

**Vol. One Of Three  
175 pages**

**COMMONWEALTH OF MASSACHUSETTS**

**TOWN OF FALMOUTH**

**ANNUAL SPRING TOWN MEETING**

**Lawrence School**

**Lakeview Avenue**

**Falmouth, Massachusetts**

**MODERATOR: David T. Vieira**

**TOWN CLERK: Michael C. Palmer**

**Monday April 7, 2008**

**7:00 p.m.**

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**P R O C E E D I N G S**

THE MODERATOR: Would all Town Meeting Members please come forward and take your seats. Would all Town Meeting Members please come forward.

A round of applause for the Falmouth Town Band.

I want to remind all Town Meeting members that attendance will be published in the Falmouth Enterprise, so don't forget to check in. Town Meeting Members, you must be seated in front of the Town Meeting Members signs in order for your votes to be counted this evening. The tellers will not count Town Meeting members sitting behind those signs.

I remind everyone that we're being broadcast this evening on Channel 13, FCTV-13, live coverage, so watch what you say.

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

Okay, would all Town Meeting Members please come forward and take your seats.

[Pause.]

Okay, let's establish a quorum this evening. Would all Town Meeting Members present please rise for the establishment of a quorum and the tellers will return a count.

[Pause.]

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

MRS. TASHIRO: 44.

THE MODERATOR: 44.

In the second division, Mr. Dufresne?

MR. DUFRESNE: 77.

THE MODERATOR: 77.

And in the third division, Mr. Hampson?

MR. HAMPSON: 58.

THE MODERATOR: 58.

By a counted vote of 179, we have a quorum and I call this Town Meeting into session. Would all Town Meeting members present please rise for the presentation of the colors by Boy Scout Troop 40 and the Brian Baru Pipe Band.

[Colors presented. Brian Baru Pipe Band plays.]

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

[Pledge of Allegiance taken.]

THE MODERATOR: At this time, the Falmouth Town Band Brass Choir will now play the National Anthem.

[National Anthem played.]

THE MODERATOR: This evening, for our invocation, I'd like

to introduce Falmouth's new Chief of Police Anthony Riello. Chief Riello, welcome.

[Applause.]

CHIEF RIELLO: Thank you, Mr. Vieira, and it's certainly my honor to stand here and to offer this invocation.

Heavenly Father, may our meeting this evening be not only an exercise of care and concern for our community and its residents but also an example of how a community can agree and disagree and still be a community. We ask you to watch over and protect our families, our community, our nation and our world. May your gift of peace become a reality for all. Amen.

THE MODERATOR: At this time, we'll have Amazing Grace by the Brian Baru Pipe in honor of those members who have passed since our last meeting.

[Amazing Grace played.]

THE MODERATOR: Colors post.

[Colors posted.]

THE MODERATOR: Ladies and gentlemen, the Brian Baru Pipe Band, the Falmouth Town Band Brass Choir, and Boy Scout Troop 40.

[Applause.]

THE MODERATOR: It's good to have the Brian Baru Pipe Band back with us at this town meeting.

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

CHAIRMAN MURPHY: Mr. Moderator, I move that we dispense with the reading of the warrant.

THE MODERATOR: Okay, you've all heard the main motion. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

At this time, I'll read the Officer's Return of the Warrant. By virtue of this warrant, I have this day notified and summoned the inhabitants of the Town of Falmouth qualified to vote on town affairs as said warrant directs by posting an attested copy thereof in Town Hall and in every precinct in the town. Signed Constable James Pond. And James is with us today; he will be our constable for this evening's meeting.

Mr. Clerk, I ask the warrant become an official part of the record for this meeting.



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

FROM THE FLOOR: So moved.

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

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

At this time, the Chair would entertain a motion for Town employees who are not residents of the Town to speak on any issue before this meeting.

FROM THE FLOOR: Moved.

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

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

At this time, I'd recognize the Planning Board for notification of

Public Hearing.

MS. RABESA: In accordance with Chapter 40A, Section 5, Mass. General Law, and Article 43 of the Falmouth Zoning Bylaw, a public hearing was held on February 12th, 2008 on Articles 9 through 21 for the 2008 Spring Annual Town Meeting, and all those who wished to speak were heard.

THE MODERATOR: Okay, at this time, I'd like to introduce Judy Fenwick and Brenda Swain for a brief announcement for the Falmouth Service Center. I think many of you, as you came in, got a blue bag this evening. If you haven't, they'll let you know how to get one of those.

MS. FENWICK: Good evening, I'm Judy Fenwick, precinct 1 and also president of the Board of Directors of the Falmouth Service Center, along with the Executive Director Brenda Swain. We just wanted to share with you a little bit of information this evening.

This is the 25<sup>th</sup> anniversary of the Falmouth Service Center, and as David said, you each got one of these bags hopefully when you came in.

We have a very strong purpose at the Falmouth Service Center, which is that the causes and impact of financial hardship are far-reaching, and it's our mission to ease stress, reduce hunger, and improve

the quality of life for our neighbors in need.

Brenda is going to talk to you a little bit more about the operating instructions.

MS. SWAIN: Very fast, because we have lots of work to do. These bags, we've been giving them to all of our clients and asking them to come back each time they come for food and bring them so that we use less brown and plastic bags, and 85 to 90 percent of them are doing that. We're asking all of you to do the same thing. But we're asking you tonight to go home and fill it up and bring it back with food tomorrow.

We just ended our fiscal year, and last year at this time we had a certain amount of food and this year we have two-thirds less that amount of food in our warehouse. And the need is increasing, as many of you know. So, go home and see if you have a few extra cans. I always say bring your favorite item because somebody coming to the pantry I'm sure would love to have that.

So, you can bring the bags back full tomorrow and then empty them in the lobby and take them home and use them for yourselves at the grocery store next time.

Thank you for the last 25 years of wonderful help and we look forward to working together with you to help neighbors in need in this community for many years to come.

THE MODERATOR: Thank you.

[Applause.]

THE MODERATOR: We have a brief announcement from Ms. Abbott.

MS. ABBOTT: Jane Abbott, precinct 7. On behalf of the Falmouth Beautification Counsel, with this wonderful audience of Town Meeting members, citizens and everybody at home, I'd like you all to take part in this year's annual spring clean-up. We've done this for more than 30 years. We welcome everybody's help. These green posters are here and there, all around town and they list our coordinators and the locations where you can get trash bags.

So please, make us have a clean spring. Thank you very much.

THE MODERATOR: And those posters are in the lobby if Town Meeting members would like to see those on the way out, if they didn't see them on the way in. Thanks, Jane.

And finally, many of you got a blue – all of you, hopefully, Town Meeting members, got a blue survey in the mailing. Mr. Murphy, would you like to – okay. We want all Town Meeting members to fill this out, if you haven't filled it out and mailed it in already. We do have a box down here for you to put it in during the break or any time during the

meeting. We'll have the box there again tomorrow night. And we're just asking for folks to share their experiences with the precinct meetings and the precinct organization.

There's been a group meeting: Town Clerk Michael Palmer, Carey Murphy from the Board of Selectmen, Debra Siegel from the League of Women Voters and myself, and we wanted to collect some more information to see what's going well so that we can continue what I think has been a regeneration of all of the precinct meetings and it helps us better prepare for Town Meeting.

So, please share your thoughts with us and turn it in either tonight or you can mail it into the Clerk's Office; the address is at the bottom of the survey.

I want to remind all Town Meeting members to please identify yourself this evening, and members of the public, each time you speak for our transcriber. Also, for our sign language interpreters.

Tonight we have our two FHS student government microphone carriers, and they came in uniform this time. So, welcome.

And if you could all turn to the back page of the warrant, we're going to briefly go over the Town Meeting Rules. This is on the inside of the back cover. Speaking and Voting. Registered voters,

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

Only Town Meeting members may vote.

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

Two amendments will be accepted on any article.

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

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

If the article involves the appropriation of money, notice of reconsideration must be given within 30 minutes of the vote on the article.

Reconsideration may then be allowed at any future time.

The Moderator shall determine if the motion to

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

Our Hours of Operation. The first night: seven o'clock. Each subsequent night, seven o'clock, and we close at 11:00 unless a motion to continue is made and approved by a two-third's vote of Town Meeting members present.

We'll begin this evening by going through the Annual Town Meeting warrant, utilizing a blanket vote.

As we go through the warrant, I'll give a brief description of the article, call your attention to the recommendation. If you'd like to speak on the article or like to have a different motion other than what is being recommended, just stand up and yell "Hold", and we'll hold that article on the blanket. At the end of going through each of them, I'll run through a second time very quickly, just calling off the numbers, and then I will entertain a motion from the Finance Committee to accept all of the articles that are not

held as recommended.

Article 1 is a hold. Article 2, to hear reports, is a hold.

Article 3, to authorize the Selectmen to settle claims and suits. Article 4, to authorize the Board of Selectmen to apply for and accept state or federal grants. Article 5, to assume the liability in the manner provided by Section 29 and Chapter 91 of the General Laws for damages that may be incurred by work performed by the Department of Public Works of Massachusetts. Article 6, to fix the salaries of elected officials. Article 7, to authorize continued use of Revolving Funds. Article 8, that the funds received by the Town of Falmouth as part of the Medicaid Medical Services Program are allotted to the School Committee.

Article 9 – who’s holding this one? Mr. Marks.

Article 10, this is a zoning bylaw home occupation. The recommendation is for the purposes of this definition, the home occupation must be owned and operated by the resident of the premises.

Article 11, the recommendation is indefinite postponement.

Article 12, another zoning bylaw; the recommendation is indefinite postponement. Article 13, zoning bylaw dealing with accessory buildings; the recommendation is indefinite postponement. Article 14, zoning bylaw



that, inserting the words “but not limited to” and the words, “or similar sports” into the definition of structure.

Article 15 is a hold by the Planning Board for its recommendation.

Article 16, the recommendation is indefinite postponement to amend the zoning map.

Article 17, to amend the zoning bylaws. Hold by Mr. Fler.

Article 18.

MS. STETSON: Hold.

THE MODERATOR: Judy Stetson.

Article 19, to amend Article 25, planned residential development by deleting a section and inserting in its place “lot coverage by structures up to 40 percent is allowed in planned residential developments having at least 50 percent open space.

Article 20, to amend the definitions of Article 3 of the zoning bylaw, the definition of front yard. Article 21 –

FROM THE FLOOR: Hold.

THE MODERATOR: Mr. Kingwell.

Article 22, to amend the town’s position classification plan to delete one minivan driver and to add two minivan drivers.

Article 23, hold by the Board of Selectmen. Article 24, hold by

the Board of Selectmen. Article 25 is a hold, that's the omnibus budget.

Article 26, that's a hold by the Board of Selectmen, I believe.

Article 27.

FROM THE FLOOR: Hold.

THE MODERATOR: Hold by the fire chief.

Article 28, to appropriate a sum of money to implement the Department of Public Works reorganization project. The recommendation is indefinite postponement.

Article 29, a hold by the Finance Committee. Article 30 –

FROM THE FLOOR: Hold.

THE MODERATOR: Okay.

Article 31, to transfer the sum of \$100,000 from the Reserve Waterways Appropriation Fund for engineering, permitting, minor construction and dredging of various projects on request of the Waterways Committee.

Article 32, the recommendation is indefinite postponement from the Community Preservation Committee. Article 23 – I'm sorry, 33, to appropriate the sum of \$3,500 from Fiscal Year 2009 estimated Community Preservation Act revenues for the purchase and installation of bicycle racks for the Sandwich Road Athletic Fields.

Article 34, to vote to appropriate the sum of \$425,000 from

Fiscal Year 2009 estimated Community Preservation Act revenues for the purpose of additional funding for the Affordable Housing Development Fund.

Article 35, to appropriate the sum of \$100,000 from Fiscal Year 2009 estimated Community Preservation Act revenues for the purpose of restoration of the VFW schoolhouse in an historically appropriate manner.

Article 36, to appropriate the sum of \$170,000 from Fiscal Year 2009 estimated Community Preservation Act revenues for the purpose of additional funding for the Affordable Housing Retention Fund.

Article 37, to –

FROM THE FLOOR: Hold.

THE MODERATOR: Mr. Putnam.

Article 38, to appropriate the sum of –

Mr. Shearer.

Article 39, to appropriate the sum of \$33,000 for the purpose of restoration of the World War I Veteran's Monument.

Article 40, the recommendation is indefinite postponement.

Article 41, to appropriate the sum of \$100,000 from the Community Preservation Undesignated Fund balance to fund the Historic Resources Reserve Account.

Article 42, the recommendation is indefinite postponement.

Article 43 is a hold by the Community Preservation Committee for a new main motion.

Article 44, appropriate the sum of \$90,000; \$56,108 to be applied as appropriate to budget #01175 and 01914 for salary and benefits for professional staff and \$33,892 for other Community Preservation Committee administrative expenses from the Community Preservation Undesignated Fund balance.

Article 45, to authorize the Board of Selectmen to enter into an intermunicipal agreement with the towns of Mashpee, Sandwich, Bourne and any combination of said towns, and with the Massachusetts Military Reservation for the continued operation of the Solid Waste Regional Transfer Station.

Article 46, to expand the membership of the Commission on Disabilities from seven members to nine members.

Article 47, to amend Chapter 5, Section 5.2 of the Code of Falmouth Council on Aging by increasing the number of members on the Council on Aging from seven to nine.

Article 48, to vote to amend the town bylaws; this is dealing with licence fees; deleting \$3 per year for a neutered or spayed dog and adding \$8; deleting \$10 per year for all other dogs and adding \$15 per

year.

Article 49, to amend the town bylaws, the enumeration of fees, dealing with birth certificates, death certificates, marriage licenses and certificate of marriage.

Article 50, hold by Mr. Vieira.

Article 51. Who held that one?

Article 52, the town moving forward with an affordable housing community plan for 419 Woods Hole Road; the recommendation is indefinite postponement. Hold, Mr. Murphy.

Article 53, to see if leadership from the Woods Hole Village and other entities should be granted the option to Transfer Development rights on 2.7 acres of land located at 419 Woods Hole Road; the recommendation is indefinite postponement.

And Article 54 is a hold.

Okay, I'm going to go through it one more time real quick. If we missed one that you want to hold, yell out so we can get you.

Article 1 is a hold. Article 2 is a hold.

Article 3. Article 4. Article 5. Article 6. Article 7. Article 8.

Article 9 is a hold.

Article 10. Article 11. Article 12. Article 13.

Article 14. Hold, Mr. Shearer.

Article 15 is a hold.

Article 16.

Article 17 is a hold. Article 18 is a hold.

Article 19. Article 20.

Article 21 is a hold.

Article 22.

Article 23 is a hold. Article 24 is a hold. Article 25 is a hold.

Article 26 is a hold. Article 27 is a hold.

Article 28.

Article 29 is a hold. Article 30 is a hold. Article 31 is a hold.

Article 32. Article 33. Article 34.

FROM THE FLOOR: Hold.

THE MODERATOR: Hold.

Article 35.

FROM THE FLOOR: [Inaudible.]

THE MODERATOR: You want 35 instead? Okay. Article 35 is held; does anyone want to hold Article 34?

Article 36.

FROM THE FLOOR: Hold.

THE MODERATOR: Article 37 is a hold. Article 38 is a hold.

Article 39. Article 40. Article 41. Article 42.

Article 43 is a hold.

Article 44.

FROM THE FLOOR: Hold.

THE MODERATOR: Article 45.

FROM THE FLOOR: Hold.

THE MODERATOR: Article 46. Article 47. Article 48. Article  
49.

Article 50 is a hold. Article 51 is a hold. Article 52 is a hold.

Article 53? And Article 54 is a hold.

Mr. Chairman for the main motion.

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

THE MODERATOR: Okay, you've all heard the main motion  
to approve the blanket. All those in favor, signify by saying Aye.

[AYE.]

THE MODERATOR: All those opposed, No.

[NONE OPPOSED.]

THE MODERATOR: The ayes have it unanimous. Mr. Chairman.

CHAIRMAN ANDERSON: I hereby serve notice of reconsideration of all articles passed under the blanket vote.

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

Article 1, to choose all other necessary town officers. I have a letter from the Chairman of the Finance Committee stating that the five members that are currently up for re-appointment wish to continue their term on the Finance Committee for a three year term. They are Charles Eastman, Judith Magnani, Daniel Shearer, Mark Woods and Deborah Maguire; and for a two year unexpired term, Joseph Drolette. I submit those names to Town Meeting.

