current studies, no.
16 There have been, in the past, but -

17 MS. FINNELL: I believe Route 151 is an
18 extremely dangerous road at this time, with the
19 traffic it has on it now. We've had many, many
20 accidents on 151 and I believe that this
21 development that would be allowed would only
22 increase the traffic and increase the number of
23 deadly accidents on that road. So I would ask
24 Town Meeting to vote this down.

1 THE MODERATOR: Okay. Ms.
2 Lichtenstein, right the next one behind her.

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

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

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

1 disservice to that bike path to cause a problem
2 on 151.

3 THE MODERATOR: Up here on the right.
4 Yes.

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

16 We're in charge of this Town. It's our
17 town. And we need to take care of it and we need
18 to prevent - if somebody wants to build a
19 professional building, good, go over to one of
20 the districts where you can build it and build
21 one. But don't come and build it in a
22 residential area and then expect to have us
23 change zoning rules so that you can use your
24 building. I think we should vote this down.

1 THE MODERATOR: Mr. Murphy.

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

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

20 Well, I went and spoke to Mr. Minasian
21 and after thinking about it myself, which doctor
22 in his right mind would actually want to live in
23 an office right there on 151 and also have his
24 business there?

1 The neighbors there across the street, I
2 know that folks think that we're rewarding him,
3 but you're rewarding the neighbors. This is a
4 blight on the neighborhood.

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

13 If anyone knows that neighborhood, there
14 is traffic there. He would have to go for a
15 special permit. The amount of traffic would be
16 looked at, the amount of traffic would be
17 studied. I ask you to vote this down, because I
18 think - vote for this, because I think -

19 [Laughter.]

20 MR. MURPHY: I think this is the last
21 opportunity we have to help rectify this. This
22 house has been like this in disrepair for as long
23 as I can remember. Right, wrong or indifferent,
24 it has been, and we have an opportunity to help

1 the folks who actually live next to the Beach
2 House properties who face that and look at that
3 property day in and day out.

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

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

15 THE MODERATOR: Mrs. Johnson.

16 MS. JOHNSON: I take issue with what
17 Kevin - I'm Pat Johnson, Precinct 5. I live in
18 North Falmouth, that's Precinct 5. However, one
19 thing that that map up there on the wall is not
20 particularly good is it doesn't show you that all
21 the LIA property is fully developed now,
22 including the Silver Square, which is the biggest
23 parcel there, was built in 2000 and is very
24 attractive the way it is. And now to get back -

1 so I don't think we need to rezone to Business
2 Redevelopment. It doesn't meet the purpose of
3 having Business Redevelopment, which is in the
4 bylaw. It says to make a pedestrian friendly
5 area by allowing redevelopment of, you know, of
6 retail office and having - not having parking
7 lots in the front is another reason. Well, you
8 know, we have that lot already developed fully.
9 So I don't think it's necessary to change to the
10 Business Redevelopment.

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

22 So neither of those two properties need
23 to have the 25 foot setback that is proposed by
24 this board.

1 The other thing is, on that parking lot,
2 it's necessary for the parking lot for the proper
3 functioning of a restaurant across the street.
4 The setback is deceiving when you look at that
5 lot now, because the town layout for that is
6 existing now extends into the parking lot
7 approximately 20, 20, 22 feet. You can see - you
8 know, I don't know. You can see right here. You
9 can see how the parking - if you look at the cars
10 up there when they're parked, they're on --
11 mostly the ones in the front row are on Town
12 property, right now. So I think you should vote
13 against this.

14 THE MODERATOR: Mr. Curry.

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

19 THE MODERATOR: Okay, in the center.
20 Yes.

21 MR. MCCAFFREY: Charlie McCaffrey,
22 Precinct 5.

23 As has been mentioned, we have at Town
24 Meeting considered rezoning in this area several

1 times and rejected it. It was my understanding
2 that as it was brought back by the Planning Board
3 that they would have taken a more comprehensive
4 look at business development at this important
5 intersection and that we would see proposals that
6 advanced a broader public interest and not merely
7 the interests of one or two property owners.

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

23 So I think more work needs to be done to
24 have a meaningful set of zoning that reflects the

1 entire commercial area, here. And one is, as Mr.
2 Curry said, in doing this - in looking and doing
3 - changing zoning and others, there would be a
4 conversation with the community as well as the
5 business owners. To my understanding, there's
6 been no consultation with the community about any
7 of this substantial rezoning, and more
8 importantly why some areas were rezoned and some
9 were not when they seem to exhibit similar
10 circumstances.

11 THE MODERATOR: Mr. Herbst.

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

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

22 It doesn't indicate in this letter that
23 she's received any kind of a variance, but that
24 she is grateful for the fact that the setback is

1 reduced from 75 feet to 25 feet. So that she can
2 develop her property as a residential property.

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

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

12 THE MODERATOR: Mr. Curry.

13 MR. CURRY: Okay. The Planning Board
14 did sent out letters to all the property owners
15 prior to its public hearings. I think that's
16 what Ralph is alluding to. The Planning Board
17 did hold public hearings where certified letters
18 went out to all the property owners and all the
19 abutters to abutters within I believe 300 feet.

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

24 THE MODERATOR: Okay, Mr. Putnam.

1 MR. PUTNAM: Thank you, Mr. Moderator.
2 Brent Putnam, Board of Selectmen, Precinct 9,
3 Town Meeting Member.

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

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

22 THE MODERATOR: Mr. Curry.

23 MR. CURRY: I'll answer your second
24 question first, Brent. The United States is a

1 sovereign unit. It's immune from any zoning at
2 the local level.

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

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

15 THE MODERATOR: Mr. Putnam.

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

19 MR. CURRY: Okay, some of the logic
20 that the Planning Board has applied here is not
21 always with the uses that may be allowed, and the
22 potential build out in the future. Remember the
23 building that could get ripped down, could be
24 replaced with a wholly different building of a

1 different character that's there today.

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

10 THE MODERATOR: Okay, Mr. Latimer.

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

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

23 I would also want to point out we've
24 heard somebody talking about having a doctor's

1 office building next to their residential
2 property as if that was horrific. Well, when we
3 were looking last night at the larger public
4 good, two-thirds of us believed that having a
5 contractor's yard next to somebody's residence
6 was okay, as long as it's in the larger public
7 good, and I would suggest that this is even more
8 so and not only that, this is not spot zoning.
9 Thank you.

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

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

17 I support this article and I support
18 what Kevin Murphy said. There has been a lot of
19 public comment and going back and forth on this
20 property. I think the Planning Board may have
21 cast a net a little too wide, here, and they may
22 be trying to help with this Minasian situation.
23 I think he's the second or third owner of that
24 property and it was always kind of a joke or a

1 comment, we'd drive by and six months later the
2 Tyvek was covered up, or something had been done,
3 a bulldozer's moved, somebody's doing something,
4 something's gonna happen there, people were
5 getting excited. Nothing has happened. That
6 house has been there in that state for five to
7 ten years and we need some relief for that
8 particular piece of property.

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

12 THE MODERATOR: Mr. Buessler, you're
13 on my list. Mr. Ament and then Mr. Buessler.
14 Mr. Ament.

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

20 I don't represent Mr. Minasian.

21 This is a difficult article for Town
22 Meeting because different Town Meeting Members
23 may oppose this article based on one aspect of
24 it, the setback on 151, or they may oppose the

1 article because of what's proposed on Route 28A.
2 So, to muster 2/3rds seems like it could be
3 difficult.

4 My concern is with the Light Industrial
5 A property and the rezoning to the Business
6 Redevelopment. My client, the owner of that
7 property, wants that to happen. My client wants
8 this article to pass. Not for Mr. Minasian or
9 anybody else, he wants it to pass because of the
10 Silver Square property.

11 And to answer Mr. Putnam's concern, why
12 would an owner want what truly is down-zoning, it
13 is because there are some differences,
14 significant differences in what uses are allowed
15 in the Light Industrial A District and what's
16 allowed in the Business Redevelopment District,
17 and my client doesn't want Light Industrial A
18 uses and he does want Business Redevelopment uses
19 and he needs this rezoning in order to fill a
20 vacancy in his building.

21 Ask yourselves if this property on the
22 west side of 28A were vacant, would anybody here
23 be voting in favor of Industrial zoning for it as
24 opposed to the most restrictive Business zoning?

1 I don't think so.

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

14 Mr. Fleeer suggests that he's concerned
15 that a future Town Meeting might change the
16 present setback which requires a 35 setback on
17 28A. I don't think that speculation is a reason
18 to oppose this. I appreciate that he said that
19 the property, my client's property has been
20 developed in an attractive way. My client isn't
21 proposing any changes to what's there. But
22 that's really not why you should vote to change
23 this zoning from Light Industrial A to Business.

24 I'll tell you that the building to the

1 north, that's the building that isn't Dean's
2 Market, is 95 feet away from the northerly
3 property line. There's plenty of room for a
4 large expansion of that building, approximately
5 4,000 square feet on just the first floor, even
6 with Light Industrial A zoning. And if the
7 property is Light Industrial A as it is, and that
8 expansion were to be made and the use of that
9 building was converted to some kind of a bulk
10 retain or wholesale sales, then the parking
11 requirements become one for 300 square feet,
12 instead of one for 200 square feet, as they are
13 for the present business uses. And one could
14 put that addition on that property and change the
15 use to a different type of use. And you could do
16 that under the present zoning, by right, without
17 increasing the parking.

18 The point is that Business
19 Redevelopment, particularly because of the
20 parking requirements, is a much more restrictive
21 use. But don't be shortsighted. These buildings
22 have a lifetime. And somebody will come along
23 who wants a big enough piece of property who's
24 willing to take those buildings down someday and

1 put a big store there. Which on Light
2 Industrial, they'd be able to do. But not in
3 Business Redevelopment, where the biggest store,
4 the biggest business can be 4,000 square feet, as
5 Mr. Curry said.

