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202 pages**

**COMMONWEALTH OF MASSACHUSETTS**

**TOWN OF FALMOUTH**

**SPRING TOWN MEETING**

**Memorial Auditorium  
Lawrence School  
Lakeview Avenue  
Falmouth, Massachusetts**

**MODERATOR: David T. Vieira**

**TOWN CLERK Michael C. Palmer**

**Wednesday April 7, 2010**

**7:00 p.m.**

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**ANNUAL TOWN MEETING**  
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**PROCEEDINGS**

THE MODERATOR: Let's get back into the Annual Town Meeting. We left last night on Article 14. When we reconvene this meeting, we'll be back on Article 14 on the amendment to line item 1.

Town Meeting Members please come forward and take your seats. Don't forget to sign in.

Just as a point of information, at the end of this evening, the Town Meeting line item for this fiscal year will be empty. So if we need to come back additional nights, we'll need to go back to the budget and find a funding source for a future night of Town Meeting. If we have to, we will, but I'm just letting you all know that that's where we're at on the budget.

This evening, our tellers in the first division will be Mrs. Tashiro; in the second division will be Mr. Dufresne; and in the third division will be Mr. Hampson.

Would all Town Meeting Members present please rise for the establishment of the quorum.

[Pause.]

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

MS. TASHIRO: 45.

THE MODERATOR: 45.

In the third division, Mr. Hampson.

MR. HAMPSON: 57.

THE MODERATOR: 57.

And in the second division, Mr. Dufresne.

MR. DUFRESNE: 92.

THE MODERATOR: 92. By a counted vote of 194, we have a quorum and I call the Annual Town Meeting back into session.

All present please rise for the Pledge of Allegiance.

[Pledge of Allegiance taken.]

THE MODERATOR: Please remain standing for our invocation by our Town Treasurer Carol Martin.

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

We ask that you watch over our words and our debates so that the result of our meeting will be beneficial to all. And we want you to please watch over our debt burden so that it does not surpass our means. Amen.

THE MODERATOR: Carol, one of the reasons why I wanted you to do the invocation tonight is I wanted the opportunity to – Carol, to – Carol.

Carol, one of the reasons why I wanted you to do the invocation tonight is I wanted you up front for the opportunity to thank you for your many years of service to this community as our Clerk and our Treasurer.

[Applause.]

THE MODERATOR: And also as a mentor to me when I first started as Town Moderator.

[Applause continues.]

THE MODERATOR: For those of you that remember eleven years ago, if it wasn't for Carol Martin, I wouldn't have been able to be moderator. She actually chaired the meeting that night during the election. And then she mentored me all the way through. Thank you, Carol.

We are back on Article 14. We were having an amendment to the first line item. We had already discussed line item 4, and then we were going to go through it in order so it didn't get too chaotic.

So we're on the amendment to line item 1, which was to zero out the \$50,000 recommendation. And I have the speakers list from last night which we'll begin with, and any additional folks that want to speak on the amendment will be added to the list.

So, next on my list was Mr. Fassett. Mr. Fassett, you were on the list to speak last night; do you wish to speak tonight?

MR. FASSETT: [No mic.] No, I yield.

THE MODERATOR: Okay. Mr. McConarty. You were next on the list from last night.

MR. MCCONARTY: Thank you, Mr. Moderator. Peter McConarty, Acting Town Engineer. With permission, I would like to – this article, this item has two projects on it. Line number 1, it has the Chappaquoit Road seawall, and it also has the Old Dock Road Landing. I would like to split them up to avoid confusion if I could, and go through Chappaquoit Road first, discuss that, and then do Old Dock Landing second, if – if permission.

THE MODERATOR: That's fine, it's the same line items.

MR. MCCONARTY: Thank you. I'm going to make this rather quick. I have been bringing these photos since I've taken the position of Acting Town Engineer to quarterly Selectmen's Meetings, approximately for a year and a half, now. So, a lot of folks might have already seen these photos.