Are there any nominations from the floor for Finance Committee? Hearing none, the chair will entertain a motion to close nominations. All those in favor of closing nominations, signify by saying Aye.

[AYE.]

THE MODERATOR: All those opposed, No.

[NONE OPPOSED.]

THE MODERATOR: The ayes have it, unanimous.



All those in favor of the slate as presented, signify by saying  
Aye.

[AYE.]

THE MODERATOR: All those opposed, No.

[NONE OPPOSED.]

THE MODERATOR: The ayes have it, unanimous.

Let's have a round of applause for our Finance Committee  
members.

[Applause.]

THE MODERATOR: It's a tough committee to serve on;  
thank you all.

Article 2, Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 2 as  
printed.

THE MODERATOR: Article 2 as printed. This is hear reports  
of committees and town officers, and I have a couple of committees that  
have already wished to speak. We'll start with Wastewater, our  
Wastewater Superintendent Mr. Potamis.

MR. POTAMIS: Good evening, ladies and gentlemen, my  
name is Gerry Potamis. I'm reporting as a wastewater superintendent and  
not as the Nutrient Management Committee but as the Nutrient

Management Group.

FROM THE FLOOR: Do you mind – we can't hear you.

MR. POTAMIS: Sure, can you hear me now?

I'd like to follow the decorum that's set up by some of the Town Meeting members that I'm going to tell you what you need to know tonight. Maybe not what you want to know or want to hear. I hope to stimulate discussion. If I do my job, it will be the beginning of discussion. My job is to speak; your job is to listen. If you finish your job first, read ahead in some of the articles, but I'm sure you'll get back to me.

[Laughter.]

MR. POTAMIS: Next slide, please. We're doing the Comprehensive Wastewater Management Plan for the estuaries you see up there. They are not all the estuaries in town that need study; they are by far the worst. I know some of you will debate me on that, but I will give you facts and figures later if you want to.

Next slide, please. Next slide, please. The other parts of town are dependent on future water quality studies, those studies being submitted to the state and those studies being approved by EPA. We do anticipate two more water quality studies to be approved by EPA: one for West Falmouth Harbor and the other for Oyster Pond.

Next slide, please. This summarizes the need. In short, our

estuaries are dying. They have too much wastewater. The wastewater is coming from your cesspools and your septic tanks. We need to restore water quality in our estuaries, and by restoring water quality, I mean we want to get back to fishing, we don't want them to smell, we want to boat and eventually we want to restore eel grass and shellfishing. There's a whole continuum of articles we could talk about on what defines clean water, but I think we'll know it when we can't smell it and see it; that would be a big step.

We need to restore it simply as a matter of law. We need to restore it as a matter of economic viability, and we need to do it for environmental health.

Wastewater treatment disposal is controversial and it is going to be expensive. Solutions need to be based on technically acceptable science and engineering, not what we hope will be working five years from now or what we hope will be working two years from now. What we know is working now; we will have an opportunity to adjust that in the future. And it also needs to be based on existing laws. I think it would be a waste of money for us to chase down a lot of research areas that are nice, but they may not even be based on existing laws.

This project – thank you for keeping me going. This project is one of many, as you can read, and most of you know these projects better

than I do.

Next one, please. This is a typical comprehensive wastewater management plan as required by the state. We're basically done the first two stages and we're approaching state three and stage four.

Next slide, please. Initial findings. The southern portion of the water shed needs 100 percent wastewater removal. We're talking about basically like that. Don't mean to get you folks dizzy -- I was told you're not supposed to move pointers, but you need to see what I'm talking about.

And that's a little -- go back, please. That was a little bit further north from 28. But we also must discuss funding, cost sharing, and growth management.

Funding: the best we can hope for in the near future is zero percent loans. And that's pretty good, because that's a 50 percent saving on let's say it was a hundred million dollar project, zero percent loan over 20 years: we've saved 50 million. The days of 75 percent and 90 percent grants are over and I think you read the Globe, you read the Cape Cod Times, there is not a lot of federal and state money.

Cost share: most likely, the best we can do right now or the best I can speculate, there are other people thinking about it, is our property values are the basis on how we recoup capital projects. We do

town-wide assessments and we do betterments, or we can do a combination of those. Those decisions will be made by others. There could be other decisions that our legislators could propose or Beacon Hill could approve, but right now those are the two legal mechanisms we have in front of us and there is a subcommittee on the Nutrient Management Group that will report back in the near future on that.

But the next – go back. The next one: Growth Management. This is fairly philosophical. Sewers, I will say, do not cause growth. I know many people out there will disagree with me. But the one thing we do know is that growth management needs to balance people's property rights. It needs to balance environmental protection. It needs to balance aesthetics and we need to have a discussion around NIMBY – Not In My Back Yard. Take a ride in Falmouth Heights. Look at the building that's going around without sewers. Look at the end of Davisville Road. There's a fairly large house going up. They don't have sewers there. I can't control through Wastewater how high the building is or the coverage. But believe me, a 5,000 square foot three bedroom house discharges the same amount of wastewater as a three bedroom 2,000 square foot house. And if those property owners choose to make that two stories rather than a story and a half or rather than a story, discuss it with the Planning Committee because that's not my issue. But I do think we need to keep

an open mind of sewers.

I also want to remind you that for the previous 80 decades leading up to 2000, okay, Cape Cod was one of the top three growth counties out of the 14 counties in Massachusetts. We happened to do that without sewers. We are the second worst county in the state, only to the Charles River, as far as impaired waters. Our growth without sewers has caused a lot of unintended consequences. Lack of a growth management vision leads to unintended consequences for all public and private infrastructure. These are discussions you need to have in the villages as to what you want your towns to look like.

Next slide, please. Alternative management plans. I think most of you have seen this before: we can build an expansion at the existing wastewater treatment plant. We can build a new treatment plant at the Falmouth Country Club and we can build a new treatment plant at MMR. The latter will require the co-operation of the state and the three other communities. They can join us in our efforts and that would probably be the quickest. I think it would be a while before the county or the state approves a total regionalization.

Regionalization is not always cheaper or better, but it is an option others may want to look at. You need probably an act of God to do too much on MMR, but if we need to, I'm sure we can get it done.

Recharge sites: we have the Falmouth Country Club. The town bought a large number of acres for the Falmouth County Club that we can use as a recharge site. The existing wastewater treatment plant: we are not talking about putting any more wastewater than is currently or that will be allowed by a new permit and by the TMDL when it comes out, so don't get confused when you say we're building a bigger – we might build a bigger treatment plant at the Blacksmith Shop Road, as opposed to what we allow to discharge. The discharge at that Facility is going to be limited.

And then finally we can go up to MMR. Discharging at MMR is probably a bigger hurdle to reach than building a treatment plant there. Finally, we have non-wastewater nitrogen management solutions and decentralized management. I'd probably label that as if you want to predict the future, invent it now, because we know where we're going with the need for sewers. How far we extend them is probably up to you.

Next slide, please. This is the Falmouth Country – this is basically – this is the Digman property, you can see it in blue. There's another piece of blue here. I can't see it – there's a couple of areas between the old and new golf ranges where we could put subsurface disposal.

Subsurface disposal at the western part of the golf course would be underground and it would be expensive and it would be

expensive to go from there to there, but if needed we can do it. The bulk of our discharge will be in this area. You can see this small – I'm shaking, I'm sorry. That area there is the area that's designated for the new treatment plant. If you also notice, there's quite a bit of buffer around that treatment plant. So that, you know, if we need to put a treatment plant and discharge there, we have quite a bit of buffer.

Next slide, please. Did you skip a slide? No, go back, you're going the wrong way. Back up. Go forward. Okay, never mind. Back up to decentralized wastewater management.

Okay. Before I go into that, I'd like to discuss the non-wastewater and nutrient management issues. I apologize for the slide not being up there. It's Bob Shea's fault.

There are four areas: lawn fertilization, capitalize on what we've already done with the Family Falmouth Lawn Program. We want the county to take a lead in that because we need all the communities on the Cape to be doing the same thing. The state won't give us any credit for this in our models, but lo and behold: if we start reducing nitrogen for whatever reason and it shows up in our estuaries, we will know it. This is one of the things we can do and it's one of the things we can do fairly cheaply.

Storm water management. There are things this town is going



to be required to do, but there are things you as individuals can do. We want to get as much of the rainwater into the ground as possible. We encourage folks to disconnect their roof leaders to discharge to your lawns, do xerescaping or lawn friendly water – less resistant water landscaping. For the Planning Board, they know what I mean when I said we'll go to low impact development. Increase buffer zones. These are all small things that we can do that could have enormous benefits.

Pond inlet modifications. Don't shoot me. The Estuaries Report recommended that we could sewer less of the community at least on the south coastal watersheds by increasing the flushing action into Little Pond and Bourne's Pond. We already know the last time we did that we caused some flooding of some homes. The Estuaries Report did not necessarily evaluate that. One of our early findings are that if town wants to spend a million to a million and a half dollars, we can probably save four to four and a half million dollars. But I'm sure it will be controversial. Any time you fool around with opening an inlet, there will be regulatory and a number of other challenges.

The final modification was possible watershed modifications to cranberry bogs, natural attenuation, in other words having Mother Nature do the job. That's not to say we'd want to interfere with the cranberry bogs. We're saying once the cranberry bog management system gets up

in place, there may be an opportunity to maximize nitrogen removal through those cranberry bogs or through the natural wetlands and the rivers up there so that we don't have to put as much wastewater treatment.

Decentralized wastewater. This is basically the individual systems. It could be the plumbing systems in your home. It could also be cluster systems. Cluster systems, simply definition: when you have two or more homes connected to a septic tank or Title V.

I'm glad George is here because he'll keep me honest. We need to do better tracking and we need to get better performance on our individual alternative systems and our cluster systems.

A study done by the County Board of Health said that 69 percent of them can only get 19 milligrams per liter or less. We have a town standard of 12 milligrams per liter. Are we wasting money? Or do we have to come up with a way to try to make sure that our developers and the home owners meet 12 milligrams per liter. Maybe we're going to need septic management districts. Maybe we need developers to put a performance bond. But if we want to minimize the amount of sewers, we need to do a lot better than 50 percent doing 19 or better, especially in the coastal overlay.

We have a number of other – well, two other options. A number of people promoting compost toilets. Some people want urine

diversion toilets. None of them will reach 100 percent wastewater. Are you sleeping there? Wake up!

[Laughter.]

MR. POTAMIS: I caught you. That's not to say we shouldn't think about them. There is a place in our studies for innovative and alternative and solutions that may not meet today's technologies, because where we have a decade and more of discussions on wastewater, in the next four to five years there may be breakthroughs. Maybe there will be people that voluntarily want to put these in their homes. Maybe there'll be a green developer that wants to develop houses with urine diversion toilets and compost toilets. Our state rep is trying to get monies to demonstrate that. And, you know, we need to look outside the box. But it's not a silver bullet yet.

Some people have heard about reactive barriers. There was a study going on in Waquoit Bay, there was a study going on in Rhode Island.

THE MODERATOR: Mr. Potamis, could we sort of wrap up the report? We have more committees to report as well.

MR. POTAMIS: Okay.

Those don't necessarily work.

Next slide, please. Public participation, you can see what

we've done to date.

Next slide, please. This is our newsletter, it was distributed in the Falmouth Enterprise as well as mailed to you, and it's available in the town library.

Next slide, please. The project kiosk as you see outside is available for your village meetings or other meetings where you want to discuss this.

Next slide, please. This is our portal to what's happening in the town. It's a special wastewater management website that as we develop other things we'll put it up there. This is in addition to the wastewater management part that I have on the Town web page.

Next slide, please. These are the next steps. Pay attention to the design, phase construction, implementation and depth of management.

Phase construction: we're not going to build a two or three MGD treatment plant right away. We're going to build what we think we're going to have sewers for, and if sewers are needed in other parts of town, we will expand that wastewater treatment plant. This is a quick slide in adaptive management, and most people don't quite understand it but basically it is we assess the waters. We did a quality study, we're implementing projects. As we start implementing projects, we'll see how good those waters are cleaned up. If we clean up faster, we don't need to build as

many projects. Or we may go back and do another round of models.

Next slide, please. This is the time line. Hopefully by this summer we'll have some more interesting discussions when costs should be coming out.

Next slide, please. Take away message: we're going to identify a plan that meets the law, and it's going to provide you a cost. You are going to have the opportunity with affordability, logistical constraints, adaptive management and town meeting to decide how fast we're going to go. But we have to move, because the last thing you want to do is be under a state administrative order to start cleaning things up, because at that point in time we lose control of the process.

Next slide, please. Any questions and answers? Questions you have, please call me, call Amy Lowell, contact any member of the Nutrient Management Group, or FACES. I think that concludes my presentation. I'll take some questions. I'm sorry I'm a little bit long-winded but this was the first time I had an opportunity to speak to you, and please invite me to your village meetings, your precinct meetings, and we can arm wrestle over some of my opinions. Thank you.

[Applause.]

THE MODERATOR: Thank you, Mr. Potamis. Any general questions for our superintendent. Okay.

My next report that I have is from the Finance Committee.

Mr. Chairman.

CHAIRMAN ANDERSON: Good evening. I'm Gary Anderson from the Finance Committee. In the next few minutes, I want to give you a brief look at some current financial issues for Falmouth, and then I'm going to show you what we see as the financial decisions before us and end with some thoughts about how we might approach those decisions.

First slide. Back up one, please. The Finance Committee is accountable to you, only you, Town Meeting. Our charge is to evaluate and make recommendations on the Town's financial matters. You may not and historically have not always agreed with our recommendations; that's as it should be. But we want to keep you informed of the financial picture as we see it for the Town.

Next slide. At last November's Town Meeting, the Finance Committee expressed concern over the disturbing trend of shrinking available fund balances: Free Cash, Stabilization Fund, and Overlay Surplus. Even though it is the smaller of the budgets the Town Meeting reviews, we warned that continuing to fund the Capital Improvement budget from these sources would not be sustainable.

As you know, at Spring Town Meeting the big budget, the

operating budget, gets voted. We've been able to present a balanced budget, but again only because we've used those one-time, other available fund sources. Ideally, we should match all of our operating budget expenses with recurring revenues like state aid, local receipts and property taxes, but unfortunately the growth of certain expenses is outpacing the growth of these revenues.

Over the past three years, our recurring revenues have grown at a rate of 5.2 percent, but our expenses, our operating expenses, grew at 5.7 percent. We've had to make up the difference from Free Cash, Overlay Surplus and other funds. As I said earlier, we can't sustain that practice.

To identify the significant drivers of our cost increases, we compared Fiscal Year '07 expenses to the Fiscal Year '09 Operating Budget, and what we found are there are two key expense areas that are growing substantially faster than any other component of the budget. They are: the costs of paying down our debt and funding employee benefits, particularly health insurance and retirement benefits. Because of these accelerating increases, our department heads have had to significantly tighten their budget belts over the last few years. Fiscal Year '09 has been even tougher on them.

In an effort to further reduce costs in Fiscal Year '09, eight

positions in seven different departments have been frozen and they're not funded in this budget.

We've been warned by some departments that the operating budgets included in this warrant may be inadequate to meet the service levels which our townspeople may expect. We've also been warned that postponing or continuing to push into the future needed repairs of roads, sidewalks, and bridges, our town's infrastructure, and delaying the replacement of critical equipment is a risky strategy. These issues are of serious concern for us.

It appears that Falmouth has now reached a serious financial fork in the road. We are unable to do everything we want or need to do with the revenues we currently generate. As a town, we have some hard decisions that we have to make. We can go down the path of doing nothing, which is going to lead to infrastructure erosion and capital equipment deterioration, or we can go down the path of making reasoned decisions, but they're going to be difficult. These decisions can take many forms, such as reducing expenses through increased efficiencies or cutting Town expenses. Another option is to generate temporary revenues through debt or capital exclusions, or we can provide for a permanent revenue increase through a Prop 2 ½ override.

Decisions like these are seldom easy. However, with



knowledge and a plan, the decisions could be better informed and more focused.

Now, I've given you a lot of information in a very short period of time. I'd like to end by proposing a few components of a plan for Town Meeting to keep in mind as you approach these decisions. The first one is the town's strategic priorities. Last year, the Selectmen, with the help of a consultant, developed a five year strategic plan for our town. From this plan, they listed six strategic priorities. These priorities provide important direction to department heads, town leaders, committees, and town meeting. Each of these strategic priorities has goals, action steps, and time lines, and you can see this document on the town's website on the Selectmen's page.