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

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

1 tied into other parts of the article.

2 Thank you very much.

3 THE MODERATOR: Okay, Mr. Buesseler.

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

6 MR. BUESSELER: Thank you, Mr.

7 Moderator, Ken Buesseler, Precinct 2.

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

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

17 THE MODERATOR: If there are non-Town
18 Meeting Members that are in the back that would
19 like to speak, if you can stand up or waive your
20 hand like the Town Meeting Members do to get on
21 the list. I'll give the gentleman the floor,
22 but I don't want to get a practice of Town
23 Meeting Members preempting my list by yielding
24 floors to non-Town Meeting Members.

1 So, anyone that's a non-Town Meeting
2 Member that wants to speak, stand up, waive your
3 hand, get my attention to get on the list, but
4 I'll yield the floor to the gentleman.

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

9 One is I don't think the neighborhood,
10 especially the Summer Wind, properly involved in
11 the discussions. So, one of my two neighbors
12 next door to me, I talked to them and they
13 haven't shown me, you know, they said they
14 haven't received letters from the Town Meeting.
15 They all said, "I don't know."

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

20 Second point, so the - you know, when we
21 bought a house about a couple of years ago and we
22 loved the neighborhood basically because it is
23 residential area. This is not something, you
24 know, for big business or mid-sized business

1 development. We like that area so that we bought
2 a house and pretty much all the neighbor in the
3 neighborhood have the same kind of thinking.

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

6 So I think, you know, I'm not - I was
7 not involved in any of the discussion in the
8 past. You know, people mentioned that several
9 times, there's a rezoning articles in the past
10 few years. But I'm not aware of that, but the -
11 I think the owner of the house, north of 151, the
12 rezoning is, you know, from proposal is from
13 single family resident to a single residence to a
14 general residence, they know this is a single
15 family when they bought it and it's been going on
16 for quite a few years. I don't see there's a
17 difference between this one and based on what I
18 read from the past. So what is the reason to
19 have that?

20 Another point is that once we rezone,
21 this basically open up all kinds of possibilities
22 down the road. So, what if the property sell out
23 in the - sold out in a couple years, what's going
24 to happen down the road? The neighborhood don't

1 really know. And even though you have a special
2 permit, but that involve a lot of energy for all
3 the people get involved. Is there really the
4 need for this intersection?

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

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

13 MR. NICKERSON: Good evening. My name
14 is Jeff Nickerson. I'm an attorney here in town.
15 I'm not a Town Meeting Member. I actually
16 represent Ms. Tribulus. She owns property to the
17 right of Mr. Minasian. It's a little bit easier
18 to see on the aerial photo. Through the back
19 portion of her property, you can see a diagonal
20 from 28A down to 151; that diagonal is an
21 electrical easement, and so it's very difficult
22 for her to develop her property with a 75 foot
23 setback because the back portion of her property
24 is taken up by that easement. The variance that

1 she obtained is actually the current - it is, as
2 Ms. Johnson mentioned, it's a subject of
3 litigation right now. So, by changing the
4 setback from 75 to 25 feet, the litigation
5 essentially goes away.

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

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

15 VICE CHAIRMAN KERFOOT: There has been
16 a question as to the Planning Board's thinking on
17 this. When we took a look at the corner -- as
18 you know this is the second time we've come to
19 you on this - there's the Light Industrial A
20 consequences if anybody should want to demolish
21 any of those buildings and do anything that they
22 are allowed under LIA. Mr. Ament very eloquently
23 spoke to what could happen there and the desire
24 of his client to not go in that direction.

1 But, more critical, in our thinking, was
2 the other part of that corner which houses the
3 real estate agency and the pizza hut. That is
4 more likely in its present condition, I would
5 say, to have redevelopment there. That's
6 sufficient space to get a kind of development
7 that you may not want in that neighborhood.

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

15 If you look at what we're trying to do,
16 the corner there with the real estate agency and
17 the pizza hut, we're trying to put a transition
18 in there between the industrial use, the business
19 use and residential. So you get a gradient of
20 usages towards the residential. So that was our
21 thinking of what we are attempting to do on this
22 corner. We're starting with that side of it,
23 now, and hope you will see our point of view on
24 it.

1 THE MODERATOR: Okay, Ms. Valiela.

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

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

9 Okay, the first has to do with the
10 setback on Route 151. As we know, this is a
11 major artery for the town from the west to the
12 east, and the setback originally was 35 feet. In
13 1986, the Planning Board presented to Town
14 Meeting a vision for Route 151. They called it a
15 major transportation corridor and they wanted to
16 provide safe and scenic travel on that corridor.

17 In April of 1986, they asked Town
18 Meeting to change the setback from 35 feet to 75
19 feet, and they gave two reasons out of the ten
20 goals that they had established. And they were
21 that that setback would allow for possible future
22 expansion of the highway and would maintain a
23 vegetated buffer so you would basically have a
24 scenic road.

1 No one on the Planning Board now was on
2 the Planning Board in 1986. And so I think
3 they've forgotten this vision and I don't think
4 we should reverse the vision without good reason.
5 You travel that road and it is a heavily traveled
6 road. It is an artery. But it does look good
7 and we shouldn't be eroding that.

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

23 If you examine the five lots here that
24 cannot exit into a private road like Beaman Lane

1 or Willow Nest or over here, Old County Road and
2 Summer Wind, let's look at what we have. This is
3 Mr. Nyhigian [sp?]. He is an electrician. His
4 house meets the 75 foot setback and he exits onto
5 Old County Road. He owns this lot, also, and he
6 uses it to store equipment, his trucks and so on.
7 He has put a fence - again, very attractive, all
8 along the front, which screens, gives him
9 privacy, reduces noise from the road, and he has
10 put bushes and trees in front of that.

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

24 Mr. Minasian did take her to court and

1 changing this setback isn't going to solve her
2 problem because he said he's damaged because her
3 house is farther forward and therefor screens out
4 and obstructs the view of his house.

5 [Laughter.]

6 MS. VALIELA: So - I read the entire
7 case in the Zoning Board of Appeals yesterday.
8 So this - allowing her to now move to 25 feet
9 certainly isn't going to resolve this case.

10 Mr. Minasian's lot was originally owned
11 by Michael Shanahan. And, in the year 2000 when
12 he wanted to build, he went to the Zoning Board
13 of Appeals again because the power line was there
14 and the setback was 75. The Zoning Board gave
15 him relief, also, and so his relief was to have a
16 65 foot setback, and that's the house that he
17 started but then was not able to finish, went
18 into foreclosure. Mr. Minasian bought it as a
19 distressed property.

20 Now, the parking lot. This is also
21 zoned residential. Clearly they'll have problems
22 if a single family house, which is what is
23 allowed now, goes in there and my point is that,
24 just like all these other lots, they should go to

1 the Zoning Board of Appeals. You do not need to
2 change the zoning on 15 lots when in fact you
3 only have one lot that really has an issue and it
4 has a way to solve it by going to the Board of
5 Appeals which looks at the specific issues,
6 allows public input and you arrive at a community
7 solution that works for everybody.

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

24 So you intensify the use if you make

1 this change in zoning. And you make it less safe
2 by changing the setbacks.

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

19 So I was really amazed when I saw the
20 warrant for the Annual Town Meeting that he had
21 filed an article. So - another petition article.

22 So I called him and I said, "Why did you
23 do that?" And he said, "I wanted to keep my
24 issue in front of the town." And I said, "Well,

1 the Planning Board is doing some thinking for the
2 whole area. Do you support their article?" And
3 his answer to me was, "I'm waiting to see what
4 they give me."

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

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

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

20 I've had calls from people over here on
21 Willow Nest and I've talked to these folks, here.
22 And they're not aware of what's going on over in
23 this corner and they don't know whether it's a
24 good idea or not.

1 So I ask you at this time to vote this
2 down. If we need to do further zoning change,
3 let's do it on a community effort, a neighborhood
4 effort. Not on Town Meeting floor sort of
5 rearranging things. Thank you for your time.

6 [Applause.]

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

13 [Pause.]

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

16 MR. HAMPSON: 8.

17 THE MODERATOR: 8.

18 In the first division, Mrs. Tashiro.

19 MRS. TASHIRO: 21.

20 THE MODERATOR: 21.

21 In the second division, Mr. Dufresne.

22 MR. DUFRESNE: 26.

23 THE MODERATOR: 26.

24 All those opposed, signify by standing

1 and the tellers return a count.

2 [Pause.]

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

5 MRS. TASHIRO: [Inaudible]

6 THE MODERATOR: Something one.

7 MRS. TASHIRO: 31.

8 THE MODERATOR: 31.

9 In the third division, Mr. Hampson.

10 MR. HAMPSON: 54.

11 THE MODERATOR: 54.

12 And in the second division, Mr.

13 Dufresne.

14 MR. DUFRESNE: 68.

15 THE MODERATOR: 68.

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

18 Mr. Hampson.

19 MR. HAMPSON: Ladies and gentlemen, Mr.
20 Moderator, I'd like to ask for a reconsideration
21 for Mr. Missanian's property and I will not speak
22 to this. His attorney Bob Ament will speak to
23 this. But essentially, it would give the Town
24 Meeting an opportunity to take care of this

1 parcel and to separate the questions and
2 consideration rezoning the LIA lot alone.

3 THE MODERATOR: Okay -

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

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

17 So, since the motion to divide the
18 question, which would be to vote on subsections
19 1, 2, 3 and 4 separately was not made during the
20 debate, I will consider that substantially new
21 information to allow you to choose an up or down
22 vote on each of the subsections.

23 So we would have number one and you'd
24 vote up or down; number two, up or down; number

1 three, up or down; number four, up or down.