But, as we look at the photos, this is the wall, a section of the wall in question. And, as you can see, pieces of the wall, you can see cuts on the wall and you can see the open gaps. And actually, there's a open block square on this wall, here. And, what that is, for the most part, are pour lines for the concrete wall when it was constructed. The wall was constructed back in the WPA just after the war, and those are pour lines when they did the construction pours, for the most part. And those, we've been monitoring those gaps and they have been opening up over the last year and a half.

We have the main gap in the middle, that's four to four and a half inches deep, and then the other ones as they follow down the wall, they get shallower and shallower. But for the most part this is the worst section of the wall. It does go down to Chappaquoit Beach, there are more sections, and there is more concrete that is spalling and as the wave action hits that spalling and chipping away the concrete as it goes.

That last photo is looking north. This photo is looking south down towards Chappaquoit Beach. It just shows you continuation of the extension of the lines, the cracks along the seawall.

Also, it can be noticed on these pictures here is if you notice there's no armament along the wall. And basically what that is is the wave actions, as they're coming up, are hitting the bottom of the wall and it's going under the wall and pulling out the sediment on the bottom of the wall

and it's pulling other rocks along with it, and the rocks are actually all the boulders and armament are still there; they're buried under the sand and they're getting pulled out further towards the seaward side, towards the ocean.

This is a newer photo. This is recent. You can see the chipping and the spalling of the concrete as the wave action's coming up and starting to chip away the concrete and pull it away. This wall, for the most part that we're seeing, does not have reinforcement in it. It is a plain concrete wall.

This photo was taken today. It shows – that's a six foot surveying engineering wooden rule, and basically I'm reading at a distance right there of 2.5. That's, if you were looking at this, you're standing up and you're looking down, that's the sand, that's the base of the wall, there. That's sticking 2.5 feet into the wall. So basically what happens is that's the thickness of the wall. That penetration in that crack is through the whole length of the wall.

This photo right here, what it shows is this was brought up last night. This is roadway scupper. It's an eight inch tile roadway scupper. It's along the pavement. If you were on the street, you would see it. If you looked down, you would see it. What that does is that takes care of the roadway pavement. The water comes down the roadway, it's sloped with the pavement. There was a space about every 30 to 35 feet. The water

comes down, slopes to these scuppers and comes through the scuppers and also goes down to the beach. I mean, it goes down to the base of the wall.

Also please notice there's a – this wall does have weep holes, and they're spaced every 30 to 35 feet. So that, if the water does come out, it does come out of these weep holes. That was brought up at one of the past Selectmen's Meetings. I just wanted to make that clarification.

In August of 2009 – well, let me back up for a second. In August of 2008 -- I started in March of 2007, and it was under the direction of our previous Town Engineer George Calise. And in August of 2009, we'd been monitoring this wall and speaking with the Public Works Department. We decided we'd make some temporary repairs to restore this wall. We had meetings on site with the Conservation Commission, with the DEP, with the Highway Department, with the Harbormaster, the Engineering Department. We all met on site and we decided that some temporary measures had to be taken to prolong the safety for this wall.

So, what we had done is the Highway Department had come in with an excavator and they excavated behind the wall. That's approximately 40 to 45 feet. And they had a concrete truck come in and they in that gap that you saw on the wall, they put reinforcement rods through that gap. They tied them together, they put horizontal bars and also longitudinal steel and they tied them together, poured concrete over

the top of it, hoping to tie both parts of that wall together, the bottom sections of the wall and the top of the section wall. And this is the concrete truck, the concrete being poured into the back of the – behind the wall. That's approximately two feet behind the wall, in that section. It does not go all the way down to the bottom of the wall, it goes down just below the crack approximately two feet.

Since then, as we've been monitoring it, this is after the new pavement, we're still getting sinkholes. We expected to get sinkholes; we didn't expect this to be a permanent fix. We expect it to be a temporary fix just to prolong the safety and the health of this wall. As you can see, the open holes and the sinkholes.