Using these strategic priorities as a guide, we can then apply a decision matrix to help some of the decisions we make. Along the bottom of this matrix, we can evaluate the strategic fit of a proposal, from low strategic fit to high strategic fit. Along the side, we can estimate what the costs are, from low costs to high costs.

As an example of something with a high strategic fit and a low cost, something that we would suggest "do now", is the purchase of the Haddad property at last year's spring town meeting. It fit perfectly with the beaches and the harbor strategic priority. And it was funded by donations

and a small amount of debt. That was enacted quickly.

The wastewater planning issue which Mr. Potamis just alluded to is something that is very high strategic fit, but it's also very, very costly, and it's something that we ought to really plan carefully about.

Much of the discussion and the debate is going to occur along these seams: is it a high strategic fit or is it a low strategic fit? And along this seam: the cost. Is it really a low cost or is it a higher cost?

The final pieces of this process are evaluating the risks or consequences of delaying. That's going to press on our decisions. Also, when we approve a proposal, how are we going to pay for it?

We have reached a fork in our financial road. As Town Meeting members, we have many decisions to make. We need to make them from a position of strength, based on knowledge and planning, rather than forcing a decision because we're in a crisis. I have confidence that this body will consider what is in the best interests of all the people of Falmouth. You've always made reasoned, well thought out decisions which have kept Falmouth a great place to live, work and play. Thank you.

[Applause.]

THE MODERATOR: Any general questions for the Finance Committee?

Okay, and the last one I have on my list, unless anybody pops

up after, is the Town Meeting Rules and Procedures Committee; Ms. Cuny from the Committee.

Is there any other Committee that wants to speak after Rules and Procedures? Okay, then this will be our last one. Ms. Cuny.

MS. CUNY: Sandra Cuny, precinct 2, and I'm here to report on behalf of the Rules and Procedures Committee. Just for those of you that don't know, the Town Meeting Rules and Procedure Committee was created on the recommendation of the Charter Review Committee. It was adopted by Town Meeting and then by the voters at the town election in 1998.

The committee is made up of representatives from each precinct, which I'd like to introduce at this time, if you just want to stand up to be recognized. From precinct 1 is Megan Jones, who's also our secretary. Precinct 2, Adrian Dufresne and myself. Precinct 3 is vacant at this time, and if you are interested in serving on this committee, would you please let the Moderator know. Precinct 4 is Charlotte Tashiro. Precinct 5, George Hampson. Precinct 6, Jeff Oppenheim. Precinct 7 was vacant, but I understand that there's Joe Apicella who's willing to fill that vacancy. Precinct 8 is Dave Vieira, our town Moderator and also the Chairman of our committee. And precinct 9 is Joe Netto.

THE MODERATOR: And Mr. Shearer is also from precinct 6.

We have two from six.

MS. CUNY: Oh, sorry Dan. We'll add his name to the book.

This committee has been meeting after each town meeting since 1999 to address and discuss any concerns and issues that any of you may have, as well as the Rules and Procedures of Town Meeting. Some of you may recall back in the year 2000 we did a survey with Town Meeting on limits on debate, improving attendance at Town Meeting and trying to strengthen precinct organizations. There were no formal changes made by our Committee regarding the survey, but rather we recommended that the Moderator continue to use his discretion on controlling debate, that the Moderator take a quorum after the break, as an elected representative, it is the duty of Town Meeting members to stay for the entire evening. Today, we feel that precinct organizations are gaining strength, due in part to the efforts of our Town Clerk Michael Palmer, Selectman Carey Murphy, Moderator Dave Vieira and Deb Siegel from the League of Women Voters, as they have been meeting and addressing this issue and helping to make improvements.

There have been several key issues that we have addressed over the years such as how to deal with too many articles coming before town meeting without recommendations printed in the warrant. While realizing that the Finance Committee often has to make last minute

decisions and the Planning Board often has difficulty meeting the warrant publication deadline, it is a concern of many. And such is the case in this warrant, where you'll see a number of articles where the Planning Board will make their recommendation on Town Meeting floor.

Another issue that came to us was the request for reconsideration of controversial motions. And, as Dave read the Town Meeting Rules in the back of your warrant booklet, we did add that number three under reconsideration that explains that the reconsideration of motions requires new information and that the motion to reconsider is not debatable.

In the year 2006, we discussed the Charter Review Committee's recommendation that our Town Moderator take over the responsibilities of the Watchman of the Warrant. This was brought before town meeting and it did pass in the May 2007 town election. The Chairman of our Committee, who's also the Town Moderator, Dave Vieira, appointed a three person Committee from our group to assist him in carrying out the duties of the Watchman. Those members are Joe Netto, Andy Dufresne and Jeff Oppenheim. We discussed in depth the issue of unspent authorizations of Town Meeting articles, and it was agreed that the Rules and Procedure Committee could help the Finance Committee in examining unexpended funds through the Watchman process.

The issue of limiting debate at Town Meeting also arose again. This time it was not on individuals but rather the possibility of limiting debate on an article. After discussion, we again recommended that the Moderator use his discretion in controlling debate.

Our committee discussed the problems surrounding the conflict between religious holidays and the 35 day rule effecting Spring Town Meeting and the Town Election. That was a concern that came up last year. Some options were discussed, including the possibility of changing the [inaudible] or Town Meeting will be held on May 15<sup>th</sup> to avoid a similar problem in the future.

It was also the need for reviewing and developing the presentation of Power Points to improve the visibility for all Town Meeting Members. Our Moderator is in the process of collecting Power Point presentations and guides from other towns.

The issue of microphone runners came up. We want to thank the students who sign up for this job. It is a paid job and we'd like to stress the importance of their responsibility to attend Town Meeting. If for some reason after they sign up they cannot attend, it's imperative that they call so a replacement can be found. So, for your student runners who are here tonight, we want to thank you for signing up and for showing up.

It was also brought to our attention a gentle reminder be given that town department heads are required by the charter to be in attendance at Town Meeting.

In light of some of the questions that have risen from petition articles, it's been suggested that we develop a cover letter for selectmen to hand out with the petition articles, listing resources of names and phone numbers for help in creating the proper wording in the petition articles that are submitted.

And lastly, our chairman and moderator Mr. Vieira will hold an orientation meeting for new Town Meeting members either after the election in May or in early October as this is required by the charter and it's been very helpful for new members in the past.

And that that concludes my report on behalf of the Rules and Procedure Committee, and I thank you.

[Applause.]

THE MODERATOR: Thank you, Sandy.

Any further reports? Hearing none, the question will come on the main motion to accept all the reports, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The ayes have it and we're completed

with the reports.

Article 9. This was held by Mr. Marks. This is a Planning Board Zoning bylaw dealing with school busses, temporary parking of school busses. Madame Chairman for the main motion.

CHAIRMAN KERFOOT: The Planning Board presented this on the request of the Zoning Board of Appeals and our recommendation is the change to the wording so that it shall read, "For the purposes of this section the temporary parking of school busses for two hours or less per day shall not require the issuance of a special permit." So that the whole will read, "The outside parking of more than one commercial light panel delivery or pick-up truck or any school bus or any tow truck, for the purposes of this section, temporary parking of school busses for two hours or less per day shall not require the issuance of a special permit."

THE MODERATOR: Okay, so the main motion is as recommended.

Mr. Marks is to my left.

MR. MARKS: Mr. Moderator, Ed Marks, Precinct 3. First I want to say that I am in favor of this amendment, but I'd like to offer a small amendment to this amendment, and right after the words where it says "For the purpose of this section, temporary parking of school busses for two hours or less per day shall not require the issuance



of a special permit providing those school busses be parked in a public way.”

Mr. Moderator, I strongly believe that this is going to save us a lot of headaches down the road, that everybody's going to be clear who's driving a school bus that you cannot park in a public way. Thank you.

THE MODERATOR: Okay, the amendment here would read, “Provided no school busses shall be parked on a public way.” Further discussion?

Ms. Kerfoot.

CHAIRMAN KERFOOT: I don't have an objection to it, but because we presented this on behalf of the Zoning Board of Appeals, I would like to ask for Ms. Budrose [sp?] take on it.

THE MODERATOR: Does anyone want to weigh in on this amendment?

Mr. Schwartz.

MR. SCHWARTZ: Good evening, I'm Ken Schwartz, Precinct 3, Chairman of the Zoning Board of Appeals. The purpose of this article was to give some relief to the mothers who are school bus drivers and have the opportunity to take the busses home during their lunch hour periods. It gives them a little time relief and the ability to save on fuel and on the emissions. There really is no issue with changing to add “on a public way”, however this article deals basically with

busses being parked on the property, on someone's property and not on the public way anyhow. So, if you want to add it, it really is not a problem.

THE MODERATOR: Okay, Ms. Putnam, and then Mr. Murphy.

MS. PUTNAM: Thank you, Mr. Moderator. Rebecca Putnam, Precinct 9. I have a question to this: how does this pertain to developments that have covenants, protective covenants? We have a development where we do have a school bus driver. Her driveway is not big enough for a school bus. It's a private – basically, because the town has not accepted new roads and this is a new development – it is technically I guess a private road. Will this amendment to the – I'm sorry, amendment, be – pertain to that, or are these rules going to be in effect for developments with covenants?

THE MODERATOR: Mr. Duffy, want to make a comment on that?

MR. DUFFY: Okay, if there are covenants in a particular neighborhood that would prohibit this activity, then they're not allowed in that neighborhood even if this zoning bylaw is amended to prohibit – excuse me, to permit it elsewhere.

THE MODERATOR: Mr. Murphy.

MR. MURPHY: Carey Murphy, Precinct 7, and following up on that, Frank, what is the legal description of a public way?

MR. DUFFY: Well, it's a road that the Town has accepted probably either through the subdivision — well, no, not for the subdivision process but accepted by town Meeting as a public way or the county. There are many, I'm not sure how many roads in Falmouth are private, but quite a few of them are, correct? About half, according to the Planning Board about half our roads are private. So, Mr. Marks' amendment as he has presented it to you would not apply in those situations.

THE MODERATOR: Okay, further discussion on the amendment?

Hearing none, the question will come on the amendment to add "provided no busses shall be parked on a public way". All those in favor of the amendment, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: It is the opinion of the chair that the Ayes have it by a majority. The question will now come on the main motion as amended. Any further discussion on the main motion as amended?

Hearing none, the question will come. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The Ayes have it by a majority. By two-thirds, and I so declare.

Article 14. This was held by Mr. Shearer. This is another Planning Board article dealing with tennis and sports. Madame Chairman for the main motion.

CHAIRMAN KERFOOT: This article again was submitted by the Planning Board on behalf of the Zoning Board of Appeals. There were instances where other structures than the tennis courts were proposed to be built in the front yard and they felt it should have more breadth, and so this article was submitted with the change to read: Anything constructed or erected the use of which requires a fixed location on the ground or attachment to something located on the ground, including but not limited to tennis, or similar sports courts and swimming pools". So, it broadened the definition. It clarifies that the bylaw applies to structures other than just tennis courts. And we recommend it as printed.

THE MODERATOR: Okay, the main motion is as recommended. Mr. Shearer.

MR. SHEARER: Dan Shearer, Precinct 6. My question is, would that be basketball net or stanchion and so forth that you'd have to

come get a permit for, because I think that would be asking a lot for all these people that want to play basketball in their driveway and so forth.

CHAIRMAN KERFOOT: That's an easy answer, Mr. Shearer.

THE MODERATOR: Madame Chairman.

CHAIRMAN KERFOOT: The type of basketball court that I believe you're talking about is – we discussed this – is generally movable. So that it's not – we did not envision anything like a small basketball court, a hoop attached to a garage. And so we felt that that would not come into play on this at all.

THE MODERATOR: Mr. Shearer, microphone, please.

MR. SHEARER: I mean, many people put a hoop on a permanent post in their yard, as I do and so forth. And I think that would have to come under a permit. Or two hoops in their yard.

CHAIRMAN KERFOOT: No.

MR. SHEARER: No.

THE MODERATOR: No, okay. Any further discussion on Article 14?

Hearing none, the question will come on the main motion as recommended. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: It is the opinion of the chair that the Ayes have it by the two-thirds majority and I so declare.

Article 15. This was held by the Planning Board to make its recommendation on Town Meeting floor. Madame Chairman.

CHAIRMAN KERFOOT: The Planning Board recommendation on Article 15 is indefinite postponement. As we heard more, it became clear that there were some enforcement issues on this parcel and we chose to recommend indefinite postponement to you.

THE MODERATOR: Okay, is there any one who would like to put a positive motion on the floor for Article 15?

Mr. Freeman? You're going to put a positive motion on the floor?

MR. FREEMAN: [Inaudible.]

THE MODERATOR: Okay, microphone there. Microphone, please.

MR. FREEMAN: Michael Freeman, Precinct 8. I'd like to get an explanation from the Planning Board as to what the issues are that you require indefinite postponement.

THE MODERATOR: Is your motion as printed?

MR. FREEMAN: As printed.

THE MODERATOR: Okay. The main

motion is as printed. Madame Chairman.

CHAIRMAN KERFOOT: Okay, there were several issues in looking at this property that came up, aside from enforcement issues of existing permits for the use. One of the major ones and they can't really do much about it is that Beagle Lane is a one lane lane. And it is frequently blocked. The Post Office has a lot of traffic in and out and sometimes there's parking on that lane and it's difficult to get in and out.

So we chose to indefinitely postpone it and ask for them to come back at another time if they can solve these problems.

MR. FREEMAN: Through you, Mr. Chairman. I feel I took a site visit there and I took it what is existing I think is both buildings are marked number eleven. They are degraded buildings, they are falling apart, and I think by renovating those buildings in addition to what the veterinarian has as his main office and structure, I said I believe will only be an improvement on that site.

Thank you.

THE MODERATOR: Mr. Dufresne.

MR. DUFRESNE: Adrian Dufresne, resident of Precinct 2. I happen to be very, very familiar with Beagle Lane. Beagle Lane has an access from the highway which is only ten feet wide. That's the little lane that runs between the proponent of this article's property and the post office. To zone business into a 20 foot way – in

other words, picture this: we're going from a ten foot way into a 20 foot way of a nice, little, private residential street and we're going to extend two house lots to business zoning, but there's also a right of way that separates the proponent's property from a small parcel that he owns beyond which goes to some five or six acres behind the complex just to the right of it where the ice cream shop and the pizza parlor. I would ask that you support – probably forever – that we never extend the business zoning into this private way. It's a 20 foot way, should never be zoned business.

If the proponent of the article cannot do business as he stands now, let him find a better business location. The people on Beagle Lane do not deserve business in their street. I ask that you support the Planning Board and vote down this article.

THE MODERATOR: Further discussion on Article 15?

In the center there in the back.

MS. THOMPSON: Good evening, Diane Thompson, Precinct 2. I filed this article on behalf of Dr. Alfano. As we were working with the Planning Board on site plan review, a suggestion had been made to eliminate two access points onto Beagle Lane. In order to do that, we needed to extend the business zoning further back onto Dr. Alfano's property. Dr. Alfano, we believe, through the help of the Planning Board and the Board of Appeals, can accomplish the reconstruction or the construction of a new building on the business zoned portion of this



property. We believe that Dr Alfano can accommodate all of the parking he needs on the business zone property. Again, the reason this was put in was to eliminate two curb cuts that would be required if this zoning does not go through.

I was not going to speak on this article and we were going to continue to work with the Planning Board on the site plan development, but because the article was held, I felt compelled to tell Town Meeting that primarily the purpose was to eliminate curb cuts on Beagle Lane. Thank you.

THE MODERATOR: Ms. Williams.

MS. WILLIAMS: Thank you. Cheryl Williams, Precinct 3. And I'm also president of the Teaticket Civic Association. The Teaticket Civic Association does not support this article. In addition to what Mr. Dufresne had stated regarding the road layout of Beagle Lane, which is ten feet, widens a little bit and then does go up to 20 feet per the engineers, the Town engineers. But what people have to be mindful of is the fact that road layouts don't necessarily correspond with travel ways.

Additionally, one other interesting thing that you should be aware of: in 2007, the Cape Cod Commission, in their Regional Transportation Report, included areas on Cape Cod that were safety problem areas. The intersection of the Teaticket Post Office, which would be Beagle Lane, and Route 28, made their hit list. And it was location

number six on Cape Cod as being a top safety problem area. So, that's another reason that we do not support this article. Thank you.

THE MODERATOR: Any further discussion on Article 15?