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

8 MR. ROWITZ: Yes.

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

11 MR. ROWITZ: Thank you, Mr. Moderator.
12 Ray Rowitz, Precinct 5. Was Mr. Hampson
13 referring to Mr. Minasian's article in the
14 regular Town Meeting, or this Article 3?

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

18 MR. ROWITZ: Thank you.

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

23 [Aye.]

24 THE MODERATOR: All those opposed, no.

1 [No.]

2 THE MODERATOR: It's the opinion of the
3 chair that the no's have it and the motion to
4 reconsider fails.

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

7 VICE CHAIRMAN KERFOOT: Excuse me,
8 please.

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

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

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

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

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

21 MS. SIEGEL: Deborah Siegel, Precinct
22 6. In our precinct meeting, Nancy Hayward
23 pointed out a typo that we think happened in here
24 on point 4. It says 240-240G, and somebody was

1 going to look into that because all of the other
2 numbers are dash two digits and a letter. So,
3 before we vote on that, could you tell us whether
4 or not that is correct?

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

7 MS. SIEGEL: Thank you.

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

10 THE MODERATOR: So it is still 240.

11 MR. CURRY: It's still all the same.
12 Just put a - where it says 240-240, then it
13 should be "dot G", parenthetical 1, parenthetical
14 B. So we're missing a dot; I apologize.

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

17 Mr. Latimer.

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

24 THE MODERATOR: The Chair will consider

1 that scribner's error and the Clerk has made the
2 note that the dot is now in the article.

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

5 So, any other discussion on the
6 substance of the article? Hearing none, the
7 question will then come on the main motion. All
8 those in favor, signify by saying aye.

9 [Aye.]

10 THE MODERATOR: All those opposed, no.

11 [No.]

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

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

21 Hearing none, Mr. Chairman for the main
22 motion.

23 CHAIRMAN ANDERSON: Mr. Moderator, I
24 move Article 5 as recommended.

1 THE MODERATOR: As recommended, which
2 is indefinite postponement. All those in favor,
3 signify by saying aye.

4 [Aye.]

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

7 THE MODERATOR: The ayes have it
8 unanimous.

9 Article 6, Mr. Chairman.

10 CHAIRMAN ANDERSON: I move Article 6 as
11 recommended.

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

16 Hearing none, then the question will
17 come on the main motion as recommended. All
18 those in favor signify by saying aye.

19 [Aye.]

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

22 THE MODERATOR: The ayes have it
23 unanimous.

24 Article 7. Mr. Chairman.

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

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

9 Hearing none, the question will then
10 come on the main motion as recommended with the
11 correction. All those in favor, signify by
12 saying aye.

13 [Aye.]

14 THE MODERATOR: All those opposed no.

15 [None opposed.]

16 THE MODERATOR: The ayes have it
17 unanimous.

18 Article 8, Mr. Chairman.

19 CHAIRMAN ANDERSON: I move Article 8 as
20 recommended.

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

1 Article 8?

2 Mr. Rhodes.

3 This requires a nine-tenths vote.

4 [Laughter.]

5 MR. RHODES: Scoba Rhodes, Precinct 8.

6 Mr. Moderator and to the - hello?

7 THE MODERATOR: Go ahead.

8 MR. RHODES: I have a problem. These
9 are unpaid bills. The fiscal year ended 30 June,
10 2011. Nine months later, we're paying bills that
11 weren't received before 30 June?

12 THE MODERATOR: That's what they're
13 asking you to do.

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

17 [Laughter.]

18 THE MODERATOR: Any further discussion?

19 [Laughter.]

20 THE MODERATOR: Mr. Donahue.

21 MR. DONAHUE: I have a question, Mr.
22 Moderator. I see towing charges. What's being
23 towed?

24 [Laughter.]

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

7 THE MODERATOR: We're going to have the
8 Chairman first, Mr. Chairman.

9 MR. BRAGA: David Braga -

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

12 MR. BRAGA: Okay.

13 THE MODERATOR: Mr. Chairman.

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

18 THE MODERATOR: Mr. Braga? Okay.

19 Further discussion, Article 8?

20 All those in favor, signify by saying
21 aye.

22 [Aye.]

23 THE MODERATOR: All those opposed, no.

24 [None opposed.]

1 THE MODERATOR: The ayes have it by the
2 9/10.

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

9 Chairman of the Community Preservation
10 Committee for the first motion.

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

17 THE MODERATOR: Okay, any discussion on
18 the first motion, the \$4,877 in the CPC?

19 Hearing none, the question will then
20 come on the main motion. All those in favor,
21 signify by aye.

22 [Aye.]

23 THE MODERATOR: All those opposed, no.

24 [None opposed.]

1 THE MODERATOR: The ayes have it
2 unanimous.

3 Mr. Chairman for the second motion.

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

9 THE MODERATOR: Okay, the Finance
10 Committee recommendation, the sum of \$24,768 from
11 the Wind Energy Reserve fund, the sum of \$24,374
12 from the Waterways Reserve Fund and the sum of
13 \$25,580 from Certified Free Cash, and appropriate
14 the sum of \$79,599 to fund line item 01754-59915.
15 Any discussion on the second main motion?

16 Hearing none, the question will come on
17 the motion. All those in favor, signify by
18 saying aye.

19 [Aye.]

20 THE MODERATOR: All those opposed no.

21 [None opposed.]

22 THE MODERATOR: The ayes have it
23 unanimous.

24 Article 10, to appropriate a sum of

1 money to continue funding a part time energy
2 coordinator. The recommendation of the Finance
3 committee is indefinite postponement. Is there
4 anyone who would like to make a positive motion
5 on Article 10?

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

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

10 THE MODERATOR: As recommended,
11 indefinite postponement. All those in favor,
12 signify by saying aye.

13 [Aye.]

14 THE MODERATOR: All those opposed, no.

15 [None opposed.]

16 THE MODERATOR: The ayes have it
17 unanimous.

18 Article 11, Mr. Chairman.

19 CHAIRMAN ANDERSON: I move Article 11
20 as printed.

21 THE MODERATOR: Article 11 as printed.
22 This is to vote to accept the provision of the
23 General Laws Chapter 32B, Section 20, which is a
24 law providing for the establishment of other

1 post-employment benefits, liability trust funds
2 in Massachusetts municipalities. Any discussion
3 on Article 11?

4 Hearing none, the question will then
5 come on the main motion. All those in favor,
6 signify by saying aye.

7 [Aye.]

8 THE MODERATOR: All those opposed no.

9 [None opposed.]

10 THE MODERATOR: The ayes have it
11 unanimous.

12 Article 12, Mr. Chairman.

13 CHAIRMAN ANDERSON: I move Article 12
14 as recommended.

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

20 Hearing none, then the question will
21 come on the main motion as recommended. All
22 those in favor, signify by saying aye.

23 [Aye.]

24 THE MODERATOR: All those opposed, no.

1 [None opposed.]

2 THE MODERATOR: The ayes have it
3 unanimous.

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

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

10 CHAIRMAN FLYNN: The Board of Selectmen
11 moves the article as recommended.

12 THE MODERATOR: As recommended, which
13 is indefinite postponement. All those in favor,
14 signify by saying aye.

15 [Aye.]

16 THE MODERATOR: All those opposed no.

17 [No.]

18 THE MODERATOR: The ayes have it.

19 Article 14, Finance Committee for the
20 main motion.

21 CHAIRMAN ANDERSON: Mr. Moderator, I
22 move Article 14 as recommended with the following
23 change: the fourth line down of the
24 recommendation beginning with the word

1 "expended", please change "Beach Commission" to
2 "Beach Department".

3 THE MODERATOR: Okay, this is to
4 transfer the sum of \$10,000 from account 01431-
5 52294, Fiscal Year 2012, Waste Management
6 Facilities Recycling, and appropriate the sum of
7 \$10,000 for the purposes of Article 14 to account
8 01632-52272, Beach Department, Fiscal Year 2012,
9 to be expended under the jurisdiction of the
10 Beach Department. This is for the Menauhant
11 Beach portable bathroom/lavatory facilities.
12 Any discussion on Article 14?

13 Hearing none, then the question will
14 then come on the main motion. All those in
15 favor, signify by saying aye.

16 [Aye.]

17 THE MODERATOR: All those opposed no.

18 [None opposed.]

19 THE MODERATOR: The ayes have it
20 unanimous.

21 Article 15. The Board of Selectmen is
22 recommending indefinite postponement on Article
23 15. Would anyone like to make a main motion on
24 Article 15? Yes, microphone.

1 FROM THE FLOOR: [No mic] I'd like to
2 hold it for the petitioner.

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

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

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

10 FROM THE FLOOR: Yes.

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

15 Mr. Finneran.

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

19 [Pause.]

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

22 THE MODERATOR: Yes.

23 MR. JOHNSON: [No mic:] This proposal is
24 not legal [inaudible].

1 THE MODERATOR: It's an article that
2 the Selectmen put on the warrant by a petitioner
3 and we have a chance to vote on it. If we can't
4 do it, then it ought to be a pretty quick
5 discussion.

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

18 When Mr. Boyer first described his
19 override and in a series of articles he had in
20 the newspaper, of course everyone was thinking
21 where we could get money. I mean, I think this
22 is an obvious place. It's extra. Times have
23 changed since we voted this in. There's a huge
24 amount of land in open space now and I think the

1 money can be put in better places and I just
2 don't think that we can afford it anymore. And
3 if we were able to vote this in, I think that we
4 should be able to vote this out.