Further, you can see the sinkholes down, down the wall, that's actually filling up with sand. The same thing what happened last time. What happened two years ago is there was a concrete pad in this section and the concrete pad, that gave a false sense of security. Basically what happened is you could get on your hands and knees and you could actually reach underneath and stick your whole head under that concrete pad. We actually had a surveying rod; we stuck the surveying rod 14 feet up that concrete pad. So, basically what we were looking at is if a heavy vehicle drove down – we weren't just looking at that wall collapsing. We were thinking that if a heavy vehicle drove down that road onto that concrete pad and broke that concrete pad, that wall, the driver and the

truck would all be going into the drink.

You can see that the ocean, there's no beach in this area, it comes right up to the wall. This has been a calm day; it's not a stormy day, but it comes right up to the wall.

Oh, I'm sorry, Bob, if you could go back one slide. I also wanted to notice: if you look along the top of this wall, this wall is also starting to move. It's starting to bump out towards the ocean. It's starting to bow out, and that's basically with water pressure and vehicle pressure and basically this wall is about 60 years old. It's reached right about its surface life, and right now is the time that we have to take a look at doing something with this wall.

This is a recent photo. This photo was taken actually this morning. It's a little harder to see, but it just shows a longer section of this wall, the straight line. That wall does bow out in this area, and if you stood on the side of the wall and you looked over the top of that wall, the top sections of that concrete wall are actually bowing out and they separated from the bottom section. They're sticking out, some of those sections are sticking out approximately one and a half inches. So, basically, with some of those areas, the bottom sections of the wall are sinking into the sand, sinking into the beach, and the top sections of the wall are staying in place, either by friction with the side sections of the walls adjacent to it, or by the reinforcement that was installed.

I just wanted to show this slide. This is a GIS map of Chappaquoit. It's the end of Chappaquoit Road, the public portion, and it's also the – it shows the residents out on Associates Road. Basically what it shows is there's 42 parcels – there's 47 parcels of land; there's 42 residences out there. And we did a quick look at the assessed value properties of the property out there, and we're looking at somewhere in the range of \$110 million.

Real quickly, I just wanted to go through this; I don't want to get too complicated with this, but this is basically what is going on with the wall. As you can see, you have the wall; it's a gravity wall. There's no reinforcement in it. The wall has no footing to it, so what happens is the wave action, there's blue waves, they come up, they hit the wall, they go under the wall, they pull the backfill out, and when they're pulling the backfill out, it washes out, it liquefies the sand, washes the sand out from under the wall and sucks it right back out into the wall.

You can see this right here is a section where the top section of the wall and the bottom section of the wall, it shows this bottom section of the wall where it's settling. This section right here is just showing a weep hole. But what we have here, as you can see, is this is what they call a retaining wall. It's active pressures. It's basically the active pressure of the soils leaning against the wall and coming – and forces coming to the face of the wall.

With that, you also have what they call passive forces. The passive forces are in front of the wall, and they're pushing back at the bottom of the wall, trying to hold that wall in place so that wall's not going to buckle out and slide.

On top of that you have live loads. You have vehicles, you have trucks, you have people, you have all the live loads on the roadway surface.

So, what we're looking at if we were going to do a design on this project is we would want to be looking a design of it's called an at-rest pressure. And what at-rest pressures are is basically we do not want too much horizontal movement with that bridge – excuse me, with that bridge – with that wall. Because with the vehicles coming up and the roadway adjacent to that wall, that wall, we want that wall to be stationary, with low movement.

That's basically, as a whole, right there, what's going on. Some of the water goes up, hits that wall. I wanted to clarify this, too, to make sure that there was no ambiguities at the last Selectmen's Meetings that we've been having. The water comes up, goes under the wall, pulls out the backwash. It also comes up in heavy storms, hits the wall, comes over the top, goes down those scuppers. There's also a gap in here wherever there's an open area behind this asphalt, there's a gap in here. Comes down behind the gap, comes out through this weep hole. Some of

these weep holes are blocked, right now. There's a lot of stones that are stuck in it. Rolls through the weep hole and it'll come out this area, right here, or flow back down to the bottom to come out.