Okay, the question will come on the main motion. The recommendation is indefinite postponement but we do have a positive motion as printed. All those in favor, signify by saying Aye.

[None audible.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: It's the opinion of the Chair that the No's have it and the two-thirds does not pass. Article fails.

Article 17. This is another zoning bylaw's. Madame Chairman for the main motion.

CHAIRMAN KERFOOT: The Planning Board recommends that the Town vote Article 17 as printed in the warrant. The reason being that it clarifies the current practice. It would establish that the Planning Board has review of any drive-through establishment under site plan review.

THE MODERATOR: Okay, this is dealing with drive-through establishments; Mr. Fleer held this.

MR. FLEER: Alan Fleer, Precinct 6. This explanation is misleading. This article does not change the offset of any drive-through

with a fast food restaurant. That stays at 300 feet. What this article does do is eliminate all offsets between all the other types of drive-throughs. That means that you can have, you know, your drive-through pharmacy next to your drive-through bank next to your drive-through auto parts next to your drive-through dry cleaning – and these places to exist. You don't have to go far to find them.

I just don't think that we should be risking the proliferation of these drive-throughs just for the benefit of a single applicant to give him some relief from zoning. So would you please join me in voting this down. Thank you.

THE MODERATOR: Mr. Ament.

MR. AMENT: Thank you. I'm Bob Ament, I'm a Falmouth Attorney and I drafted the proposed bylaw on behalf of a client interested in redeveloping Business 2 zoned property on Route 28. Mr. Flier is correct, the present zoning bylaw provides that there must be 300 feet separation between curb cuts for any drive through establishments. Obviously this is an extremely limiting provision for which there is no flexibility in that section of the bylaw there have been instances in which because of pre-existing non-conformances the distances between curb cuts of drive-through establishments has been reduced. But the intention of the Planning Board years ago as indicated in the recommendation was to control primarily fast food restaurants. And what's happened is that if

there is a bank, for instance, on Route 28, then it's impossible to have another kind of drive-thru curb cut within 300 feet of that. And today, that's extremely limiting result.

The change in the bylaw would not alter the prohibition against two curb cuts being within 300 feet where either of the curb cuts involved say a fast food restaurant. It would simply allow flexibility in other situations where there are two drive-thru curb cuts, neither of which serves a restaurant. Special permits are still required. Site plan review is still required. So there's considerable control by town permitting regulatory bodies. When we investigated these bylaws, we did discover that there's no requirements for site plan review for all drive-thru curb cuts or all drive-thru establishments at this time. If one had a business that did not have a drive-thru and you wanted to add a drive-thru but you weren't adding a substantial addition to the building, there'd be no requirement for a site plan review. We suggested and the Planning Board agreed that there should be site plan review any time a drive-thru is established. So that's the first part of the bylaw. There are actually a few words being added to that provision and the only change to the second part of the bylaw as requested is to change "fast food restaurants" as – to substitute those words for "any drive-thru establishment" so that the prohibition doesn't exist but there still would be review.

So, we think that this is reasonable. The Planning Board

voted its recommendation agreeing with us and we hope that you'll support the Planning Board's recommendation. Thanks.

THE MODERATOR: Further discussion on Article 17?

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

All those in favor, signify by saying "Aye".

[AYE.]

THE MODERATOR: All those opposed, No.

[NO.]

THE MODERATOR: This requires a two-thirds. All those in favor, signify by standing and the tellers will return a count.

[Pause.]

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

MR. HAMPSON: 20.

THE MODERATOR: 20.

In the first division, Mrs. Tashiro.

MRS. TASHIRO: 35.

THE MODERATOR: 35.

And in the second division, Mr. Dufresne.

MR. DUFRESNE: 41.

THE MODERATOR: 41.

MR. DUFRESNE: Mr. Moderator, I would ask when the standing vote takes place that the microphone person not stand.

THE MODERATOR: Okay. For the microphone carriers, there's some confusion when the tellers are counting all the way across the room. It kind of looks like you're one of the heads that they're counting. So when we do a standing count, if you could either go behind where the sign is or have a seat, just so you don't get caught in the crossfire.

And so the number, again, Mr. Dufresne, was 41?

MR. DUFRESNE: So, I counted 42; it's 41.

THE MODERATOR: It's 41, okay.

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

[Pause.]

THE MODERATOR: The third division, Mrs. Tashiro.

MRS. TASHIRO: 14.

THE MODERATOR: 14.

In the second division.

MR. DUFRESNE: 38.

THE MODERATOR: 38.

And in the third division, Mr. Hampson.

MR. HAMPSON: 39.

THE MODERATOR: 39.

By a counted vote of 96 in favor and 91 opposed, the

necessary two-thirds does not pass; Article 17 fails.

Article 18. This was held by Ms. Stetson. The Planning Board's recommendation is indefinite postponement. Ms. Stetson, are you going to put a positive motion on the floor? All right.

MS. STETSON: Judy Stetson, Precinct 1. I held this for one of my constituents, Bob Ament. I hope he will make the motion, with your permission.

THE MODERATOR: Mr. Ament is not a Town Meeting Member. Only Town Meeting Members can place motions on the floor. Would you like to place the motion on the floor?

MS. STETSON: I was only asked to hold it.

THE MODERATOR: Would any Town Meeting Member like to place a positive motion on the floor? Mr. Hampson?

MR. HAMPSON: I'll make a motion to adopt this – a positive –

THE MODERATOR: As printed?

MR. HAMPSON: As printed.

THE MODERATOR: Mr. Ament, is that the motion you want, as printed?

MR. AMENT: Yes, thank you.

THE MODERATOR: Okay, as printed, Mr. Hampson the main motion. Mr. Ament.

MR. AMENT: Thank you, Mr. Moderator and thank you, Mr. Hampson, and thank you Judy.

FROM THE FLOOR: Can't hear you.

MR. AMENT: First I thanked everybody. We have a few pictures that we want to put on the screen that – that's one, and it shows a picture of Falmouth Marine on Scranton Avenue in 1950; and we have pictures also from a few years later, that's 1960; and we have one I think 1968 and one later. And I'd like to call your attention to the parking area which on the picture right across the street from the large marina building is at the intersection of what is today Lowry Road and Scranton Avenue, and that's exactly right. Thank you.

This article was drafted and prepared for Falmouth Marine, the owner of that property now in the Marine District on the water side of Scranton Avenue but Residential zoned on the other side where that parking lot is. And I'm speaking on behalf of Falmouth Marine.

Falmouth Marine and its predecessors have run a Marina on Scranton Avenue in this location since at least 1914, just a few years after Deacon's Pond was opened to the ocean. The marina was improved and expanded over the years and it was even modified in World War II to work on landing craft, and that's occurred in that large building that's shown in that aerial picture. And all these pictures are official town of Falmouth aerial photographs.



Since before zoning began in 1926, the marina owned and used the property on both sides of Scranton Avenue, and that includes the parking lot that's shown in these pictures. It's possible that – we know the parking existed at least since 1950 because the 1950 photograph that was on there shows it. You can see Lowry Road wasn't there, but the parking was there across the street from the big building. Lowry road wasn't there until almost two decades later.

It's possible that parking or other marina use went back decades earlier, but we haven't been able to prove it; we don't have the photographs. We do know, as I said, that the property was owned by the marina on both sides of the street.

This year, Falmouth Marine faced a problem. It's the first time it's had this problem in all the years of its ownership. Since 1963, we're not aware of any complaints about the parking lot use in all the years before that. One of the owners of a house on Lowry Road, a house that was built in the '60's and an owner who moved there in the '80's, complained about the parking. It's the first complaint, as I said, that had ever been received about misuse, and with very little opportunity to discuss it with the Building Department, in the opinion of Falmouth Marine, an official of the Building Department issued a cease and desist order and said, "You can't park there anymore," because it's in the Residential zone.

Now, both state law and the Falmouth Zoning Bylaw do

include some protections for non-complying with zoning structures that have existed for ten years, in some cases as short as six years. But there is no similar protection for this parking use. I think that if there was a building on the site and parking around it, then we'd be protected. But we're not protected just with a non-conforming parking like this.

An appeal's been filed with the Zoning Board of Appeals but it's entirely likely that the Board of Appeals will feel it has to uphold the Building Commissioner. In the 1950's and the 1960's, the zoning bylaw did allow for a special permit to be issued that would have allowed this use. We have no proof that such a permit was issued. We only know that the property was in common ownership and that the parking is shown going back approximately 60 years.

The parking actually was much larger on that photograph in 1960 than it is today because Lowry Road was taken by the town I believe in 1968. It went through and it reduced the size of the parking.

We went and discussed this problem with the Town Planner and as a result of those discussions we drafted the article that is before you. We intended to draft it quite narrowly to solve our client's problem. It may well solve another problem similar in town but I'm not actually aware of a similar situation. But if it exists, it would be fair to solve it.

We've said and what we propose to you and what we hope that Town will support: we say that a use of parking like this, open to view

from a public way: it's not hidden, everybody's known about it being there, accessory to a legal business, within 300 feet of that business, will be treated as if it is a legal pre-existing non-conforming use if it's been there and you can prove it for 50 contiguous years.

We're not asking for any change in use. If one want to change a pre-existing non-conforming use, you have to go to the Board of Appeals. If the neighbors have a problem with something that's happening that's new, that should be addressed. But we feel that this is a fair solution, a kind of grand fathering for the situation which we hope you'll support. The Planning Board seems sympathetic to the problem but has recommended indefinite postponement to come up with a different type of solution. We think that for this particular type of problem we've crafted a narrow and fair solution that's protective of a business owner and would not have ill effects in the town. Thank you very much.

THE MODERATOR: Madame Chairman.

CHAIRMAN KERFOOT: Thank you. Further to this, as Mr. Ament explained to you, this was crafted for one particular property owner, but it becomes part of the Zoning Bylaw. There could be unintended consequences. Mr. Ament said that it's unknown how many other properties this might apply to. That was one of the great factors in our recommending indefinite postponement: we never like to do a zoning bylaw where you know there can be unintended consequences. We

therefore recommended indefinite postponement, believing that such a problem could potentially be better solved with a special permit process, and that is what we would like to work further towards in solving the problem by Fall Town Meeting. So that people are handled fairly but the town does not have the benefit, if you will, of unintended consequences into the long-term future.

THE MODERATOR: Mr. Dufresne.

MR. DUFRESNE: Adrian Dufresne, speaking as a representative of Precinct 2. I would hope that once again you support the Planning Board with an indefinite postponement. What we are dealing with is by right a residential lot. Years ago when we built wooden boats, I remember Warmill's [sp?] Boat Yard and I remember the employees that worked there. I've lived in the area for over 50 years. What brought about the problem is with the expansion of the current owner's boat transportation business he has now turned this into a paid parking lot for people that want to go to the Vineyard.

Several years ago when he requested that boat transportation service, I raised the concern that some day we would have the same problems as Woods Hole, with parking along the streets. I brought to the attention of the Traffic Study Committee that this particular lot, it's a residential street, Lowry road, when you come out of it, there's a hedge planted on the public way and there are three cedar trees that block the

visibility of people coming down Scranton Avenue.

I feel that this is an inappropriate commercial growth in a residential area and I would ask that you support the Planning Board for whatever studies that they want to have and that this residential lot remain a residential lot and not be turned into some commercial parking facility for a boating industry. Thank you.

THE MODERATOR: Any further discussion? Hearing none, the question will come on the main motion as printed, Article 18. All those in favor, signify by saying Aye.

[AYE.]

THE MODERATOR: All those opposed, No.

[NO.]

THE MODERATOR: It's the opinion of the Chair that the No's have it by a majority and there is no two-thirds.

Article 21. Article 21 was held by Mr. Kingwell. This is parking requirements and we had a recommendation from the Planning Board. Madame Chairman for the main motion.

CHAIRMAN KERFOOT: The Planning Board has recommended that the whole of the handicapped parking requirements be deleted and in its place that parking spaces for the physically handicapped shall be provided according to the standards required by the Commonwealth of Massachusetts Architectural Access Board. The

reason being is that our handicapped parking bylaw is out of date currently. If we substitute with this wording, then it will always be current because we are not giving specific requirements and as the state architectural requirements change, Architectural Board requirements change, our requirements will automatically change with it and therefore always be current.

THE MODERATOR: Okay, Mr. Kingwell.

MR. KINGWELL: Good evening. Jay Kingwell, Precinct 1 and chair of the Commission on Disabilities.

I attended several precinct meetings on behalf of the Commission and told you we'd be offering an amendment to this Article. On Thursday the Town Manager and we discovered that a bill which had been sitting in committee for 15 months had just been sent to the House Ways and Means Committee. This bill would mandate statewide what we had hoped to achieve in Falmouth and render the Falmouth amendment unnecessary. So, trusting that the House will pass the bill in due course, we will not be offering an amendment at this Town Meeting. Thank you for welcoming us to your meetings and for Falmouth's continued support of its disabled citizens and visitors.

THE MODERATOR: Thank you, Mr. Kingwell. Any further discussion on Article 21, the main motion as recommended by the Planning Board? Hearing none, the question will then come on the main

motion. All those in favor, signify by saying Aye.

[AYE.]

THE MODERATOR: All those opposed, No.

[NONE OPPOSED.]

THE MODERATOR: The Ayes have it unanimous, and I declare a two-thirds majority.

Article 23. The recommendation of the Finance Committee is indefinite postponement. Is there a positive motion on the floor? Mr. Chairman.

CHAIRMAN MURPHY: Mr. Moderator, I move that Town Meeting vote Article 23 as printed. As an explanation, the Board of Selectmen voted to create the position of Associate Town Counsel. The Associate Town Counsel is an important support position that serves all town departments. Without this department the Town will not benefit from important opportunities to prevent legal actions. This position is critical to the succession plan for the Legal Department.

THE MODERATOR: Okay, the other Mr. Chairman.

CHAIRMAN ANDERSON: Thank you, Mr. Moderator. The Finance Committee voted indefinite postponement principally because there's a freeze posed on eight positions within the town. We've asked for a prioritization of this list; we've not yet been informed that the Town Manager would put this position ahead of any others to be filled first.

Mr. Duffy did write a memo to the Finance Committee explaining his need for an associate counsel. The Finance Committee considered that the Town has worked using a contract attorney since 2002. We feel that rather than hiring a full time employee at this time it would be advantageous to have the opportunity to find someone on a contract basis to see how that person works out. After an appropriate period to evaluate the person, Town Meeting could perhaps at that time consider offering or making that position full time if – if the workload justified it.

One of the key concerns of the Town Manager and the Selectmen is succession planning. There are several small departments in town which operate under the same condition as the Legal Department, that is, there is no successor on staff. Unfortunately, it would be neither economically feasible nor prudent to staff the town so there was a successor for each department head.

Although using outside counsel is indeed more expensive on an hourly basis, the town can carefully control the number of hours and on which specific cases expertise is needed. Once a person is on staff, he or she is there for 40 hours a week, 52 weeks a year. We haven't been given any numerical information that would tell us the routine caseload is so great that an add to staff at this time is justified.

And lastly, no benefits have been budgeted. Health insurance



costs are one area of the budget which is growing rapidly, and we know is potentially at risk of being underfunded.

THE MODERATOR: Further discussion. Mr. Duffy.

MR. DUFFY: Thank you. I appreciate the support of the Board of Selectmen and the consideration of the Finance Committee. I fully understand that the Town is entering into a period where there is financial uncertainty and a number of positions are being deferred for reconsideration at this time. I do feel, however, that there are several points that I would like to make that suggest that the idea of creating an associate counsel position at this time makes sense right now.

The town created the in-house counsel in 2001. There were three main objectives. The first was the ability to respond to the Town's legal needs in a faster and more comprehensive manner. The second was to actively participate with department heads to avoid unnecessary legal problems, and the third was to be more cost effective since outside lawyers bill on an hourly basis and there is no effective way to budget for these expenses.

We have made good progress on all of these objectives and I feel that you should know that. The decision to create the in-house counsel in 2001 I think was a very wise one that this Town Meeting made.

From the beginning we understood that the Town's legal matters require a great deal of attention and you can easily overwhelm an

understaffed office. Now, it was for this reason that in 2002 we engaged Mr. DeWitt, and we were very fortunate to have his services for all of this time. The focus of his early work was on the litigation load but gradually it increased to all of the work – to participating in all of the work within the office. A couple of years ago, I think it was is 2004, I addressed this issue with Mr. Whritenour and recognizing the value of having an associate counsel in-house, it was decided to add this position to the Town's five year staffing plan, and that was done approximately five years ago. We have now waited the prescribed time and the issue has come up for consideration.