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

17 Can I have the next slide, please? This
18 came out of the 2009 Recreation or the Planning
19 Board's figures on open land. Now, if you can
20 see there, if you add that together, those
21 properties, in computing the Community
22 Preservation, the Conservation Restrictions, the
23 state owned, the Town owned land, it amounts to -
24 -

1 FROM THE FLOOR: Point of order. We
2 can't see that.

3 MR. FINNERAN: I know, it's tough. I'm
4 sorry. Well, can you see it? Some people can
5 see it.

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

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

22 Could I have the next slide. There's
23 one of the projects that the CPC did. I mean,
24 it's a very fine job, it's a nice building, or

1 whatever, but the reality is the taxpayers spent
2 \$300,000 of their money to refurbish a radio
3 station. I think there's many people in this
4 town that could have spent that money better on
5 their own properties.

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

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

23 This article only asks for the taxpayers
24 to have the right to vote this thing yea or nay.

1 Can you go to the previous slide?

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

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

18 Now, when - excuse me, I'll find this.
19 Before it was the Community Preservation
20 Committee, it was the Land Bank, and that fell
21 under Chapter 44B, Section 16. And at that point
22 in time it was written in that any time after the
23 expiration of five years that Section 327 had
24 been accepted - and it's been longer than five

1 years that we've had the CPC - that the voters,
2 again, would be allowed to vote it out in part or
3 completely. And it was special legislation that
4 brought this in, and if it requires special
5 legislation to vote it out, I think the taxpayers
6 should at least have an opportunity to decide
7 what's done with their money. And the question's
8 that simple. And I would leave it at that.

9 I also would like to - one more point.
10 I went to the CPC meeting on the 22nd of March, I
11 believe it was, because this was on their agenda.
12 And while I was there they were reviewing a
13 proposal and I quote, "To build expensive
14 affordable housing on Shore Street". I think
15 that many people work all their lives to get a
16 home or a second home south of 28 on a place like
17 Shore Street. And I'm not against affordable
18 housing by any means. My father worked in
19 affordable housing in the state of Vermont for an
20 extremely long time, and - but I do not believe
21 that expensive affordable housing is something
22 that taxpayers want their money spent on. And,
23 again, it just asks for them to decide. And it
24 asks you to give them the opportunity. And I

1 rest my case.

2 THE MODERATOR: Okay, Mr. Clark.

3 [Applause.]

4 CHAIRMAN CLARK: I would like just to
5 put a slide number - my number 8 slide if I can,
6 Bob.

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

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

22 Each of those recommendations has been
23 brought to town meeting; each has been voted on
24 my town meeting.

1 This is, I think by Town Counsel's
2 opinion, illegal to ask for this to happen at
3 this time. We may ask the Town Counsel to help
4 us with that.

5 THE MODERATOR: Mr. Duffy.

6 MR. DUFFY: Well, when I was asked to
7 look at this by several -- the Town Manager and a
8 few others, I checked with the statute, Chapter
9 44B, which is the Community Preservation Act, and
10 it does say that in any town in Barnstable County
11 which substituted the CPA for the Land Bank, you
12 can't revoke acceptance until 2020.

13 THE MODERATOR: Okay. Mr. McNamara.

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

16 Mr. Moderator, Bob, thank you. I'd like
17 to make an amendment to this article. I move
18 that the Town vote to authorize the Board of
19 Selectmen to petition the General Court to allow
20 the Town of Falmouth by special act,
21 notwithstanding any provisions of Chapter 298 of
22 the Acts of 2004, or Chapter 44B of the General
23 Laws to the contrary, to reduce the amount or
24 revoke the so-called Community Preservation Act

1 surcharge on real property upon the approval of
2 Town Meeting, and approval of a majority of
3 voters voting at the next regular municipal
4 election or at the next regular state election
5 following Town Meeting approval. Any reduction
6 or revocation of the surcharge would become
7 effective on the first day of the fiscal year
8 following the fiscal year in which the voters of
9 the Town of Falmouth approve the change. Or to
10 do or take any other action on this matter
11 necessary to allow the town of Falmouth to reduce
12 or revoke the Community Preservation Act
13 surcharge on real property.

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

1 remove what - or to revoke the amount of the
2 surcharge.

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

11 Quite frankly, when we approved this in
12 2005, although the Acts were approved in 2004,
13 the world was a very different place. People
14 hadn't lost their homes. We didn't have furlough
15 days for Town employees. We had a substantial
16 amount of money at that time. We also at that
17 time had a pledge from the state, as Mr. Clark
18 said, that we would get 100 percent match from
19 the state for all of the money that we raised for
20 the surcharge. That percentage has gone from 100
21 percent down to approximately 20 percent as
22 estimated by the CPC for Fiscal Year 2013.

23 This amendment that I'm proposing does
24 not say that we will revoke or de-fund the CPC,

1 as Mr. Finneran has suggested, but rather allow
2 us to select those items that are good for us,
3 and that we can afford.

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

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

20 Each year as the levy increases by 2 ½
21 percent, the surcharge is on top of that. When
22 we raised money for the filtration plant, when we
23 raised funds for our capital improvements through
24 the DPW, the surcharge is on top of that.

1 We have raised, simply through the
2 surcharge, not including any state funds, almost
3 \$2,400,000 in fiscal 2012. The Land Bank debt,
4 based on the information that the CPC has given
5 us, is about \$1.9 million. Minimum balance:
6 close to \$500,000.

7 Now, I say, again, not including the
8 state match, because, take that out of the
9 equation. As I said, if the pledge from the
10 state had given us the full 100 percent, this
11 year that would have been \$2.5 million. In
12 Fiscal Year 2013, we will only be - we are
13 estimating to get less than \$500,000. And last
14 night we approved, by blanket vote, about
15 \$150,000 in administrative funds just to get that
16 \$500,000 from the state.

17 Next slide, Bob. Thank you. Now,
18 \$500,000 might not seem a whole lot to you. But
19 let's put it into perspective. It's not an
20 insignificant amount. We just funded the Fire
21 and Police Department overtime at \$305,000. This
22 money would have paid for it. It would pay for
23 all of the veteran's services that we budget in
24 Fiscal 2013, all of the Human Services budget,

1 double the amount on the Counsel on Aging, the
2 entire Recreation Budget, Waterways. And, if we
3 added this amount onto the schools, based on what
4 the spent last year, we would have double the
5 amount of the instructional supplies.

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

11 So \$500,000 goes a long way.

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

17 Bob, next slide, please.

18 Over the years that the CPA - since the
19 CPA was adopted, the CPC has amounted reserves of
20 \$1.5 million. One and a half million dollars
21 that hasn't been spent yet. Why? Just one
22 slight example is at last Town Meeting Peter
23 stated, "It is true that we have money in our
24 Historic Reserve Account now from past years

1 because we did not have enough projects that were
2 of the quality that were needed for us to spend
3 money on them."

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

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

22 Thank you, Mr. Moderator.

23 [Applause.]

24 THE MODERATOR: Okay, discussion on

1 the amendment to Article 15. Let's go.

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

4 MS. HAYWARD: Mr. Moderator and Town
5 Meeting -

6 THE MODERATOR: With a microphone
7 please.

8 MS. HAYWARD: I beg your pardon? Oh.
9 Nancy Hayward, Precinct 5.

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

17 This is completely different. We had an
18 indefinite postponement for Mr. Finneran's
19 article originally.

20 THE MODERATOR: It's the opinion of the
21 Chair that it's within the scope to petition the
22 state legislature to allow you to do what was
23 posted in the warrant that you were going to come
24 and vote on that you by law, by state law,

1 couldn't do. You're not asking the state
2 legislature to do something outside of the scope
3 of the article that was posted, you're just
4 figuring out how the law works and trying to then
5 get the remedy that was posted in the article
6 legally. So the amendment's in order.

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

9 THE MODERATOR: Well, we're at Town
10 Meeting, so let's discuss it. Any - Mr. Putnam.

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

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

20 We have before talked about putting
21 things to the voters. Usually it's in the phrase
22 of an override, and this body has said, "You know
23 what? Let the people decide." And so tonight
24 I'm going to support Mr. McNamara's amendment and

1 I'm going to ask you all to let the people
2 decide.

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

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

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

21 THE MODERATOR: Okay, Mr. Latimer.

22 MR. LATIMER: Mr. Chair -

23 THE MODERATOR: Could we put the
24 amendment back up on the overhead, please.

1 MR. LATIMER: We are - things have
2 changed since 2008 for one reason: because
3 investment bankers on Wall Street were allowed to
4 play games with our mortgages. That has nothing
5 to do with our problems we're having in this
6 town. The problems we're having in this town has
7 everything to do with the fact that people are in
8 trouble financially; we don't have the resources
9 to raise the funds we need. But, one thing is
10 very clear: buying land is not - getting grants
11 to buy land is not the free puppy. Because every
12 time we buy an acre of land, that is land that
13 has low maintenance, it's open space, we don't
14 pay for it. No, we don't get taxes on it, no we
15 don't. But when we let that acre go into
16 development, that development puts demands on us,
17 on our municipal services, that we don't have the
18 means to pay for.

19 So that, when we take this money from
20 CPC, and when we pay it, yes, on the short term
21 it hurts, it costs money. But in the long term
22 it saves us money, it saves us money in terms of
23 not having to pay for additional services or
24 suffer as we've been suffering for loss of

1 services: police, fire, schools, libraries. All
2 those things, you know, they have to expand as
3 the population expands.

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

10 [Laughter.]

11 MR. LATIMER: But it might as well be
12 because we're talking about millions and millions
13 of dollars to protect our aquifer. Again, buying
14 land, which is one of the primary things we've
15 been doing through the CPC, or the most important
16 thing, is protecting that aquifer because every
17 time we let that acre of land that doesn't go
18 into open space and we let a house be built on
19 it, we're putting stuff in the ground that's
20 polluting our aquifer. And we're going to have
21 to spend billions of dollars either to clean up
22 or to sewer, and it's just not - the approach is
23 not to simply take away a potential funding
24 source. We're paying for this now, yeah, but

1 once - once we buy the land, it's paid for and it
2 doesn't cost us any more money.