At this point, I would like to stop and if there was any discussion further on that before we moved – I didn't want to do any confusion so I just wanted to stop before there's any further discussion on this.

THE MODERATOR: Okay, on this particular piece, the road piece. Mr. Finneran.

MR. FINNERAN: Yeah, as I said before, I went down and I watched that particular section during the storm and I also measured the scuppers. They're 55 feet, the distance between them is 55 feet. That's far too great. That requires some water to flow at least 25 feet to get to a scupper.

And, if you could go back to the picture before, please. As he said, the water that flows down through the top and comes out through the bottom, whether it is going over the top of the wall in the front or coming from the West Falmouth Harbor side, if the top of that wall were sealed and there were more scuppers, the water would flow out freely, as opposed to flowing down behind the wall.

We don't have the money to repair this wall. It's probably going to be in the \$5 million range, or something like that. So, I think to

waste \$50,000 on an engineering study is ridiculous. I also think that the crack could be filled with some hydraulic cement and the thing's going to last for hopefully till we're in better financial position. Thank you.

THE MODERATOR: Okay, Mr. Boyer.

MR. BOYER: Can you split up the engineering costs in the design between the two projects? I'm not clear if it's 25,000 each or thereabouts or there's a real imbalance in the two.

MR. MCCONARTY: Yes, I'd like to address that question first and then I'd also like to go back to Mr. Finneran's several questions that he had.

The \$50,000 is for a design and a solution for the Chappaquoit Road and the Old Dock Landing. The companies that we had hired, we had hired jointly a structural engineer, that's Bourne Consulting, out of Franklin; and Applied Coastal out of Mashpee. We're working with John Ramsay. I'm sure many people – he's a Falmouth resident; many people in the audience know him. He's, to me, and the way I look at it, he's pretty much the leading, if you're going to talk environmental and you were going to talk barricade and structures, he's the leading – he's the person that I would go to. And he's the person that George Calise went to; he's the person that Bill Owen went to.

But I would like to say that it's about even with the prices. With the seawall, we have about \$27,900, and with the – that would leave

approximately 22, 23,000 for the Old Dock Road.

What this does is this is not just a design. This is also permitting. This is for the Applied Coastal and Bourne Engineering to go to the DEP, to go to the ConCom and to put this project into fruition to make this work.

The Engineering Department, we have too many other things going on at this time. We don't have the time to be running into Boston and filling out permits. We have too many other things going on. So that's why we've requested to bring another company in.

What I would like to do is – Bob, if you could go back to – . Being so, if Mr. Finneran is correct and he says that those scuppers are 55 feet apart, if you went out to the road and you looked at the road, what they've tried to do, and the road is old, but what they've tried – and pavement is a flexible pavement; it moves when it heats up. But what they've tried to do is in the middle, between the scuppers, they tried to put a high point so the water flows to those scuppers and goes out through the scuppers.

Last year, I actually took a photo today and I didn't put it in tonight. It didn't come out so great, there was some shading in it. But last year, when the Department of Public Works went out and made the corrections to these seams and to these holes and poured the concrete behind, they did use hydraulic cement and they did put the hydraulic

cement into that major hole. I'm out there this morning taking a picture of it, it's already shifted and it's already dropped a quarter of an inch. And it's already shifted out about a quarter of an inch.

So, basically, as I've said, is this bottom section of the wall at this point is sinking. As the storms come in, it's pulling out the backwash. This wall's going down. This wall's remaining stationary. It's only a matter of time and it's a public road, and the Engineering Department has to take the position that this is a public road. This is what you're paying me for, this is what you pay the department for. It's our position that we say that we have to do some kind of fixes or something to this roadway. For public safety.

And if not just for public safety, also from the registrations in Boston. The Department of Registration is very, very strict on their rules and regulations, and I don't – I won't even – I'm not even going to go there.

THE MODERATOR: Okay, Ms. Kingwell.