Now, I think many of you know that Mr. DeWitt had moved on to a position at the New Bedford Airport Commission, but this article's appearance on this warrant has nothing to do with that. That is coincidence. This is a need that was identified a long time ago.

The Town Counsel's office performs duties for all town departments. It is a major component of your town government. As of January 1, there were 43 active cases in our office before courts and administrative agencies of the Commonwealth. Now, the number of cases ebbs and flows with time, but the long-term trend suggests that your caseload will increase. In fact, at some Point last year it was approaching 50, maybe have been over 50. The more of these cases that can be handled in-House and within the Department budget, the better the town is

financially.

I'd like to remind you that outside counsel that we've been dealing with, they get \$250 an hour. In-house costs are more predictable, they're easier to budget and they offer significant savings to the town. This position would be funded by transferring \$75,000 from the Special Counsel line item in the budget to the salaries and wages line item, so there'd be no net cost for the salary. There will be an adjustment for benefits. But the impact of the budget will not be very significant and it is a necessary, as I suggest to you, position.

While it is possible to continue to contract associate counsel, there are valid reasons for bringing the position within the Town staffing plan. To ask someone to commit to the Town of Falmouth means the town should commit to them. To attract a pool of talented and qualified applicants, we must offer more than vague contractual arrangements. We ask the associate town counsel to work the hours, give the effort and make the commitment of a full-time employee, and it is only fair that the Town treat them with reciprocal respect.

Now, there have been occasions in the past when we have asked the associate town counsel to do yeoman's duty and he has done it and unfortunately he's had to wait a while to get paid because we need a Reserve Fund transfer to do it. That would not be the case if you have an employee and I think that's a practice that's unfair and should not continue.

The workload of the Counsel's office is ceaseless and grinding. There are daily requests for opinions, document preparation, meetings and all kinds of other routine matters that are associated with a one hundred million dollar governmental organization. And that's what you are, you're a very big organization. On top of all this, you have the litigation load. The Town Counsel responds to suits against the Town. We rarely sue anyone, and when we do, it's only after we've exhausted all of the other avenues of resolution. The dynamics of litigation are what drive the necessity of having an associate Town Counsel. Litigation is incredibly time-consuming, it requires long absences from the office. Preparation is tedious. Accuracy is imperative. Deadlines are not negotiable and they are unforgiving. To proceed with the routing business of the office and handle the litigation load at the same time requires the staff to be running in different directions. We need sufficient staff to accomplish our mission.

Now, there's been some suggestion here that this may be part of some secession planning. I hope that's not some kind of a suggestion that maybe I have reached the end of my useful life. But I intend to stay here and represent you for the foreseeable future. But I would really appreciate your support for this article. Thank you very much.

THE MODERATOR: Mr. Dufresne.

MR. DUFRESNE: Adrian Dufresne speaking as part of the

Finance Committee. The creation of this new position will not diminish the need for outside expertise in legal matters that come before the town. The money that would fund this position comes from the Legal Department through contractual services. We recently lost a good contractual legal assistant and who could have filled this position should we vote it on Town Meeting floor. However, we no longer have someone and if we continue with the contractual service line item, perhaps another legal mind will come on board as a contractual employee and learn the experiences of the town's operation and maybe at a later date we could reconsider a second legal person in the Legal Department.

It was the Board of Selectmen and the Town Manager who initiated a – who established a moratorium on all new hires and the filling of any position. This money could be possibly used for say the two policemen that we have not been able to hire for the last couple, three years. Or possibly a janitor for our new multi-million dollar library that we can't fill. So I'm asking Town Meeting Members to support the Finance Committee's recommendation that until such a time that we can educate another young legal mind, as we did with Mr. DeWitt, and I felt very badly when he left because he was a contributing legal expert on town affairs. But I don't think we should randomly hire another person until we can have somebody that can learn from Mister – from our town counsel on what the mechanics are of the Town's affairs.

Please support the Finance Committee in their recommendation. It's self-explanatory. This is not the Town Meeting to do it.

THE MODERATOR: Mr. Netto and then Mr. Murphy. Mr. Latimer, I'll put you on the list.

MR. NETTO: Joe Netto, precinct 9. I would have to echo the words of Mr. Dufresne and ask town Meeting to support Mr. Anderson and the Finance Committee and their recommendation. And I do this not in disagreeing with anything that Mr. Duffy said, or the Chairman of the Board of Selectmen. I'm sure there's every department head who's sitting in the back of the room said, "Hey, wait a minute. I have some requests." Well, let's not look at the future request, let's remind ourselves, as Mr. Dufresne just reminded us somewhat, that we, this group, changed the personnel plan and we added two firemen and two policemen, which our town fathers have told us, "Well, we can't hire them because we don't have the money." And you can't say something on a Monday and change it – well, in this case say it on a Friday and change it on a Monday. And saying that, "Wait a minute, I know we said that but our need is greater." And I think, if I'm not mistaken, Mr. Anderson did say eight positions. We have a couple of DPW positions. I remember Mr. Herbst made the amendment and added them and we did and I don't think I'll ever live long enough to see those DPW people ever assigned to the department; and I'm not being

facetious.

I think it's awful assuming of the Board of Selectmen to ask this group to make this choice tonight, and I would hope that we listen to the Finance Committee because I – in this regard. I would much rather see the two firemen and two policemen added to the budget. Which I hate to say I think would benefit more of – not saying that the assistant to Mr. Duffy is not needed. But we have, from Mr. Anderson earlier, we have to prioritize. And I think in this case I know I'm going to use that wisdom that the Finance Committee gave us. And I hope you would vote this article down. Thank you.

THE MODERATOR: Mr. Murphy.

MR. MURPHY: Yes, my fellow Town Meeting Members.

The issue of the money is not what we spend, it's how we spend it. And if I can explain it to you in one sense. We have an opportunity to recruit the best possible candidate and contain our costs. We have no cost containment whatsoever with contract services. The money is already there. So I want to say that there are some inaccuracies.

And we do not have a freeze on hiring. We froze eight positions. That does not mean if we lose somebody in one other position we will not hire him. The Board of Selectmen sat down with the Finance Committee and talked with them about the eight positions we were freezing the hiring on. That was limited to those eight positions. Granted

there are some public safety officials. We wrestled long and hard whether we needed to go to the voters and have a Proposition 2 ½ override. The money was not there.

We made some tough decisions. But I say to you this: that with one of the things that was brought up was that we have many departments in town that don't have succession plans. We have very few departments that only have one person, and that person is highly trained, highly skilled and licensed. May I bring to your attention that not I, not Bob Whritenour, Heather Harper could fill in in that position if something were to happen to Mr. Duffy. If we don't have contract services, we would be left in limbo to bring anybody up to speed.

It behooves this community with a hundred million dollar budget to look at what is the best bang for our buck. And the best bang for our buck is to have someone who could step in during a vacation time, during a sick day and not call down the street and see if we can fill in a Girl Friday.

Bottom line is, folks, this is a smart investment with our money. We have the money there available. We'll either pay for it via contract services or via an associate town counsel. But we can control the cost this way. It's not a waste of money. It's a frugal way to spend our money and move to the future. Thank you.

THE MODERATOR: Mr. Latimer.



MR. LATIMER: Richard Latimer, Precinct 2. So far, I think other than Frank Duffy I'm the only practicing lawyer yet to speak on this. I bill at \$200 an hour, but I'm not an expert in municipal law. The people that Frank's talking about get \$250 an hour. They are outside people who charge for what they provide. I couldn't compete with the \$45 an hour for this position, that's envisioned for this position. A person who is bound to the Town, who is committed to the Town and is a professional. That's – Mr. Anderson says, "Well, there are other departments where, you know, there is only one person," but it's apples and oranges. As Frank says, the timeliness, the deadlines in litigation are unforgiving. Statue of limitations are absolutely unforgiving.

When you have to be – nobody can be in two places at one time. When the Superior Court in Barnstable says be there on a case and the Superior Court in – or the Appeals Court in Boston says be there on a case on the same day, well, yeah, you can get one to give up to the other, but you have to dance around it. And that means more delay. And that means more burden on the one person who's doing this.

We need to have this position. This is not just like some one person department where as Mr. Murphy says, "Well, if they have to be out, one of the Selectmen or the Administrator can step in and back them up." No, it needs a lawyer and the Town needs that lawyer. Thank you.

THE MODERATOR: Ms. Palmer was next on my list.

MS. PALMER: Kathy Palmer, Precinct 3. Since the departure of Mr. DeWitt, how many hours has the town paid for at the rate of \$250? Mr. MODERATOR, through you.

THE MODERATOR: Mr. Duffy.

MR. DUFFY: Nobody. I've done all the work myself, weekends and nights.

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

MR. PUTNAM: Brent Putnam, Precinct 9. A couple of questions, please, through you, Mr. Moderator. I know my employer with Social Security matching and health insurance and so on, the benefits just for my position at my job run about 25 to 30,000 dollars. Can we have some idea? We were told that there was no benefits included and that that would have to be funded separately. What would the benefits run for this position if it were made a town employee?

THE MODERATOR: Mr. Whritenour.

MR. WHRITENOUR: The benefits for the position would be in the \$20,000 range and right now it wouldn't require increasing the budget that we have recommended.

MR. PUTNAM: And the second question: other towns similarly sized to Falmouth, with say \$100,000,000 annual budget, what do they do in terms of their legal departments? Do we have any examples that we can draw from?

MR. DUFFY: The closest one that I'm aware of is Barnstable, and I believe they have four.

THE MODERATOR: Okay, Mr. Lewis is next on my list. And then Mr. Kingwell.

MR. LEWIS: Mr. Moderator, Gardner Lewis, Precinct 6. It's always easy to argue against the Finance Committee for something that we have voted against. But if you went through the entire budget system and the yellow pages in your warrant, each of the subcommittees would come back after talking to department heads and make our report to the Finance committee as a whole and there were a lot of requests for more money than the Town Manager had okayed. Every time we asked for more money from anybody, the Chairman of the Finance Committee said, "Where are you going to get it? Where's that money coming from? We have a balanced budget, you take \$1,000, you got to tell us where it's coming from." Now suddenly we hear \$20,000 in benefits, no problem."

[Laughter.]

THE MODERATOR: Mr. Kingwell.

MR. KINGWELL: Jay Kingwell, Precinct 1. The thing is a question of simple math. If this person is going to get an average \$40 an hour, that's what, \$1600 for a 40 hour week. A contract person, using the figures that are tossed around, in six hours would get \$1500. So six and a quarter hours would come to about the 1500. And there would be no

continuity.

What is most important is that the person who is assisting Mr. Duffy be aware of all the circumstances of legal positions in Falmouth. The contract person might take two hours just to get up to speed. That's 500 bucks gone right there. Whereas Mr. Duffy would then have a person on staff full-time, wouldn't have to get up to speed, he'd already be there.

So I think I agree with Mr. Murphy, Mr. Latimer, that we should have a full-time assistant for Mr. Duffy and his huge caseload. Thank you.

THE MODERATOR: Okay, Mr. Lowell and then Mr. Murphy.

MR. LOWELL: Nick Lowell, precinct 5. I really see this as an insurance policy. We're going to be paying a known amount of money and we don't know that we're going to have a disaster but we have a pretty good idea that there's a – it's a pretty litigious society out there. And in this case we know how much we're going to pay for the salary, but what we don't know is what the risk is.

Now, the town has been sued quite a bit and I'd like to ask a question specifically about the suits that we have facing us right now to get an idea as to what order of magnitude the potential liabilities are that we're facing due to these lawsuits. And through you, Mr. Moderator, there were 40 some-odd suits that we're in. I'm wondering approximately how many of those involve money and what is the order of magnitude of the suits in terms of dollar amount that the Town is facing on those. Thank you.

THE MODERATOR: Mr. Duffy.

MR. DUFFY: Mr. Lowell, the Town has liability insurance for many claims against it. And when we receive a claim that is covered by the insurance company, we send the claim out to the insurance company and they handle it, and so far in my memory money judgments against the town have been rather modest. We're not looking at any major catastrophic money judgments in the pending suits.

Approximately two-thirds of the lawsuits that we handle relate to land use issues, to permits, to subdivisions, to zoning issues, to building permits and things of that matter. They're still serious matters that have to be attended to so that there's some order to our growth and to the enforcement of our laws. We're very fortunate to have liability insurance covering us when members of the town or the town itself is sued for money damages, but nevertheless the caseload is still there and each of these cases requires the commensurate amount of work that you would give to all lawsuits.

THE MODERATOR: Okay. Matt Murphy. Down here, down here, Mr. Murphy.

MR. MURPHY: Thank you. Matthew Murphy, Precinct 7. I'm also a member of the Finance Committee and I was a minority vote on this. And I think the gentleman in the back is correct; this is fairly simple math. My understanding is Mr. DeWitt worked about 30 hours a week.

The job pays \$40 an hour, benefits are about \$25 an hour. So it's about \$75 an hour. Thirty hours to replace him, an attorney charging \$250. I mean, it's just a cost savings. Government attorneys are cheap. It is just a simple savings. And Mr. Duffy is the busiest attorney I deal with. He is just always working, always out, always doing depositions, in court. He is a one-armed paperhanger. This is just a simple cost savings.

I don't mean to denigrate anyone else's job, but when something has to be done in court, it has to be done. I mean, we're making choices to defer maintenance, defer cleaning, deferring taking care of some of the sports fields; we can do that. We can't not respond to a lawsuit or to appeal or have an answer for a board. This just makes sense; we should vote this, thank you.

THE MODERATOR: Mr. Anderson, then Ms. Putnam.

MR. ANDERSON: Mr. Moderator, through you to Mr. Duffy. We seem to be focusing on the comparison of \$250 an hour versus what the rate would be for a contract. Would all of the work that is needed have to go to that attorney, that law firm that charges \$250 an hour? Could we not find a contract attorney, as we previously had, at a substantially lower rate than \$250 an hour?

MR. DUFFY: Yes, we can, and Mr. DeWitt didn't get \$250 an hour because he'd still be here.

[Laughter.]

MR. DUFFY: But we would be paying somewhere – if you looked at the scale, it says \$44.22 per hour – we would pay somewhere above that, but within that range because we'd have to make accommodation for the fact that we would have to include something else for the benefits. So we'd be looking somewhere in the magnitude of \$50 an hour. It would depend on the experience of the person that we hired. But, no, it would not be at the \$250 range because if that's the case I would quit and take the associate's position myself.

THE MODERATOR: Okay, Ms. Putnam, and then I think we're going to vote on this.

MS. PUTNAM: Thank you, Mr. Moderator. Rebecca Putnam, Precinct 9. I'd have to agree with Mr. Lowell. I mean, if we're now looking at \$50 an hour, 40 hours a week, because as Mr. Duffy has said, he works night and weekends, so we are probably going to go over \$40 an hour, but at 50 dollars – I mean, sorry, \$50 an hour for 40 hours a week, you're looking at \$2,000 a week. Now you're looking at 52 weeks because this is a person on staff. Now you're looking at \$100,000. Now you're also looking at plus the health benefits of around 20,000 plus. Well, okay, if it's included in that, you're still looking at \$100,000. You're looking at \$25,000 more a year over the \$75,000.

I think really we have to support the Finance Committee in this and we have to exhaust our resources to see if we can first find somebody

who could do this as a contractual attorney and save ourselves some money here. We have a lot of things that we are looking at tonight and over the next few nights that are going to cost this town. And we really have to take a look at the money, thank you.

THE MODERATOR: Okay, the gentleman in the aisle to my right.

MR. MARTIN: Craig Martin, precinct 9. Mr. Moderator, I have a suggestion for the Finance Committee to help finance this desired position. It'd be: we are currently paying – and this subject has come up before, but it's been kind of shunned – we're currently paying a heck of a lot of rent, unnecessary rent on Locust Street, for Town counsel office when we have open, unused space right in Town Hall Square at the Odd Fellow's house just begging for tenancy. The Eddy Marks Poor House, certainly able to accommodate Town Counsel office.

FROM THE FLOOR: Mr. Moderator, point of order.

THE MODERATOR: Mr. Martin, we're not going to – yeah, we're not funding in this article –

MR. MARTIN: It would save – it would help finance this position.

THE MODERATOR: Understood.

MR. MARTIN: And that's my suggestion for the Finance Committee. Thank you.



THE MODERATOR: Okay. If we do this, we'll fund this in the budget.

Ms. Davis and then Ms. Valiela and then Mr. DeWitt.