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

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

9 I'll add you to the list.

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

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

23 What we decided to do was to buy a lot
24 of land with bonds, pay for the bonds over time,

1 and that's what we're currently doing, we're
2 paying off those purchases that we made a long
3 time ago. With that three percent. Granted,
4 there's a little surplus right now but it's an
5 insignificant amount of money when you talk about
6 what it would do for this Town's budget.

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

18 The other reason that the fund is not
19 matched as it was originally is because more
20 towns in the state of Massachusetts have been
21 adopting the Community Preservation Act. In
22 fact, the towns that have adopted the Community
23 Preservation Act fund a coalition that lobbies
24 the state legislature to encourage improving the

1 match, in other words raising slightly the fee
2 for real estate transactions, but they also lobby
3 against legislation that would destroy the
4 Community Preservation Act.

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

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

21 We evaluate the proposals and then what
22 do we do with it? We come back to you, Town
23 Meeting. Only you can approve those
24 expenditures. And I'd like to remind you that in

1 the seven years, coming up on eight years that
2 we've been coming to you for recommendations, you
3 have never turned down one recommendation that we
4 brought to you for these categories, all of which
5 do things for this town. They do things for you
6 and me.

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

11 [Applause.]

12 THE MODERATOR: Mr. Lowell, you're next
13 on the list.

14 Okay, folks, let's go.

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

19 I did want to bring - recognize Nancy
20 Hayward's point. Technically, this may be within
21 the scope of the original article, but for a
22 practical matter the original article was --
23 creatively written, shall we say? And it was
24 fairly clearly not legal. So as far as getting

1 very much consideration, it got very little at
2 the precinct meetings and at any of the prior
3 discussions.

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

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

15 MR. TURKINGTON: Thank you, Mr.
16 Moderator. Eric Turkington, Precinct 1. I was
17 in the legislature when we first created the Cape
18 Cod Land Bank, and that was adopted by this Town
19 by a margin of 58 percent at the ballot box with
20 a three percent surcharge. And included in that
21 language at that time was the premise that we
22 were going to be borrowing a lot of money and
23 that we needed a revenue stream that we could
24 count on to pay it back. So that's where the

1 business about the year 2020 came from. No town
2 would be out borrowing money to buy open space if
3 it thought the revenue stream to pay it off could
4 be ended in a five year or a ten year period.

5 Bonding is generally for 20 years for
6 these kind of things and that's - we wanted to
7 make sure that that revenue stream would be
8 available to pay off those bonds for the entire
9 20 years. So that's why that 20 year piece is in
10 there.

11 This premise about let the people vote,
12 the people voted once, 58 percent in favor of the
13 Land Bank. The second vote they had a chance was
14 when it moved over to this Community Preservation
15 Act. They voted 85 percent in this town in favor
16 of that. And the reason for that was, it was, as
17 has been pointed out, a a sheer, unadulterated
18 gift. While every other town in this state,
19 except those on Cape Cod, had to raise their
20 taxes to get the state match that was promised
21 under the Community Preservation Act, the Cape
22 towns did not have to raise their taxes because
23 they already had. We raised them for the Land
24 Bank.

1 So the legislature in its wisdom did
2 something right for Cape Cod, which doesn't
3 happen every day. They said, "You can count that
4 money that you were raising with your Land Bank,
5 and we'll match it with a Community Preservation
6 Act match." So every year, we would raise two,
7 two and a half million dollars to pay for these
8 bonds that we'd bought land for, and we'd get a
9 two and a half million dollar check in the mail.
10 We got more money from CPA than we got from Local
11 Aid. So it was an unadulterated benefit for
12 years and years and years.

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

19 The other piece I'm hearing a lot about
20 is let the people vote. The people who can vote
21 on every single expenditure out of this Community
22 Preservation Fund is you, here, tonight, and
23 every night. If you don't like the \$140,000 that
24 they're spending on administration, vote no. If

1 you don't like spending money on fixing the
2 Waquoit roof, vote no. You don't have to ask the
3 legislature for permission to do anything about
4 that, it's in the warrant book in front of you
5 and not one penny gets spent without your
6 approval in this room at a Town Meeting. It
7 doesn't get any better than that.

8 [Applause.]

9 THE MODERATOR: Mr. Boyer. Let's go.

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

23 So you're not freeing up money for other
24 purposes, you are reducing a person's taxes by,

1 in the aggregate, the half million dollars a
2 year, over and above the obligation for debt that
3 we must continue to carry through the 2020 or the
4 2025 or however long the debt tail may be.

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

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

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

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

1 Putnam doesn't know that.

2 THE MODERATOR: Mr. Bidwell was next on
3 the list. No, he's off. Okay, Mr. Patrick.
4 Then Mr. Clark.

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

13 We also have a practical reason not to
14 do this now. The legislature is nearing the end
15 of its session. It will not - it will be very,
16 extremely difficult to get a home rule petition
17 before the end of the session. That means it
18 would have to be filed with the new session,
19 which wouldn't be until January of next year. So
20 you have time to digest this, analyze it, let the
21 Finance Committee look at it and come back either
22 next fall Town Meeting or even next spring before
23 we send something to the legislature, a home rule
24 petition to the legislature. Thank you.

1 THE MODERATOR: Mr. Clark.

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

16 [Applause.]

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

20 MR. DICK: I just to say -

21 THE MODERATOR: Microphone, then, if
22 you're going to speak.

23 MR. DICK: I did want to add that the
24 CPA is an investment in the town. When I came

1 here, there was a lot less polluted water and
2 there was a lot more Cape Cod to enjoy. And our
3 major income is from tourist industry, and by not
4 acquiring open space, by not preserving the
5 church steeples that make our town look historic
6 and old New England, and by not providing our
7 employees with this affordable housing, we are
8 going to hurt our community as we gradually
9 veneer develop the whole thing and the water
10 table becomes more and more polluted.

11 [Applause.]

12 THE MODERATOR: Ms. Peterson, something
13 new?

14 MS. PETERSON: Laura Peterson, Precinct
15 3.

16 The new thing I have to add is we've
17 been pointed at and told that we've all voted on
18 these things, and that's true. But I've also
19 heard comments made, "Well, we have to spend the
20 money. What else are we going to do with it?"
21 And I think it's important that we add that to
22 the conversation and say, "You know what? That's
23 a luxury, what we've done." And we've done good
24 things. It doesn't discount what we've done.

1 It's served its purpose. We've bought a
2 lot of amazing pieces of property. But now we're
3 looking at where we're at right now, and I
4 remember looking for full day kindergarten and I
5 had to bring in - they said it's like what a bag
6 of groceries would cost a family, that would add
7 that to your taxes for the year.

8 Well, when I look at \$120 on my tax bill
9 going to the CPC, I think to myself, "I'd rather
10 put that in a fire truck. I'd rather put that in
11 books for my kids at school." So, maybe the
12 discussion needs to continue and be had and I'm -
13 thank you for bringing this forward.

14 [Applause.]

15 THE MODERATOR: Ms. Schneider.

16 The last couple here and then we're
17 going to vote on the amendment.

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

20 I came before all of you numerous times
21 and presented incredible projects, projects that
22 you voted for overwhelmingly. Every year, the
23 CPC does an open discussion on what our priority
24 should be and what you want to see. In fact,

1 that exact assessment is happening next Thursday
2 night. We have invited everybody, from all the
3 departments to all the public, to come to those
4 sessions and speak on what they want to see.

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

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

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

1 came from in the Midwest.

2 We did not simply redo a radio station.
3 We chose to ask you to fund replacing the
4 exterior on something that was a key component to
5 entering Woods Hole.

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

10 That's what you do with your \$120.
11 That's what you continue to build in what you
12 live for and you represent by living in this
13 community, and I ask you all to look in your
14 hearts and ask why do you live here and not in
15 Downer's Grove, Illinois or somewhere like that.

16 [Applause.]

17 THE MODERATOR: Okay, Mr. McNamara.
18 Let's go, come on.

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

21 [Laughter.]

22 MR. MCNAMARA: First of all, this is
23 not - this amendment is not an anti-open space
24 amendment, anti-preservation, anti-anything.

1 This doesn't revoke the CPA, doesn't take away
2 your ability to discuss it. It only asks you to
3 throw it into the hands of the Board of
4 Selectmen. It authorizes the Board of Selectmen
5 to request this special legislation or do or take
6 any other action.

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

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

18 We can still buy open space. We can
19 still think about what we can afford. And I'm
20 surprised at Mr. Boyer saying that this doesn't
21 free up additional money, because think of what
22 we did last night. The message that the
23 Selectmen, the Finance Committee, the Capital
24 Improvement Committee have all said to you is,

1 -the \$800,000 that you voted last night really
2 was an increase in your taxes, but the way it was
3 presented to you was that it was no change in the
4 tax effort.

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

10 THE MODERATOR: Okay, the question's
11 going to come on the amendment - Mr. Shearer,
12 something new?

13 MR. SHEARER: [No mic.] No.

14 FROM THE FLOOR: No, no.

15 THE MODERATOR: Okay. The question's
16 going to come on the amendment to Article 15 as
17 presented that was up on the overhead, to
18 authorize the Board of Selectmen to petition the
19 legislature. All those in favor of the
20 amendment, signify by saying aye.

21 [Aye.]

22 THE MODERATOR: All those opposed no.

23 [No.]

24 THE MODERATOR: It's the opinion of the

1 Chair that the no's have it by a majority.

2 The question is now on the motion -- the
3 main motion as printed. All those in favor of
4 the main motion as printed signify by saying aye.

5 [Aye.]

6 THE MODERATOR: All those opposed no.

7 [No.]

8 THE MODERATOR: It's the opinion of the
9 Chair that the no's have it by a majority and
10 we'll stand in a 15 minute recess.

11 [Whereupon, recess taken.]

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

16 [Pause.]

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

21 [Pause.]

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

24 MRS. TASHIRO: 47.

1 THE MODERATOR: 47.

2 In the third division, Mr. Hampson.

3 MR. HAMPSON: 62.

4 THE MODERATOR: 62.

5 And in the second division, Mr.
6 Dufresne.

7 MR. DUFRESNE: 88.

8 THE MODERATOR: 88.

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

12 Article 16, the recommendation of the
13 Finance Committee is indefinite postponement.
14 This is to appropriate a sum of money to install
15 communication equipment at Falmouth High School
16 to improve emergency communications. Is there
17 any positive motion on Article 16?

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

21 CHAIRMAN ANDERSON: I move Article 16
22 as recommended.

23 THE MODERATOR: As recommended, which
24 is indefinite postponement. All those in favor,

1 signify by saying aye.

2 [Aye.]

3 THE MODERATOR: All those opposed no.

4 [None opposed.]

5 THE MODERATOR: The ayes have it
6 unanimous.

7 Article 17, Mr. Chairman.

8 CHAIRMAN ANDERSON: I move Article 17
9 as recommended.

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

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

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

19 I just wonder, it seems like the problem
20 is that there was a leak, and I'm just wondering
21 if routine maintenance would have picked that up.
22 I'm not trying to lay blame on anybody, but just
23 wondering if perhaps this thing could have been
24 caught in time before it ruined the engine.

1 THE MODERATOR: Mr. Frazier. He's
2 coming down the aisle behind you, there.

3 MR. FRAZIER: Greg Frazier,
4 Harbormaster.

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

15 And the explanation as was given to us
16 basically is that there's corrosion inside the
17 engine caused by salt water. It's making the
18 mounts move, which is putting pressure on the
19 seals inside, but it's a very expensive job
20 because you have to tear the power head out to
21 get at the problem, and neither mechanic
22 recommended that, given the age and the fact that
23 they were up for replacement last year. It was
24 much more cost effective to move forward with

1 replacing them, trading them in and then starting
2 off with new engines.

3 THE MODERATOR: Okay, further
4 discussion on Article 17?

5 Hearing none, then the question will
6 come on the main motion as recommended. All
7 those in favor, signify by saying aye.

8 [Aye.]

9 THE MODERATOR: All those opposed, no.

10 [None opposed.]

11 THE MODERATOR: The ayes have it
12 unanimous.

13 Article 18, Mr. Chairman.

14 CHAIRMAN ANDERSON: I move article 18
15 as recommended.

16 THE MODERATOR: As recommended. This
17 is to vote to transfer the sum of \$40,000 from
18 Certified Free Cash for the contract for ongoing
19 engineering and consulting services at the
20 Department of Public Works facility on Gifford
21 Street, the Senior Center on Dillingham Ave., and
22 Chamber of Commerce Building on Academy Lane for
23 groundwater monitoring, inspections and reporting
24 as required by the Massachusetts Department of

1 Environmental Protection.

2 Any discussion on Article 18?

3 Hearing none, then the question will
4 come on the main motion as recommended. All
5 those in favor, signify by saying aye.

6 [Aye.]

7 THE MODERATOR: All those opposed, no.

8 [None opposed.]

9 THE MODERATOR: The Ayes have it
10 unanimous.

11 Article 19, Mr. Chairman.

12 CHAIRMAN ANDERSON: I move Article 19
13 as recommended.

14 THE MODERATOR: As recommended. This
15 is a vote to transfer the sum of \$36,372 from the
16 Waterways Reserve Fund to fund the debt payments
17 due during Fiscal Year 2012 for the Town Marina
18 project authorized by Article 16 of the April 5th,
19 2010 meeting.

20 Any discussion on Article 19?

21 Hearing none, then the question will
22 come on the main motion as recommended. All
23 those in favor, signify by saying aye.

24 [Aye.]

1 THE MODERATOR: All those opposed, no.

2 [None opposed.]

3 THE MODERATOR: The Ayes have it
4 unanimous.

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

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

9 I move Article 20 as recommended.

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

16 Any further discussion?

17 Hearing none, then the question will
18 come on the main motion as recommended. All
19 those in favor, signify by saying aye.

20 [Aye.]

21 THE MODERATOR: All those opposed, no.

22 [None opposed.]

23 THE MODERATOR: The Ayes have it
24 unanimous.

1 Article 21. Mr. Chairman.

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

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

11 Any discussion on Article 21?

12 Hearing none, then the question will
13 come on the main motion as recommended. All
14 those in favor, signify by saying aye.

15 [Aye.]

16 THE MODERATOR: All those opposed, no.

17 [No.]

18 THE MODERATOR: The Ayes have it by a
19 majority.

20 Article 22, Mr. Chairman.

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

24 That would be number 16, Bob.

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

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

20 And finally, we have been designing a
21 town-wide survey. Unfortunately it wasn't ready
22 to give to you tonight and perhaps we have to go
23 redesign it a little bit and look at the
24 questions that we have there. But we will be

1 putting that out within the next couple of weeks.
2 It'll be available. We'll post how to get to
3 that survey and try to circulate it.

4 Thank you, Mr. Moderator.

5 I would move Article 23 as recommended.

6 THE MODERATOR: 22?

7 CHAIRMAN CLARK: 22, excuse me.

8 THE MODERATOR: 22, this is to vote to
9 appropriate the sum of \$400,000 for community
10 housing. \$219,211 from Estimated Receipts and
11 \$180,789 from the Community Housing Reserve
12 Account to support the engineering and
13 construction of the sewer extension and related
14 pump station on Spring Bars Road for proposed
15 community housing.

16 Any discussion on Article 22?

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

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

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

23 In 2005, the Town denied a sewer
24 connection to the Little Pond Landing affordable

1 housing project on this same site. Why has the
2 Town changed its position?

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

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

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

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

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

17 CHAIRMAN CLARK: Mr. Moderator?

18 THE MODERATOR: Mr. Chairman.

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

21 The Town supported this. We went to the
22 Board of Selectmen. We had done a study to look
23 at the flow that would come from our development
24 and from the buildings that would have been along

1 that extension were it to be built. That study
2 found that it was a reasonably small amount. We
3 took that to the state to see if they would allow
4 it within the plan, which they have done. That's
5 been approved by the state at this time.

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

10 The pump being designed, therefor, is -
11 under this article is just for any future
12 development on the Spring Bars Road property.
13 And not for a further extension than that.

14 The \$400,000 were calculated by our
15 having asked the - and I don't have the name of
16 the firm.

17 FROM THE FLOOR: Sterns and
18 Wheeler.

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

23 The extension would be built by the
24 developer when the developer is selected under

1 the supervision or oversight and to the standards
2 of the Town for this project. And, as I've just
3 said, it would not be built, then, until there
4 was a developer selected under an RFP. So, the
5 money will be set aside for that project.

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

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

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

18 It's on it way down, right here.

19 CHAIRMAN CLARK: Slide 14, Bob.

20 MR. SHEARER: Dan Shearer, Precinct 6.

21 I only have one question. I know the
22 sewer right now is having some problems with the
23 DEP. They're saying we're putting too much
24 nitrogen or it's escaping from it. It's coming

1 in - it will be coming into West Falmouth Harbor
2 in seven years.

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

10 THE MODERATOR: Mr. Dufresne.

11 MR. DUFRESNE: Adriene Dufresne,
12 Precinct 2.

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

22 CHAIRMAN CLARK: The developer, the RFP
23 is to build and maintain the housing on that
24 property. So it becomes part of what we will be

1 looking at in terms of the expertise and history
2 of the developer to make sure that they show us
3 that they either have themselves or can bring to
4 the project the expertise to maintain that.

5 MR. DUFRESNE: I didn't hear the last
6 comment, Mr. Clark.

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

10 So we will be - the Town will be looking
11 at the credentials of a developer, that person,
12 that organization, itself, or whomever that
13 organization brings to this element of the
14 project. So it's the developer's project, the
15 developer's maintenance.

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

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

24 THE MODERATOR: Yes -

1 CHAIRMAN CLARK: - requirements are on
2 that.

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

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

8 MR. POTAMIS: I'm not the water man.

9 THE MODERATOR: He's the sewer man.

10 MR. POTAMIS: With pride. Jerry
11 Potamis, Precinct 2 and wastewater
12 superintendent.

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

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

22 To answer a previous question is: the
23 Secretary of Environmental Affairs has approved
24 this project as a modification to the West

1 Falmouth plant. I have discussed this project
2 before, after and recently with DEP. They
3 wholeheartedly support the 4,000 gallons going
4 in. What litigation may or may not result in is
5 anybody's guess, but I categorically state right
6 now that the Secretary of Environmental Affairs
7 signature has said this project, for 4,000
8 gallons, is acceptable.

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

17 The project in part was not supported by
18 the Town because it was outside the Comprehensive
19 Wastewater Management Plan for West Falmouth.
20 The CPC did what they were supposed to do, they
21 checked with the state, they asked the state how
22 could this be approved at all. The state said
23 you do a flow study, you come in to us, you show
24 that there's adequate capacity. And that's what

1 that study showed, that there was more than
2 adequate capacity that was allocated through
3 previous engineering studies and approved by the
4 DEP that this project could go forward.

5 So I hope that answered a bunch of
6 questions.

7 THE MODERATOR: Okay. Mr. Smolowitz.

8 MR. SMOLOWITZ: Ron Smolowitz, Precinct
9 8.

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

20 This is affordable housing. Something
21 like composting toilets don't have sewer bills.
22 We would be paying the costs up front for the
23 wastewater strategy for this development. I
24 think that the CPC should examine its two birds

1 with one stone. Besides an affordable housing
2 project, this could be a key demonstration
3 project for alternatives to sewer technology.
4 And I'm wondering how come that hasn't been
5 considered.