MS. DAVIS: Linda Davis, Precinct 4. I just came from Connecticut, and there isn't a lawyer there that will work for \$250, but I'm very much in support of an assistant counsel here.

The last two years, I have had conversations with Mr. Duffy about a variety of legal issues and I certainly do know the load that he carries. This is – I don't want town Meeting to make a penny wise, pound foolish decision here. More than the cases that he carries and the time and the money, there's also often the integrity of this town is at stake. If we do not have the wherewithal that is needed to go into some of these cases, we can in fact lose more than money. And I would just say to Town Meeting: there's a need for a lot of funding for a lot of positions, but this is by far the most important that we need.

As we move into the future and we see more and more issues brought into the court where this town is a party, we need not only good legal service, but we need the time for someone else to work with Mr. Duffy. Thank you.

THE MODERATOR: Ms. Valiela.

MS. VALIELA: Virginia Valiela, Precinct 5. I want to speak

in favor of this article. I think the Town is well served by the Legal Department that has been created during the tenure when I worked on the Board of Selectmen. We need depth of understanding of the Town, its laws, its various issues and the various boards and the challenges that come to those boards. One man can't do it. We started with Mr. DeWitt as a contractor, but it became obvious that his value increased over the years because he was the contractor that we had all the time. And so the need for having an associate to really have that structure in our town government makes a lot of sense.

I was also going to say don't be penny wise and pound foolish and I completely agree with Ms. Davis. I really think seriously you have the funding existing and we should create the structure in our town personnel system to have an associate.

THE MODERATOR: Mr. DeWitt, you were next on my list.

MR. DEWITT: I'm sure you can find someone – Ed DeWitt, Precinct 1. I'm sure you can find someone who's talented to replace me, I think that's going to be the easy part. I think the hard part is going to be to find someone who would accept not getting paid for three months each year while you waited for a Reserve Fund transfer into the Special Counsel account.

I think there's only one individual on the stage who really has a sense of the workload of the Town Counsel's Office, and that's the Town

Counsel. I had a number of discussions with members of the Finance Committee and I asked to see their financial analysis of how they come up with this as not being a cost saving benefit to the Town, and they said, "We didn't do one." I talked to Mr. Whritenour about some of the things that go on in the Town Counsel's Office and I was really kind of surprised at his lack of some of the details of what goes on.

Let me tell you how some of the things that occur. We had a contract dispute with the library, and I think everybody's very pleased with the library project and how it came out. There was a low bidder who was rejected by the Town after doing some due diligence and finding out that perhaps his low bid wasn't so low, and he sued the Town in Federal District Court, and because I was there, we were able to get that dismissed. Now, if you're going to hire an outside counsel to handle that case, that would not have been dismissed, that would have probably gone to trial. It would have cost you a lot more money. I don't think there's any way you can do the financial analysis on this and not save money. Thank you.

THE MODERATOR: Mr. Garcia. No? Okay, Mr. Wilbur, something new? And then Mr. Marks.

Go ahead, Mr. Wilbur, something new.

MR. WILBUR: Jude Wilbur, precinct 1. There may be more than one of you in the same position that I am, sort of on the fence with

this issue. On the one hand I'm hearing emotional arguments. We just heard Frank Duffy say that since Mr. DeWitt left, he did not have to hire an outside counsel at all. That he did all the work himself. We don't expect – I certainly don't expect him to continue in that fashion, but on the other hand we're hearing the strict monetary part of the argument.

So do we give Frank somebody to pat on the head and bring along and maybe succeed him some day? Or do we go strictly with the money? And that's where the problem is, the money is what's eluding me, is what is really eluding me. A contract, outside contract lawyer at \$50 an hour that's never needed, is no expense. And that's what Mr. Duffy has just told us. He hasn't spent a dime on a contract lawyer. And we're proposing to hire a full-time person which will be a known expense.

So, I'm a little bit puzzled by the expense part of it. Although I'm fairly clear about, at least within myself, the emotional part of this issue.

THE MODERATOR: Okay. Anything new? Well, Mr. Duffy wants to respond and then we're almost ready. Mr. Duffy, go ahead, did you want to respond.

MR. DUFFY: The suggestion that I have been doing the work myself, is true. But there are reasons for that. It doesn't mean the work doesn't exist. I have purposely held off trying to recruit someone for this position until I know what it is. If I'm offering this position to someone as a contract, that's one thing. If I'm offering it as a position, that's another.

The pool of applicants may be different. There are a number of concerns.

I've been willing to tough it out for the last 90 or 100 days, but I'm not going to do it much longer.

THE MODERATOR: Okay, Mr. Marks, do you have something new?

MR. MARKS: Ed Marks, Precinct 3. Something a little different. I wish everybody would stop calling the Edward Marks, Jr. the "Poor House".

[Laughter.]

MR. MARKS: And –

THE MODERATOR: Is that it?

MR. MARKS: – Mr. Duffy – and to Mr. Duffy, if you hire this attorney, which I hope you get, you can move down my house, I won't charge you so much rent.

THE MODERATOR: Okay. Last comment?

MR. MARKS: And I move the question, Mr. Moderator.

THE MODERATOR: You're going to move the question?

The question comes on moving the question, to close discussion and take the vote. All those in favor of closing discussion, signify by saying Aye.

[AYE.]

THE MODERATOR: All those opposed, No.

[NO.]

THE MODERATOR: The Ayes have it by the two-thirds. The question will come on the main motion, Article 23, offered by the Board of Selectmen as printed. All those in favor, signify by saying Aye.

[AYE.]

THE MODERATOR: All those opposed, No.

[NO.]

THE MODERATOR: It's the opinion of the chair that the Ayes have it by a majority.

What time are we at, here? We're at 9:30. Yes, Ms. Sears.

MS. SEARS: [Inaudible.]

THE MODERATOR: There's a request for a standing count. Are there seven individuals that would like a standing count? All those that would like a standing count, please stand. It takes seven folks. One, two, three, four, five. Are there any other? Six and seven. All those in favor of Article 23 as printed, signify by standing and the tellers will return a count.

FROM THE FLOOR: Point of order. Is it as printed?

THE MODERATOR: As printed, Article 23.

FROM THE FLOOR: No –

THE MODERATOR: All members sit, please. Indefinite – folks, please listen. Indefinite postponement is the recommendation of the

Finance Committee. The main motion was put on the floor by the Board of Selectmen. The main motion is as printed. In the tradition that I started ten years ago at the end of this meeting, "Yes" will mean yes, and "No" will mean no.

All those in favor of Article 23 as printed, signify by standing and the tellers will return a count.

[Pause.]

THE MODERATOR: In the first division, Mrs. Tashiro. I can't hear Mrs. Tashiro. In the first division.

MRS. TASHIRO: 31.

THE MODERATOR: 31.

In the second division, Mr. Dufresne.

MR. DUFRESNE: 67.

THE MODERATOR: 67.

And in the third division, Mr. Hampson.

MR. HAMPSON: 48.

THE MODERATOR: 48. All those opposed, signify by standing and the tellers will return a count.

[Pause.]

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

MRS. TASHIRO: 16.

THE MODERATOR: 16.

In the second division.

MR. DUFRESNE: 23.

THE MODERATOR: 23.

And in the third division, Mr. Hampson.

MR. HAMPSON: 13.

THE MODERATOR: 13. By a counted vote of 148 in favor and 52 opposed, the majority passes, Article 23 passes and we will take a 15 minute break and we will come back here and reconvene at twenty of.

[Whereupon, Town Meeting recessed.]

[Whereupon, Town Meeting resumed.]

THE MODERATOR: There is one more article here before we get into the budget. Article 24. I'd like to get through that one and get through the budget. And then we can all get some rest and get ready for tomorrow night.

We are going to reconvene here on Article 24.

All Town Meeting Members present please rise for the establishment of the quorum and the tellers will return a count. Folks, if I could have your attention, please.

The counted vote on Article 23 was 146 in favor and 52 opposed. I had declared 148; I misspoke; I just wanted to clear that up. 146 to 52.



[Pause.]

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

MRS. TASHIRO: 52.

THE MODERATOR: 52.

In the third division, Mr. Hampson.

MR. HAMPSON: 58.

THE MODERATOR: 58.

And in the second division, Mr.

Dufresne.

MR. DUFRESNE: 79.

THE MODERATOR: 79.

By a counted vote of 189, we have a quorum and the Town Meeting is back in session.

Article 24, the Finance Committee recommendation is indefinite postponement and this was held by the Board of Selectmen. Mr. Chairman of the Board of Selectmen.

CHAIRMAN MURPHY: Mr. Moderator, I move that the Town vote Article 24 as printed for the purpose to raise and appropriate \$17,440 to be distributed by the Town Accountant. Explanation: the Board of Selectmen voted to approve the reclassification of positions within the Department of Public Works. In accordance with collective bargaining agreement, the Town of Falmouth reviewed 31 job descriptions for the

Laborer's Council Local 1249. Of the descriptions reviewed, eight are recommended for grade and/or title changes. In addition to the job descriptions included in the five year required review, the director of the Public Works Department has recommended changes to two administrative position and one management position towards his effort to achieve efficiency and effectiveness within the Department of Public Works.

If I may defer to the Director of the Department of Public Works for a further explanation.

THE MODERATOR: Okay. Mr. Jack.

So the main motion for Article 24 is as printed and raise and appropriate \$17,440.

MR. JACK: Thank you, Mr. Moderator. Raymond Jack, Director of Public Works, Precinct 9. The positions that you see in front of you in the Town Meeting booklet are the Department of Public Works overall, but they represent two different unions. As far as the first several positions with the exception of the last three, there are members of Local 1249 of the Laborer's Council. In reviewing those classifications it was mandatory in accordance with the terms of the contract that they be reviewed prior to the end of 2007. A number of those positions as a result of that review were reclassified and therefor they are upgraded with regard to the types of duties that they perform today.

It seemed logical at that time that we review other positions. There are several other positions, namely facilities maintenance for the most part and a number of administrative positions that are also part of the Department of Public Works. So I wanted to alleviate the presumption that all positions within Public Works Department are within one particular union.

It made sense to me that in order to reorganize the Department and consolidate operations, make the best use of existing resources, personnel, in order to achieve efficiency and effectiveness, that we review all of the classifications with that in mind at the same time. So that's why you have the article before you the way it appears.

THE MODERATOR: Okay, discussion? Mr. Chairman.

CHAIRMAN ANDERSON: The Finance Committee indefinitely postponed this article for quite a few reasons. First, when Mr. Jack presented his information to us, he stated that he personally rewrote these jobs as part of his thoughts about the reorganization, as he just alluded to. We viewed these positions as part and parcel of the reorganization, and the article itself even states that. When I speak of the reorganization, as many of you know, there was a study done by the Matrix Group, a consulting group for which we paid \$30,000. They submitted their recommendations last September to the Board of Selectmen. We IP'd – indefinitely postponed all the jobs related to the DPW organization

throughout the warrant because we feel that this Matrix study needs much more analysis. We think that the Town needs to see from the DPW a fully developed comprehensive plan which would include justification for its recommendations where they differ from the Matrix study and why, a prioritization and a time line for implementation, and a schedule of costs incurred and benefits expected to result from the changes.

Some of the positions in this article recommended for an upgrade are in significant conflict with the Matrix study or are not mentioned at all in the study. We feel we need this clarification and justification before we act piecemeal on these positions.

THE MODERATOR: Discussion on Article 24.

No further discussion on Article 24, then the question will come on the main motion: \$17,440 for the purposes of Article 24. All those in favor, signify by saying Aye.

[AYE.]

THE MODERATOR: All those opposed, No.

[NO.]

THE MODERATOR: It is the opinion of the Chair that the No's have it and Article 24 fails.

Article 25. This is the budget. It appears in the center of your warrant book in yellow. I'm going to ask the Chairman of the Finance Committee to make the main motion and he's going to go through some

adjustments that you all need to make on those yellow pages.

Mr. Chairman for the main motion on the budget.

CHAIRMAN ANDERSON: Mr. Moderator, I move that the town vote Article 25, the fiscal year 2009 operating budget, as follows: (A) appropriate from the Parking Meter Fund to be applied to budget 01210 \$150,000; (B) appropriate from Embarkation Fees to budget 01210-51110 Police Department Salaries to budget 01220-51110 Fire Department Salaries a total of \$350,000; ( C ) to appropriate from various School Department accounts from the Lawrence School Fund to Budget 01300-51110, School Department salaries, \$100,000; (D) appropriate from Wetlands Funds to be applied to Budget 01171, \$50,000; (E) to appropriate from Waterways Fund to be applied to Budget 01295 \$250,000; (F) to appropriate from Title V Program to be applied to Budget 01754 \$41,253; (G) appropriate from Golf Revenues for Principal and Interest payments \$613,923; (H) appropriate from Community Preservation Fund Estimate Receipts voted by the Community Preservation Committee on 2/14/08 \$2,064,309; (I) transfer from Overlay Surplus Fund to be applied to the Fiscal Year '09 Operating Budget \$200,000; (J) raise and appropriate under the Estimated Fiscal Year '09 Levy Limit and apply to all other remaining balances under Article 25, \$99,633,342 for a total operating budget of \$103,452,827 for the purposes designated in the budget and that the same shall be expended only for such purposes under

the respective officer, board and committee of the Town.

If you'll look in the yellow pages of your – the middle of the warrant book, I want to run through just some of the changes, the numbers. And they're up on the board, here, so that you can take a look. Line 8, which is Selectmen/Administrator Budget 01122, if you go to line 10 of that, where it says Other Expenses, in the far right-hand column, instead of the number that is there, the 40,575, that number should be \$25,575.

If you then go to Line 17, it changes the total; the new total is \$435,202. That line item was changed because we noted in the budget there was last year we had a \$15,000 recruiting fee to recruit – pay for recruiting the new chief of police. The budgets are pretty much flat with last year, so we removed the \$15,000 from the line item there to make it flat with the '08 budget.

The next one is line – if you go to Line 42, the Legal Department. Due to Article 23 which was just passed, we have some changes there. If you go to Line 43, Salary and Wages, scratch out the number that's there, the \$166,406. The new number is \$241,406.

Line 45, Special Counsel, was \$125,000. The new number is \$50,000. We just moved \$75,000 from the Special Counsel line up into the Salary and Wages line. It does not change the total.

If you go to Line 88, Town Insurance, looking at Lines 89 and 90, those numbers will change. The new number is \$1,061,393. That will

be the number in both of those lines. It's reduced by \$50,000 after talking with the Town Manager we found that we could remove \$50,000 from that particular line item.

The next one is Line 309, Short Term Excluded Debt. If you go to Lines 311 and 312, those lines will change. The new number is \$1,327,720. The reason for this change is when the budget was submitted, the interest was just an estimate and as we moved closer to and got beyond, actually, the printing deadline for the warrant book, we were able to nail down the number and the interest number is now the firm \$1,327,720.

Line 329, Health Insurance. If you go to the line 330 and 331, which are the specific line items, the new number is \$9,551,550. That line was increased \$65,000, which \$15,000 came from the Selectmen's Budget. As you recall, we removed it from there. And \$50,000 came from Town Insurance, so we put them both into the Health Insurance Line Item.

The last one, Line 349, the grand total. The new number there is \$103,452,827.

THE MODERATOR: Okay, so that is the main motion on the budget. At this time we'll have a presentation of the operating budget by the Town Manager, then we'll have a period of open questions and answers in general, and then we'll go through the budget line item by line item.

Mr. Whritenour.

MR. WHRITENOUR: Thank you, Mr. Moderator. Good evening, Ladies and Gentlemen. I'd like to give you a brief overview of the Town's budget. I'd like to just cover some of the important facts, stay relevant. I'll avoid a lot of the details.

I think the first, just picture introducing this up here reflects our growing focus less on what the individual things of the budget we're buying on and focuses more on the work that's being performed. We all know it's a very difficult year, one in a series of difficult budget years. And to give you an example of how touch of a year this was, if I could get the next slide, please.

We've got a shot here of our new Chief of Police, Anthony J. Riello. He's emerging just now from our budget meeting.

[Laughter.]

MR. WHRITENOUR: In which we discussed the Fiscal Year 2009 budget process. I'd like to offer my welcome to the Town of Falmouth, Chief Riello.

[Applause.]

MR. WHRITENOUR: If we could get the next slide. In all seriousness, I just want to go over a little some of the financial realities we're facing in Fiscal Year 2009 and it does follow directly from some of the comments from the Chairman of the Finance Committee.