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

9 THE MODERATOR: Mr. Clark.

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

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

24 So that's the reason we went to this.

1 MR. SMOLOWITZ: Well, it's always easy
2 to find reasons not to take that extra step, but
3 if we don't start addressing this now, we're all
4 going to be confronting a six hundred million
5 dollar to a billion dollar cost. We need to
6 start somewhere and this is an excellent
7 opportunity to start right here. Thank you.

8 [Applause.]

9 THE MODERATOR: Okay, Ms. Putnam. Ms.
10 Putnam.

11 You're on the list, Jude.

12 MS. PUTNAM: Rebecca Putnam, Precinct
13 9.

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

22 THE MODERATOR: Mr. Chairman.

23 CHAIRMAN CLARK: I can answer that
24 question very clearly. We developed the RFP with

1 the help of a Mass. Housing Partnership
2 consultant, so we're very aware of those rates.
3 They all are to be at affordable levels in
4 perpetuity and we've had that very carefully in
5 mind as we've gone along.

6 But this - we're moving from a
7 discussion of wastewater treatment to housing, at
8 this point, but -.

9 THE MODERATOR: Yes.

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

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

21 MS. PUTNAM: Okay, I just want to make
22 Town Meeting aware of the fact that a two bedroom
23 unit is capped at \$850 per month. It's not like
24 a condominium complex. You have a sewer rate

1 that is not going to be charged to these tenants.
2 So, even with tax credits, those are not forever,
3 and I think you're going to have a very hard time
4 finding a developer to come in and to accept
5 paying the sewer rates when you have a cap of 850
6 per month on a unit for affordability.

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

10 THE MODERATOR: Mr. Smolowitz. Mr.
11 Zweig, I'm sorry.

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

14 FROM THE FLOOR: Can't hear you.

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

22 In other words, was there a full
23 comparative analysis done of options that are
24 already sanctioned by the state for a site like

1 that? That's the question. Or is in terms of
2 cost, particularly cost, investment costs and
3 operating cost. Thanks.

4 THE MODERATOR: Mr. Chairman.

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

12 So, I don't have a detailed analysis to
13 show you, no.

14 THE MODERATOR: Mr. Wilber.

15 MR. WILBER: Jude Wilber, Precinct 8.

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

20 I understand Mr. Clark's argument that I
21 heard that he's afraid of balking contractors in
22 this thing. Contractors need jobs, Peter. You
23 know, they're not going to balk at something as
24 minor as an alternative technology that they're

1 going to - that there's very - is actually not
2 that alternative anymore. It's fairly standard
3 stuff to put in.

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

7 I also see here that the amount of money
8 is "to support the engineering and construction".
9 To support it to what extent? What's the final
10 cost on this? Is this the final cost, \$400,000?
11 I don't read it that way. It's just to support
12 the engineering and construction. To what
13 extent, ten percent, twenty percent? To 50
14 percent?

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

19 THE MODERATOR: Mr. Chairman.

20 [Applause.]

21 CHAIRMAN CLARK: I'm looking for
22 corroboration on this, but I believe the \$400,000
23 covers the total cost of that. I think it was
24 382 or 385,000, was our estimate.

1 The other issue that I need to raise is
2 that in our advice relative to composting toilets
3 is that it is not a well enough established
4 practice that the tax credits - that they may
5 threaten the tax credit applications. And
6 that's an essential piece of the financing for
7 this project; you can't build them without those
8 tax credits.

9 THE MODERATOR: Mr. Duffany.

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

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

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

1 one up on Palmer Avenue.

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

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

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

14 MS. HAYWARD: Nancy Hayward, Precinct
15 5.

16 We're getting a little bit - we're
17 talking about paying for a sewer. I do want to
18 address the topic of denitrifying septic systems.

19 Little Pond is one of the estuaries that
20 have been in the Mass. Estuaries Series of
21 estuaries. This estuary or pond is to have zero
22 input of nitrogen. As far as I know, there are
23 no denitrifying systems which put out zero
24 nitrogen.

1 And I would also like to say that I
2 think that the various toilets are new
3 technology; we're having trouble with one other
4 type of new technology. I do want to see a sewer
5 put to this development and we have an article
6 before us dealing with that. Thank you.

7 THE MODERATOR: Mr. Patrick.

8 MR. PATRICK: Matt Patrick, Precinct 7,
9 and I'm on the Water Quality Review Committee -
10 Management Committee.

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

17 THE MODERATOR: Okay, Ms. Lowell.

18 MS. LOWELL: Vicky Lowell, Precinct 1.

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

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

24 MR. POTAMIS: I'll go down there.

1 Jerry Potamis, Wastewater
2 Superintendent. Compost toilets are indeed
3 legal. They've probably been legal for a while.
4 I'd like to see a show of hands how many have
5 them in their house. How many would invest in a
6 project which you don't know if anybody else
7 wants them?

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

17 As part of zero nitrogen, if you
18 remember in the past, Little Pond Landing was
19 expanded a little bit because to obtain the extra
20 nitrogen that would go into Little Pond, they had
21 to bring in Fair Trades or Fair Winds next door.
22 In other words, they had to extend the sewers so
23 the amount of wastewater going in didn't exceed
24 the total that went in before the developed,

1 which means you have to take some of the sewers
2 out.

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

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

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

18 I think we also have an issue that was
19 before the Selectmen last week, shell fishing,
20 which is going to aquaculture, which will remove
21 some amount of nitrogen. Even the shellfish
22 people say, "We don't know if shellfish can
23 survive. We want to do a test to see if they can
24 survive. After we determine if they survive,

1 we're going to have to determine growth rates and
2 things like that." Personally, I think they
3 will survive and they will help with nitrogen.

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

13 The design of this treatment plant has
14 in it - because I actually had to go over it
15 today for another reason - an extra pipe so that
16 we can insist that they put in an odor control
17 problem - control system if it becomes a
18 nuisance. And that's only if it becomes a
19 nuisance.

20 Every private property in this town is
21 responsible for maintaining their wastewater
22 system. It doesn't matter whether it's a pump
23 station or a septic system. If they don't
24 operate it, we have laws and regulation.

1 So, I think the CPC properly thought
2 this out over two or three years. There was a
3 lot of debates. There were a lot of - it's cross
4 pollinated, for lack of a better word -- Planning
5 Board members, Conservation Commission members,
6 and things like that. We can have this lead into
7 a debate of sewers, but it shouldn't lead into a
8 debate of sewers.

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

14 THE MODERATOR: Mr. Dick.

15 MR. DICK: One rarely gets up a Town
16 Meeting and talks about personal experience with
17 commodes, but we have a place out in Oregon that
18 has a composting toilet that is absolutely
19 horrible. And I just get nightmares when I think
20 about the composting toilets being installed in a
21 development until a summer and a half ago when I
22 got out there and landed on National - on State
23 Park land and had to use a facility which was
24 just as nice and clean and easy to deal with as

1 the toilet in my house. Composting toilets have
2 come a very long way, and I think that to say
3 otherwise is disingenuous. Thank you.

4 THE MODERATOR: Ms. Lichtenstein.

5 MS. LICHTENSTEIN: Leslie Lichtenstein,
6 Precinct 8.

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

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

18 THE MODERATOR: Mr. Netto.

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

21 I stand just to give comment on some
22 other comments that were made about composting
23 toilets and I want to reiterate what Mr. Dick
24 said.

1 Some people seem to think that they're
2 new. If you travel southbound on Route 95 and
3 leave New Hampshire and come back to the glorious
4 State of Massachusetts and stop at the state-run
5 rest stop there, for over 20 years there's been a
6 composting toilet there that I've stopped in more
7 than 20 years. And I've stopped there just about
8 every time I leave my house in Maine.

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

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

21 I think it's time for us to take the
22 lead and keep - we always want somebody to do
23 something. Well, this is a great opportunity.
24 And the discussion is starting getting to the

1 alternatives - yes, Mr. Potamis, it is a sewer
2 question. The big pipe versus the alternatives.
3 And I guess I'm an alternative person. And I
4 think that this is an excellent opportunity to
5 show if this technology works.

6 And last, a question that I don't think
7 has been answered, and I'm really confused, on
8 Mr. Dufresne's question, the answer by Mr.
9 Potamis and then the comments by Mrs. Putnam.
10 Who is going to pay the water bill and the sewer?
11 Mr. Potamis told me the person using it. Mrs.
12 Putnam told me that - has told us and she's well
13 adapted, this is her business and I believe her,
14 that the rent is capped at \$850. So therefore I
15 guess I'm paying the sewer bill? I think that's
16 the answer that Mr. Dufresne was looking for.
17 Thank you.

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

20 CHAIRMAN CLARK: The management company
21 pays the bill. It's a rental - it's a rental
22 development. It's not a home ownership
23 development.

24 The issue of whether the finances will

1 work out is one that we will learn when we put
2 out an RFP and see whether there are developers
3 who feel they can make it work.

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

16 THE MODERATOR: Ms. Poole.

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

19 I'm just curious if you have a private
20 developer responsible for the pumping station,
21 what happens if they go out of business?
22 Who takes over?

23 THE MODERATOR: Mr. Chairman.

24 CHAIRMAN CLARK: The - that issue is

1 one that the Town does not have to take over but
2 has to manage the sequence of ownership in that
3 situation. I would turn more to Mister - I guess
4 Town Counsel, to talk about the details of how
5 that gets handled. But it is not envisioned that
6 the Town ends up running that project.

7 THE MODERATOR: Mr. Wilber.

8 MR. WILBER: Jude Wilber, Precinct 8.

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

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

20 So I find it very frustrating in these
21 discussions where we run up against some sort of
22 a mandate from somewhere that says you absolutely
23 have to do this that prevents us from doing
24 anything else. And I think this town needs to

1 challenge those mandates on every issue where we
2 can serve to be a leader.

3 [Applause.]

4 THE MODERATOR: Mr. Murphy.

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

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

20 So my question is are we going to allow
21 those folks that we go by to tie into it and how
22 much more capacity, keeping in mind if it goes by
23 folks, it might actually be touching the land of
24 the Falmouth Mall.

1 MR. POTAMIS: To answer I probably
2 should defer to Town Counsel, but I won't. I'll
3 use my better judgment.

4 [Laughter.]

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

13 So I don't know what the answer is.

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

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

24 So the question could come back to the

1 Board of Selectmen whether they want to do battle
2 with the State over an NPDS permit if the State -
3 a groundwater permit if the State says you can
4 connect in but you connect in potential of
5 violating a groundwater permit.

6 So, yes, we have a bylaw that I will
7 respect and do what you guys direct me to, but
8 it's not my decision. It will be other people
9 that will say, "Allow this" or "not allow it".

10 Did I answer your question, Mr. Murphy?

11 MR. MURPHY: Thank you.

12 THE MODERATOR: Okay, Mr. Donahue.

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

16 [Laughter.]

17 MR. DONAHUE: Okay -

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

20 Mr. Donahue.

21 MR. DONAHUE: Pick on me.

22 My question is this, ladies and
23 gentlemen, is that this is going to be a rental,
24 low-income, housing development. So that means

1 that the rents are going to be controlled by who
2 controls low rent.

3 Now, if this developer gets into
4 trouble, he's going to come to the Town and say,
5 "I cannot maintain this sewer pumping station,"
6 and we are going to be stuck with it, I think.

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

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

23 THE MODERATOR: Okay, Mr. Herbst.

24 MR. HERBST: Ralph Herbst, Precinct 8.

1 Planning Board representative to the CPC.

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

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

20 THE MODERATOR: Okay, anything new?

21 Ms. Valiela, something new? I think
22 the issues are on the table, here, so we're -

23 MS. VALIELA: Right. A question and a
24 comment. The question is, Peter, is this a

1 pressure main or is this a gravity main from the
2 property to the connection on Davis Straights?

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

8 MS. VALIELA: I see.

9 CHAIRMAN CLARK: - and I don't know
10 what that elevation is, exactly.

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

17 Was that discussed with the developers?

18 CHAIRMAN CLARK: Yes, the -

19 MS. VALIELA: I'm sorry, with your -

20 CHAIRMAN CLARK: With the designers.

21 MS. VALIELA: - designers.

22 CHAIRMAN CLARK: The designer looked
23 carefully at that and the decision was that it
24 couldn't be done that way. It would require -

1 and I'm not sure whether physically Spring Bars
2 Road is above Davis Straights, but it would
3 require such a deep trench going through that
4 area that I think, at least for that reason, it
5 was considered not feasible to do.

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

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

18 It would be then a whole process of
19 selection and negotiation that goes beyond that.

20 So it would be, I think, very helpful to
21 have this piece of the total project in place so
22 that's a known as the RFP goes forward.

23 MR. POTAMIS: Peter -

24 THE MODERATOR: Mr. Potamis.

1 MR. POTAMIS: Through you to Peter to
2 Virginia, or something like that. We did look
3 at, in fact, the previous engineer did look at a
4 gravity. And you had to - as you said, it had
5 to go so deep that it was not a good recommended
6 way of doing it for the piece of property.

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

14 So, what was engineered was pretty
15 reasonable.

16 Whether the Mall can tie in is an
17 entirely different legal question. I don't know
18 if it abuts it or whether it's within the 100
19 feet, but the state would have to approve it and
20 it could change the design. And they would have
21 to pay for the extension of the sewer and all the
22 connections to get to it. And I know I have
23 discussed that with the designer that represents
24 the mall. I laid it out to him, I says, "I'd be

1 glad to discuss with you what I think your
2 options are." They never came back to me.

3 THE MODERATOR: Okay, Mr. Pinto.

4 MR. PINTO: Move the question.

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

9 [Aye.]

10 THE MODERATOR: All those opposed no.

11 [No.]

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

14 The question will now come on Article
15 22, the main motion as recommended by the
16 Community Preservation Committee. All those in
17 favor of Article 22, signify by saying aye.

18 [Aye.]

19 THE MODERATOR: All those opposed no.

20 [No.]

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

24 [Pause.]

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

3 Mrs. Tashiro: 16.

4 THE MODERATOR: 16.

5 In the third division, Mr. Hampson.

6 MR. HAMPSON: 32.

7 THE MODERATOR: 32.

8 In the second division, Mr. Dufresne.

9 MR. DUFRESNE: 43.

10 THE MODERATOR: 43.

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

13 [Pause.]

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

16 MRS. TASHIRO: 32.

17 THE MODERATOR: 32.

18 In the second division, Mr. Dufresne.

19 MR. DUFRESNE: 45.

20 THE MODERATOR: 45.

21 In the third division, Mr. Hampson.

22 MR. HAMPSON: 30.

23 THE MODERATOR: 30.

24 By a counted vote of 91 in favor and 107

1 opposed, the article does not pass.

2 Mr. Chairman.

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

9 Would you like me to make a motion, or?

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

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

15 THE MODERATOR: Okay, you've all heard
16 another main motion to put the money that we were
17 going to use for this article into the reserve.
18 All those in favor, signify by saying -

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

22 MR. LEWIS: [No mic. Inaudible.]

23 THE MODERATOR: Come on down with the
24 microphone, or use that one.

1 MR. LEWIS: The article only - this is
2 Gardner Lewis, Precinct 6.

3 The article only asks for 219,211 -

4 FROM THE FLOOR: Can't hear you, can't
5 hear.

6 MR. LEWIS: Well, that's -

7 THE MODERATOR: Speak into the mic.

8 MR. LEWIS: I am. The article only
9 asks for \$219,211 from the Estimated Receipts.
10 The rest is already in the Reserve account.

11 THE MODERATOR: And \$180,789 from the
12 Community Housing Reserve. So, Peter, it's
13 \$219,211 into the Reserve?

14 CHAIRMAN CLARK: 219,211 is from
15 Estimated Receipts. The 180,789 needs to go back
16 into the Housing Reserve so I -

17 THE MODERATOR: Well, you didn't take
18 it out.

19 CHAIRMAN CLARK: Well, fine.

20 THE MODERATOR: Okay, so the main
21 motion -

22 CHAIRMAN CLARK: Let me move to -

23 THE MODERATOR: - is to remove \$219,211
24 into the Community Housing Reserve.

1 CHAIRMAN CLARK: Right. Thank you.

2 THE MODERATOR: Any further discussion
3 on Article 22?

4 Hearing none, the question will come on
5 the main motion. All those in favor, signify by
6 saying aye.

7 [Aye.]

8 THE MODERATOR: All those opposed no.

9 [None opposed.]

10 THE MODERATOR: The ayes have it
11 unanimous.

12 Article 23, the Board of Selectmen for a
13 main motion.

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

16 THE MODERATOR: As printed. This is to
17 accept the doings of the Board of Selectmen with
18 laying out four roads. Any discussion on Article
19 23?

20 Mr. Wilber.

21 MR. HAMPSON: Mr. Moderator -

22 THE MODERATOR: Oh, Mr. Hampson.

23 MR. HAMPSON: Five minutes to go. I
24 move we go after 11:00.

1 THE MODERATOR: Okay. The motion to
2 extend after eleven o'clock. All those in favor,
3 signify by saying aye.

4 [Aye.]

5 THE MODERATOR: All those opposed no.

6 [No.]

7 [Laughter.]

8 THE MODERATOR: We're going to see you
9 tomorrow night and Thursday night.

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

15 Mr. Wilber.

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

22 I also want to point out that over the
23 last decade the Town has taken hundreds of miles
24 of roads and all those roads, after the hundred

1 percent betterment is paid, belong to us and
2 belong to the Department of Public Works. And
3 I'm not saying that it's not a good idea to take
4 these roads and bring them up to standards, I'm
5 just saying to realize it when the Department of
6 Public Works is asking for increases in budget to
7 do basic services, a lot of it has come through
8 the taking of roads, where the initial betterment
9 was paid, but the ongoing maintenance of these
10 roads is no longer - is a part of our task.

11 Thank you.

12 THE MODERATOR: Any further discussion
13 on Article 23? Hearing none, the question will
14 then come on the main motion of Article 23 as
15 recommended. All those in favor, signify by
16 saying aye.

17 [Aye.]

18 THE MODERATOR: All those opposed no.

19 [None opposed.]

20 THE MODERATOR: The ayes have it
21 unanimous.

22 Article 24, Mr. Chairman.

23 CHAIRMAN ANDERSON: Mr. Moderator, I
24 move that all articles approved at this Town

1 Meeting be funded as voted for a total of
2 \$1,104,434.87.

3 THE MODERATOR: Okay, you've all heard
4 the main motion to fund this meeting for
5 \$1,104,434.87. Any discussion on the main
6 motion? Hearing none, the question will come.
7 All in favor say aye.

8 [Aye.]

9 THE MODERATOR: All those opposed, no.

10 [None opposed.]

11 THE MODERATOR: The ayes have it
12 unanimous.

13 Mr. Chairman.

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

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

20 [Aye.]

21 THE MODERATOR: All those opposed no.

22 [None opposed.]

23 THE MODERATOR: The ayes have it
24 unanimous.

1 This meeting is adjourned. We'll see
2 you tomorrow night for the Annual at 7:00.

3 [10:58 p.m.]

4 [Whereupon, this matter adjourned.]

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C E R T I F I C A T E

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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