Very simply stated, our revenue recovery is stalling for the sixth consecutive year of stagnant growth. Now, we all know we had a major problem with the state budget crisis in Fiscal Year 2004. That was the year we lost approximately \$2 million in state aid and we fixed that problem. And we fixed that problem in 2004, 2005 and 2006, and our general game plan was by now that the economy would be strengthening, we would be restoring some of those revenues. We all know our regional economy has not strengthened. It's weakened if anything and the housing crisis that we're facing, you know, throughout the Commonwealth and this country has created some of that stagnation.

The Reserve levels, why don't we go back to that slide for a second. They are – we showed how we had used strategically some reserves over the past five years to help get us through that crisis. It's left us right now with the reserve levels are below what our financial goals are. It's going to take a few years to recover from this process, and we'll talk about those reserves a little bit more later. That's a key part of our town budget mix.

What this stagnant growth is and our efforts to remove these reserves out of the budget, it's created, quite frankly, some problems in delivering the Town's services. We've got a balanced budget that's right here that preserves intact the Town services that we have but there are some very difficult decisions that we're going to have after 2009, as was

indicated earlier, to move ahead with the service levels intact. And maybe we could take the next slide now.

If we're going to address some of these issues moving forward, we're moving into multi-year financial planning involving all of our policy makers. It's critical that we have a close relationship with the Finance Committee and the Board of Selectmen. And it's true: the Board of Selectmen's strategic five year plan has provided us with excellent guidance in terms of identifying those priorities.

The other point that I wanted to make is that we really have to work very closely with each and every one of our department heads. These are the key service providers, and their information is critical to the planning of these services. That's where all of the detailed information comes from that the policies are based on. And we really need to have a complete partnership, not just small elements, you know, working in isolation.

We're going to depend on the town Meeting and also the ballot to make community-based decisions on establishing priorities. And we're not trying to have a situation that either we have a giant override or everything gets cut, but we're trying to be strategic in our thoughts to make sure that these service levels are able to maintain intact.

I want to talk about just a couple of the bright spots in the Town budget. One of the key items that we've been able to accomplish is

that we've controlled the expenditures in this budget so they're not going to exceed your available revenues. And we talked a little bit earlier, it was mentioned the bond rating agencies; that's something we follow enormously close. We have an excellent bond rating here in our community. We were recently rated both by Standard and Poor's and Moody's and in the Moody's I thought was very interesting that they maintained the town's very high bond rating, but they did provide a caution that, what they said was this community, because of all of the pressures on costs – and they were talking about Fiscal Year 2009, that we probably wouldn't be able to limit our expenditures because of all of the increasing costs to money that we have available on a sustaining basis – and, we've done that in this budget. This is a sustainable, balanced budget, albeit it's very lean.

We've eliminated the use of free cash this year to support operating budgets. At it's highest level, when the town had more free cash, there was \$1.5 million in free cash directly subsidizing the operating budget on an annual basis. That was decreased last year down to \$750,000. It's decreased in FY '09 down to zero. And that's hopefully going to give us a chance to try to build up some of those reserves again.

Every one of the town's departments has been engaged full-swing in these efforts to support sustainable Town operations. It's been tough for these departments. We've asked them and you'll see in many

instances the levels of funding don't equal what they were last year. Departments are working harder, thinking smarter, and we're still able to continue these service levels but after six years we're showing some signs of weariness. It's getting a little threadbare in terms of having the same operating budgets year after year. Thankfully, because of some of the slowed inflation of some of the overhead items that we'll talk about, as well as the ability of our educational system to maintain within the revenues that we have, we've been able to put together a balanced budget.

A couple of service-related challenges. And I think it's interesting to me, I mentioned all of our department heads have been part of this process. In fact, we met over what comments I should make to Town Meeting to let them know about the exact issues, and these are some of the items that Town departments asked me to bring up in front of you. That what we have is increased service demands in virtually every department that in recent years has been matched with this stagnant revenue growth. That's what's creating a problem. And just a couple of examples.

Thirty percent increase in youth recreation programs since 2001. We have a full 120,000 square feet of new building space that we've taken over since 1999; since that time we've created the Facilities Division to take care of those buildings; we're working much smarter; but that's a lot more square footage to take care of.

You can go down and talk about the new miles of roadways that we've had, the new drainage structures, public safety call volumes, right down the line, on and on, since 2001, the services in this community have kept pace with the demand, we've increased them. And we've increased services more than the budgets have increased to support those.

I want to go over just briefly a couple of the numbers that are involved with the budget to kind of – I think this one shows probably better than any exactly what we've been through since 2002 with the state revenues, and I think this reflects the state's economy better than any other bellwether. We started at the level of almost \$7 million in state aid in 2004; that was the year that the state budget crisis I mentioned hit. And we're celebrating this year, in 2009, we finally reached the level that we were in 2002. And those are actual dollars, so those dollars in 2002, that almost 7 million, bought a heck of a lot more than it's buying in 2009. But even looking at a chart like this, I need to salute the local legislative delegation because this is where they came in with the state budget crisis and they've worked enormously hard to bring those numbers up every year to where we are now. And, you know, that's one of the big reasons why we're not reducing services and having layoffs. Because of the legislative delegation, they've worked to keep this number increasing; that's one of the things we've depended on greatly.

Maybe we can move right along, here. You can see the local estimated receipts. What I want to show you here is, you know, we fundamentally revamped these in 2002 and there was some fast growth, but you can't just increase fees over and over again, it doesn't work like that. We've seen stagnant growth the last three years. It's grown very little. Motor vehicle excises are down. We can't keep going back to the well and increasing building permit fees, especially when noone's building any buildings. It's just not going to work to address the entire budget from the local receipts.

Maybe the next slide. You can see the property taxes, more of the steady eddy each year has that steady growth. Please keep in mind: this is Proposition 2 ½. The amount of these property tax revenues that feeds the operating budget is only increasing 2 ½ percent per year. Most of this growth is fueled by the capital projects and debt exclusions that we've done. We are so regulated in terms of our ability to raise revenues; again, that's the problem. With costs going up, you know, four to five percent and we have property tax revenues that's the lion's share of the budget growing at 2 ½ percent, it's like the Town Counsel argument: it's a simple mathematical argument. Over time, you wind up seeing some of the expenses grow faster than the revenues.

I want to just – I always talk about this and I'm not going to leave without talking about it. We have 66 percent of our revenues from

the property taxes. I think that's larger than it should be. We're forced because of the inequitable distribution of the revenue sharing, we only have eight percent of our local revenues from the state revenues; that's a state-wide problem. All of the towns on the Cape face that and it's made it difficult for us to you know fund things with everything relying on the property tax. We have built up local receipts to 26 percent; that's a good sign, but this is a little bit out of whack to have 66 and 8. It really should be, you know, much, much larger from the state portion.

Maybe let's move right along. I want to show you, when you talk about limited budget increases, our total revenues grew approximately two percent this year. If you take a look at where all of the money's going, you can see the exact numbers, and I've plotted them out for you from 2007, 2008, 2009. And you see the health insurance costs, they're up 1.2 million. The retirement is up 407,000. Town insurance we see 55,000 and it's actually level-funded; we've taken a little money out of there. And the Medicare is up about 62,000. These are what's called the budget overhead increases. They're primarily employee benefits. But make no mistake about it, those services that are being provided, they're being provided by people. Our budgets are 75 percent salary, and that's where it all goes and it does help provide the services, but when you have these overhead items being 1.8 million, there's not much left to buy things like asphalt.

So, maybe we can move this right along. I want to just show you: we are tracking on the debt service – and this is kind of interesting. You see the long-term excluded up 466, but there's a pretty big drop in the short-term excluded. And that's really kind of a trick in the numbers that's attributable to some pretty large – the short-term debt that we had for the Falmouth High School that was reimbursed with some state funds last year. So, you know, we do see which is good, the short-term going down, but keep in mind that all of this last year wasn't property taxes. There's a fair amount of state revenue that's tied up in there.

The long-term unexcluded debt is up about 319,000. Again, the growth is fairly steady on that one.

I included in here a couple of the slides that I just want to show you. Again, the focus is all on it's not just about the numbers on a page. The reason we put these budgets together and that we're working with the departments' established goals is so we have the ability to have the rapid response. In this case, you see the public safety training exercise to, you know, stay on top of these things.

Let's move this along. In terms of public safety, as a result of our hiring freeze, you see the police budget down slightly this year. We hope that those funds can be restored next year to hire those positions.

In Fire and Rescue, we see a very slight increase. This is probably one of the lowest increases that we've seen in the public safety in



recent years. And the DNR is pretty much level-funded, but working very closely with these departments we're going to be able to keep the services intact.

Move this right along. And here is a shot of Falmouth's finest provided some assistance to a local motorist in need.

[Laughter.]

THE MODERATOR: Looks like revenue enhancement to me.

[Laughter.]

MR. WHRITENOUR: Wanted to include a shot of the numbers. You know, Falmouth is a tree city, and it really, you know, folks don't get a sense for just how extensive, you know, the tree maintenance operations here in the Town are. And, you know, I salute the DPW and this is Brian Dale's crew; on a daily basis they're up doing these trimming exercises to keep the trees safe.

And here's another example of some of the emergency services that need to be brought to bear. You know, why we're here, why we're providing these budgets. The level of equipment and the level of training is absolutely paramount and the professional effort that you have from your departments supporting this community I would put there with anything in the Commonwealth.

Next, please. And, as far as the DPW goes, yes, it's tough work but, boy, you sure get a nice view sometimes. So, I don't want to

hear too much complaining out of them.

And I included a slide like this and the next one that, you know, quite seriously we wanted to – if we can show just that picture just for one second. The reason this is here, and what this is is some drainage work that was done in Woods Hole, and it reflects a new ethic within the Department of Public Works that our own crews are taking on much more work at a huge savings to the town. It provides them a great deal of better morale and better training and it enables us to do less contracting out and I know Ray Jack has pushed this very much: if we can get our own crews doing our own work and we don't have to contract out every single time, that's a cost savings for the Town.

But let's get to the numbers. I just want to show you: very similar in your Public Works Department. And I do salute the Public Works and the divisions: it's getting enormously difficult for them to carry the load. And this year we made the major effort that we wanted to have some of the capital items. We promised you that at the Fall Town Meeting. That we're taking a two-step process with our multi-year financial planning that at this town meeting and through the ballot we're seeking to get some sustainable expenditures for some of the capital items, especially in the Department of Public Works and the public safety, and we're going to have to come back and begin to address some of the operating budgets that support that capital spending.

You can see, division by division, what these folks are working with. And Highway, the budget's actually down 22,000. And Water, its' down 30,000. In Wastewater, it's down 3,800; although, to listen to them, you'd think it was down 103,000.

[Laughter.]

MR. WHRITENOUR: I'm just kidding, Jerry.

Trash collection is largely fueled by the contracts, but the costs are fairly stable there. It's only up 2300. And this is an enormous effort on the part of these divisions to get the work out there. And, again, as we move forward into 2010, this right here is a key area that you're going to be talking about again. We additional expenditure to support our service levels, and that's a challenge that we face.

Again, this is a wastewater project that, this work is tough work. You know, these people are down in a hole; without these, you know, guards here, the dirt is all the way up here, they'd be completely buried. And, again, these are our people at night with a flashlight fixing a sewer leak. And it's not easy work.

This is another example. I kept this in from last year because we were supposed to get rid of this bridge. Well, the bridge is still here. We're still maintaining it. And without the funds that we're looking for in between the budget and the articles this evening, this bridge will probably be stuck in this position for quite some time. So.

And this just shows some of the children at our new playground facility.

If we could get to the next slide. One thing I did want to – I mentioned education. I do want to salute our superintendent of schools Dennis Richards, our school Committee. We had a very difficult problem with the budget this year. If it was not for the school Committee and the superintendent doing a pretty Herculean effort to keep their expenditures down to what is essentially a two percent increase, we would have been forced into requiring an override This year. But it's been hard across every department and education has not been spared and this is another area, as we move forward into the next fiscal year, we're going to have to have a serious dialogue with our educational officials and the policy makers and this town meeting to determine and make absolutely certain that we have the adequate funding and the right amount of funding that's needed there.

But this year, every single department, bar none, you know, participated in our effort and the watchword was "sustainability". We wanted to put a budget together for Fiscal Year 2009 that we knew would have the revenues to support it. Upper Cape Tech is a much smaller budget but they came in at the two percent level as well, and you know my hat is off to them. They are our school. This is not someone else's school.

This is a Falmouth school and we participate with some other towns in

that and it's very important. And I also thank their leadership and I know the director is here today.

And I just want to briefly – I know we want to get to the budget. Moving ahead, I mentioned a multi-year financial planning effort that's going to guide the policy decisions. It's critical to use this information to make decisions. We want to make sure we're presenting these critical conditions for town decisions for Town Meeting to make. And I kind of want to set the tone now, as we're going to be asking for this body to make some critical decisions, and it's not a matter of voting for someone or with someone or against another one. These are decisions for the town. And they're going to be decisions that have issues of money and funding levels and what types of services that we want in town. And we're, you know, in a good shape now to prepare over the next year and to work with some multi-year financial planning efforts to present to you the information that you need to see to make some decisions that are going to govern what happens for the next five years. So, get ready for that. It's a process we're all looking forward to. And we're also going to be relying very much on the voters at the ballot to make those decisions as well. And we've already discussed this and it's our feeling that if we can provide the information, not salesmanship, that you folks are going to make the decisions for this community that's needed.

And I think that I'm going to stop right there and just try to get

through the budget. I do want to say, though, the budgets are lean. As you go through, if you want to reduce amounts, please be mindful of any impacts that might have on the service levels. Thank you.

THE MODERATOR: Any general questions before we get into the line item budget? Down here on my left. Microphone.

MR. DEMOTT: My name is Demott, Robert DeMott, Precinct 3. At a precinct meeting, it came out that through the Finance Committee, there, that the Town of Falmouth is \$130 million in debt. Can I confirm that?

THE MODERATOR: Mr. Chairman.

CHAIRMAN ANDERSON: We did just check with the treasurer this morning, and she said it's about \$127 million. It'll be 133 probably by the end of the year.

THE MODERATOR: Okay, any further general questions about the budget before we get into the line items?

Okay, Town Meeting. Town Moderator.

Selectmen/Administrator. Mr. Freeman.

MR. FREEMAN: Michael Freeman, Precinct 8. Under Selectmen and Administrator, line 16, I understand I spoke to some people today in the Finance Department that out of state travel includes other departments other than Selectmen and Administrator. I'm not questioning the amount. What I'm questioning is the fact that in Fiscal '06 the Town

Manager and his Assistant both went out of town. They were both exited from their jobs and the building. There is nothing in the Charter that I have seen or understand that says in the absence of the Town Manager and the Town Assistant Manger, who is in charge? Who takes their responsibilities? If I'm wrong, I'd like to be corrected as far as a correction in the Charter. I don't know who I should address that to. I'm addressing it to the Moderator at this point.

THE MODERATOR: The last time I read the Charter, the Town Manager or Administrator at the time had the right to appoint anybody to be in charge. That was pre-dating an assistant. But what is the question on the line item in the budget?

MR. FREEMAN: Other than the fact that it is a travel expense, if they travel together and there is nothing in the Charter that says who will be responsible.

THE MODERATOR: That's not an issue for the budget, Mr. Freeman.

MR. FREEMAN: As far as the budget is concerned, I think it is. And the reason I think it is is because in the Town of Mashpee, the Selectmen had decided that neither the Town Manager or together, the Town Manager and the Assistant Town Manager, could be out of the office at the same time. It's not allowed. What I am suggesting is that we must have coverage, and to have that coverage, I believe that either they go

separately –

THE MODERATOR: Okay. That's a policy decision. We're making an appropriation and budget decision.

MR. FREEMAN: How can it be addressed?

THE MODERATOR: At a Selectmen's meeting. Is there any further discussion –

MR. FREEMAN: Thank you.

THE MODERATOR: – on the line item for the out of state travel or Selectmen/Administrator's budget?

Finance Committee. Finance Committee Reserve Fund. Town Accountant. Assessing Department. Town Treasurer. Town Collector. The Legal Department. Personnel Office. Information Technology.

Mr. Pinto.

MR. PINTO: Thank you. Greg Pinto, Precinct 3. On line 53, Other Expenses, the request for \$121,000 and the recommendation for approximately \$43,000 more than that. Could we get the Chairman of the Finance Committee to tell us why?

THE MODERATOR: Mr. Chairman.

CHAIRMAN ANDERSON: Line 53 increased \$43,811 due to the transfer of copier contracts, supplies and maintenance from Facilities Maintenance and from Police Department to IT. The land line phone



expenses were also moved from Facilities Maintenance to IT.

THE MODERATOR: Anything else on Information and Technology? Ms. Abbott.

MS. ABBOTT: Jane Abbott, precinct 7. This may apply to other areas. If the salary and wages goes up quite a bit from the preceding budget, is that because of new personnel?

THE MODERATOR: Mr. Chairman.

CHAIRMAN ANDERSON: In Information Technology line 52, the salary and wages, it went up 15 percent. There was transferred salary dollars from the Police Department to Information – for an IT person. If you recall at last fall's Town Meeting, we moved a person into IT, but we were unable to move the dollars. So that in this budget we did move the dollars FROM Police into Information Technology for that person.

MS. ABBOTT: So it was Salaries and Expenses that were changed.

THE MODERATOR: Anything else on Information Technology?

Geographical Information Systems. Affirmative Action. Town Clerk. Ms. Jones.

MS. JONES: Megan Jones, precinct 1. Last night the town voted to adopt the 11 amendments of the Charter that had been voted at the April 20, 2006 Town Meeting. I understand that funds to update our

printed charter have not been included in the budget. Through you, mr. Moderator, my question to the Town Manager is how much would such an update cost and when could the funds be made available. An out of date Charter is not a very useful document.

THE MODERATOR: Mr. Whritenour.

MR. WHRITENOUR: I would defer to the Town Clerk on the cost of reprinting the Charter. Those funds could be available at the Fall Town Meeting or next April if funds are available.

THE MODERATOR: Mr. Palmer.

CLERK PALMER: The Code is updated through a revolving account which we voted for and approved earlier in the evening. Unfortunately there isn't enough money in that revolving account to make those updates. I requested money in this year's budget but with the way things are that was removed from this year's budget and, as Mr. Whritenour said, that may be available in November or next April, but that doesn't alleviate the problem of it not being changed. There are changes that need to be made and at this point I can't make them because I don't have the money to do it.

The range of every Town Meeting, it depends on how many bylaws we change or how many updates that need to be made, and from the Charter changes, those are all determined by how much has to be done by the codification company that does the work.

MS. JONES: Do you have any ballpark figure about how much we're talking about? Because, waiting a whole year, I've got a lot of questions about the budget – I mean, about the Charter, and I keep saying, "Go to the Town Clerk", and they come back to me and say the updated one is not available.

CLERK PALMER: It averages about \$3,000 a Town Meeting to update it, depending on the amount of changes that are made.

MS. JONES: So we're talking about \$3,000?

CLERK PALMER: For each Town Meeting. There's two Town Meetings in a year, it's roughly \$6,000 a year.

THE MODERATOR: Okay, Mr. Boyer.

MR. BOYER: Mr. Moderator, Peter Boyer, precinct 5. I think we're confusing a number of publications: the Code, the Bylaws, and the Charter. I would suggest if it's not possible to fund a reprint of the Charter that one be made available, updated, on the website.

THE MODERATOR: Okay, Mr. – was asking about an update on the website of the – Mr. Boyer asked –

CLERK PALMER: It is on the website. The Code is updated on the website.

THE MODERATOR: Well the Charter is a section of the Code.

CLERK PALMER: The Charter is part of it.

THE MODERATOR: If you look at the Code, it's the first section, and it's on the website. Are you all set, Ms. Jones? Did you have something else? Mr. Ketchum.

MR. KETCHUM: Paul Ketchum, precinct 1. My wife was the secretary fo the Charter Review Commission and submitted to the town a disk with it all on it and it's still not there. I've downloaded it just the last day or so and we've actually gone into the Town office and asked for a copy of the Charter from the website; it's the old Charter. It's not the updated Charter.

CLERK PALMER: This is the issue we're talking about. I don't have the money to update the Charter. I've requested the money in this budget, it was removed because of the availability of funds.

MR. KETCHUM: Okay, but the Charter is a document in your office or in the Town that could be put on the website. That's my only issue.

CLERK PALMER: On the website, the Charter – the entire Code is updated by the code company, and they charge to update the code book that is also a hard copy we maintain but we also maintain it on the website. The code company maintains it on the website. If I went and changed the website personally, then we get out of the system of having a company track and follow these changes through the progression from one Town Meeting to the next. We hire a company to do this for us; I don't do

that. I could take an electronic version of the Charter and make all the updates, but that would not be done through our company that maintains our code book and maintains the website. I wouldn't be able to change the website unless I created a new link with the new Charter, and then we're not following the system that we have in place.

THE MODERATOR: Okay, further discussion on the Town Clerk.

Elections. Conservation Commission. Planning Department. Zoning Board of Appeals. Town Insurance. Facilities Maintenance. Police Department. Fire Department. Building Department. Emergency Preparedness. Natural Resources. Harbormaster/Waterways. School Department. Mr. Shearer. No. Okay.

Upper Cape Vocational School. DPW Administration/Engineering. Mr. Shearer.

MR. SHEARER: Dan Shearer, Precinct 6. I want to ask through the Chair a question to our Selectmen, and that's: we in this town, I think it was three years ago, started redoing the positionings of the DPW. We received a Matrix plan which we paid big money for last September, I believe, and I'd like to know when this might take effect or go back to the voters. I see right now it's on an indefinite – excuse me – Article 28, which is indefinite postponement. I'm not doing well tonight. I'd just like to ask when we'll see it again. Thank you.

THE MODERATOR: Mr. Chairman.

CHAIRMAN MURPHY: Through you, Mr. Moderator, the Finance Committee as well as the Board of Selectmen thought it was an inopportune time to go to the voters this year for a Proposition 2 ½ override. We will take that up at a future date. We do have three large debt exclusions that we thought that the voters was more in a prioritization than going to this first. We don't have the equipment to do the roads. We need then if we were to fund the positions without the equipment, meaning the capitol, it would be a which came first, the chicken or the egg.

So, in this case, the Board of Selectmen, as well as the Finance Committee, opted to defer this for a later date. We will continue to take it up next year and look at the issue as funding comes available.

THE MODERATOR: Anything further on DPW Administration and Engineering? Mr. Boyer.

MR. BOYER: Mr. Moderator, Peter Boyer, precinct 5. If I might have your indulgence and go back to the Harbormaster/Waterways account. I notice that in fact in the funding on the last page, \$250,000 is coming from the Waterways fund. I think that's a new practice but I'm not positive that that now is funding operating costs rather than reserve for capital expenditures or capital improvements in the Waterways Fund. Can you, Mr. Manger, explain if there's a balance if you know it in that fund, or is that using all of the money every year? Thank you.

THE MODERATOR: Mr. Whritenour.

MR. WHRITENOUR: Yes, thank you, that's an excellent question. And this practice did start a number of years ago. There was a change in the law that previously had placed 50 percent of the boat excise taxes had always gone into the Waterways Improvement Account and that those funds by law were used for the capital improvements and the Waterways, and what happened, there was a fundamental change in the laws relating to the Waterways which took 100 percent of all of those Waterways revenues and put them into the Waterways account. And it also changed the uses for that to include the law enforcement as well as the capital costs. And the \$250,000 is a small portion of that. The lion's share of the funds still are used on an annual basis for the Capital Improvements. So that's just how that account works now.

THE MODERATOR: Further questions on DPW Administration and Engineering? DPW Highway Division. DPW Snow and Ice Control. Street Lighting. Vehicle Gasoline. Mr. Chairman.

CHAIRMAN ANDERSON: I might make note to Town Meeting that this particular budget, the Vehicle Gasoline is a new budget. You will see in many of the line items of the individual departments that they have decreased. All of the gasoline charges and the diesel charges that were previously in the individual operating budgets have been consolidated into one vehicle gasoline budget. Mr. Jack and the Town

Manager believe they can better control these expenses by having it all in one particular budget.

THE MODERATOR: Okay. Waste Management Facility. Solid Waste Collection. DPW Wastewater Utilities. DPW Water Utilities. DPW Tree Warden. Mr. Calfee.

MR. CALFEE: It seems to me that we're just going through these departments and rubber-stamping what's been put down here by executive board and the Finance Committee. We get to the Tree Warden, which I'm glad to see the picture shown on our screen here of our tree crew working hard out there. Brian only has three people working that tree crew and they do a lot of work, but there's a lot more to be done, here. We see a cut in salaries from the existing 831,000 down to 796, but what's more of a cut is Other Expenses, some \$50,000 taken out FROM what was budgeted last year. This is a pretty severe cut, I think, for a department that we need in this town if we're going to keep the town looking as it is. And I wonder if there's any way of shifting any money around here or are we just going to continue to rubberstamp these budget amounts? We saved \$50,000 off the insurance budget; can some of that be used in this department?

THE MODERATOR: Mr. Anderson.

MR. ANDERSON: In the Tree Warden Department, as I had mentioned in my presentation and Mr. Whritenour



mentioned in his, there were eight positions that were open and frozen, but not funded in this particular budget. One of the positions, a tree maintenance worker, is in this Department, so that's why you'll see a reduction from Fiscal Year '08 to Fiscal Year '09.

Secondly, as I just mentioned, we have a new budget line item, Vehicle Gasoline. All of the departments, again with the exception of Police and Fire, have had the gasoline and fuel moved from other expenses up into this Vehicle Gasoline budget line item. So it isn't actually a reduction of their budget, it is a moving of the dollars, the gasoline and the fuel dollars, in actuality. And also, I'm sorry, the repair and maintenance of vehicles has been moved to Highway. That totaled \$18,000, and gas and diesel was moved to that new Vehicle Gasoline line item in the amount of \$31,500. So that pretty closely tallies up to your \$50,000.

THE MODERATOR: Anything else, Mr. Calfee? Okay.

Further discussion on DPW Tree Warden?

Health Inspection. Clinics and Nurses. Council on Aging. Veteran's Services. Commission on Disabilities. Human Services. Falmouth Public Library. Cape Cod Regional Library. West Falmouth Library. Woods Hole Library. The Recreation Department. The Beach Department. Bikeways Committee. Public Access Committee. Historical Commission. Historic District Commission. Long Term Excluded Debt.

Long Term Unexcluded Debt. Short Term Excluded Debt. Short Term Unexcluded Debt. Stabilization. Retirement. Unemployment. Health Insurance. Down here on my left, microphone, please.

MR. THOMPSON: Hi, Jack Thompson, Precinct 7.

Question through you, Mr. Moderator, to the Town Manager. It seems like the health insurance goes up about a million dollars a year, or at least it has going forward. Is there a plan to control this cost or and do you see it going up substantially each year?

THE MODERATOR: Mr. Whritenour.

MR. WHRITENOUR: Health insurance is one area that we've seen inflation that in the medical costs is higher than the inflation that we see for other sectors of the economy. The one thing that you need to know is that the health insurance that the town gets is part of a regional self-insurance collaborative, so the health insurance that we have, we pay, instead of an insurance company, just for the actual medical claims that are associated with our group. And still, in that, you see the costs are going up.

What we've done here in town is offer some of the newer managed care products such as the PPO's and the HMO's, and that's helped us to get a lot of the enrollment off of some of the programs that don't have cost containment. So we've seen, actually, if you take a look at the percentage increase, the level of increases that we've had here in

Falmouth have been well below what the standard rate of inflation for health insurance.

MR. HAMPSON: Point of order, Mr. Moderator.

THE MODERATOR: Mr. Hampson.

MR. HAMPSON: I would recommend that we would go over past eleven o'clock to finish this part.

THE MODERATOR: Okay. To exceed eleven o'clock just to finish this one article up. All those in favor, signify by saying Aye.

[AYE.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

Mr. Whritenour are you all set?

MR. WHRITENOUR: Yeah, I think that that covers it.

But the one thing that I will tell you in participating in a joint purchase we are looking very closely on additional lower-cost alternatives that have more cost containment in them. So it's a process that's not static. We need to all understand that health care costs are going up very rapidly.

So, what we're trying to do, even though we are regulated by some of the state law that allows us to, you know, we have to negotiate

any changes to the health insurance, we've got a lot of new products that have cost containment in them so every effort is being taken to try to make sure that we get our people in the most efficient programs and we have the pricing set up to do that and that, moving forward, we're going to be studying this. And the one thing that I can guarantee you is our increases will be below what the statewide averages are for health care costs.

THE MODERATOR: Okay, life – Mr. Lowell.

MR. LOWELL: Nick Lowell, precinct 5. I have a suggestion perhaps for next time that could be included. I see you have a tendency, like on the fuel, to break out these expenses into separate accounts. But a problem with that is that the visibility into what the true costs for departments really are becomes much more difficult for us to calculate on the fly, here.

So, for example, the health insurance at nearly ten million is running at about ten percent of our total budget. Throw in retirement and some of the other benefits, you're probably up to about fifteen percent. And the problem is that then when we're evaluating let's say an assistant town counsel, it becomes difficult to know exactly what the share of the benefits really are. Or let's say we're evaluating new vehicles, what the fuel might be.

And so I would be interested, perhaps next time, in seeing a maybe separate worksheet that details what the benefits are for

departments, so we get a better idea of really where this approximately \$15 million of benefits is going. Thank you.

THE MODERATOR: Mr. Netto and then Mr. Clarkson.

MR. NETTO: Mike Netto, precinct 9. Through you, Mr. Moderator, could someone identify the eight positions that have been frozen?

THE MODERATOR: Mr. Chairman.

CHAIRMAN ANDERSON: There is one position in the Collector's Office and a part-time office aide. There is one position that was split between GIS and Conservation. So each of those had half time. There is one facilities custodian. There is one highway MEO-3 position that's frozen. One wastewater plant operator position. One tree maintenance worker position. And two police officer positions. Those are the eight positions in the seven departments.

THE MODERATOR: Okay. Mr. Clarkson.

MR. CLARKSON: Thank you, Mr. Moderator, Troy Clarkson, precinct 5. I'd like to offer an amendment to line 66, other expenses in the Town Clerk's budget, and make that recommendation \$40,225, and if I might explain, please.

THE MODERATOR: Again: 40 thousand –

MR. CLARKSON: Two, two, five. For an additional ten thousand. And if you need me to cite a revenue source, we can use the

Overlay Reserve.

THE MODERATOR: Raise and appropriate or one or the other?

MR. CLARKSON: Sure.

THE MODERATOR: Go ahead if you want to talk to that.

MR. CLARKSON: Well, I make that amendment because I'm thinking about the discussion we just had about the Code and about the Town Charter. And we as citizens need to have accurate, updated representations. That Charter is the blueprint of our government and if we don't give the Town Clerk who's charged with updating that document the tools to have it up to date and to have the Code itself reflective of the deliberations that we undertake, then that document is useless to us. And it's the way in which we rely on knowing how our government functions. And if we don't provide that office the ability every year to update the Code and the Charter for us to use, then that's a real misstep in transparency in government.

A lot of lawyers in town utilize the service and get that. Average citizens can't afford to pay a service to provide them an update on the Charter and the Code, so I think this is an important initiative that we've done in the past that simply needs to be continued and not cut.

THE MODERATOR: Okay, the Finance Committee is recommending that if we vote in favor of this amendment that the funds

come from Raise and Appropriate, so that would change the last page of your budget, would increase it by 10,000.

Any further discussion? There's an amendment to increase line 66. The increase would be \$10,000 for a new total of \$40,225. Hearing none, the question will come on the amendment. All those in favor, signify by saying Aye.

[AYE.]

THE MODERATOR: All those opposed, No.

[NO.]

THE MODERATOR: It's the opinion of the chair that the Ayes have it by a majority.

Okay, we're back at Health Insurance. Life Insurance. Medicare Benefits. Other Employees Benefits. Court Judgments.

Is there any further discussion on the budget as amended? Hearing none, the question will come on the main motion of the budget as amended. All those in favor, signify by saying Aye.

[AYE.]

THE MODERATOR: All those opposed, No.

[NONE OPPOSED.]

THE MODERATOR: The Ayes have it unanimous and we'll stand in recess until seven o'clock tomorrow. We'll come back and start with the Special Town Meeting.

[Whereupon, the first night of town meeting adjourned at 11:05 p.m..]

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF BARNSTABLE

I, Carol P. Tinkham, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of my audiographic recordings taken in Falmouth Town Meeting, April 7, 2008 to the best of my knowledge, skill and ability.

\_\_\_\_\_  
Carol P. Tinkham  
Notary Public  
My Commission Expires  
May 14, 2010

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