MS. KINGWELL: Susan Kingwell, Precinct 1. In Woods Hole, two neighbors of the seawall not only paid for the design, they also paid for its building. I'm not suggesting paying for the building, but you said there were – where'd he go? Oh, there you are. You said there were 47 houses there. Perhaps they might be willing to pay for the design work because I assume it's around 25,000. I mean, it's something for them to step up, maybe?

I know it's hard on everybody, but we're here trying to find a way not to spend money and I've just made lots of enemies in 47 houses, I realize. But I just wanted to suggest it. Thank you.

MR. MCCONARTY: If I may answer, Mr. Moderator?

THE MODERATOR: Yes, Mr. McConarty.

MR. MCCONARTY: The Engineering Department actually does not make those decisions. That decision would have to go through the Town Manager's Office. I mean, we could design and we can maintain them, we'd be glad to go out and knock on the doors and talk to people.

I do want to say that there is a group of folks that are on the Chappaquoit Road, and they're in the process right now of working with utility companies and working with the Town to try to bury all the utility lines from the Chappaquoit bridge out to the end of that area where that first house begins. It's a large amount of money, it's a large design and that group is fronting all the money to put all those utilities on the ground. Which is in great need of those utilities.

THE MODERATOR: Okay. Do you want to talk about the parking lot now, Mr. McConarty?

MR. MCCONARTY: Yes.

THE MODERATOR: We'll move this right along.

MR. MCCONARTY: These pictures are a little hard to see. This photo right here is, as we're talking, the – where we're talking is Old

Dock Road, the landing area. We're not talking about the boat ramp and we're not talking about the parking area that's up by the bikeway. This is all part of this item is all for the landing area down where the vehicles park and there's a shed where the vehicles park when they put their boats out.

This landing area, as you can see, it's built out of the granite. A lot of it's the pink granite. It's been built there. It's been there for many, many years. And, as you can see, there's a lot of stones that are falling out. This area right in here, that's probably about eight feet wide. It goes back – I was actually out there this morning with waders and I had my head in that hole; didn't feel too comfortable about it when you're looking up and you're seeing rocks kind of falling out above your head.

But we did go out and we took some measurements. We stuck survey rods up there; that goes in deep. We had a 12 foot holes up into that wall. This section also as you can see, you can see down here there is a timber pile. I'm not sure on the date. Like I say, I came back here in 2007. If this went into design, we'd be looking into it. But I would imagine that these piles were put there somewhere in the '80's. There's one here; they go all the way around the dock; and there's also one just outside the picture here. There's not one in the middle. I'm not sure of that reason. I'm not sure maybe they had problems back then and they knew that they didn't want to put an anchor in, or maybe it was just skipped, I don't know. But that would be, in the process, would probably

also be installing another piling.

This is the same area, looking towards the parking lot. It's standing a little bit further down towards the boat ramp. This is the wall adjacent to the road, the brand new road that they just put the drainage structures in to put the water line down, and also did the base pavement, too, in the last year or two. This is adjacent to the road. You can see all the pink granite falling, falling into the harbor. You can also see this is all starting to wear away, here. These are hay bales, up here, where Lawrence Lynch Corp. had just did some work with some drainage.

But, at some point in time, if we don't do something, we're going to be losing the brand new roadway, the section of the roadway that we just installed.

This is standing up, this is looking at that area. It's just a different angle, it's standing up on the cap of that wall. This is the area that's falling in, here, looking down towards Chappy Road. As you can see, the granite wall, and we've got the grass strip and we've got the wooden guard rail – this post ain't doing too good – and we got the roadway. And this grass strip, right here, is pretty well gone and it's getting towards the edge of the roadway.

This is a photo that I took this morning. I've been looking at it for the last couple of weeks. This is one that kind of piqued my attention this morning. In the past photos that I've taken, when I was looking at this

and monitoring this, I've noticed the rocks falling out. I've noticed the rocks coming down. I'm noticing the hole getting bigger. But it appears that these walls are bulging, now. And these walls are bulging out, and it could be because that pile, there's no pile in this area, but it also could be there are many holes in that asphalt parking lot, and the rain that's coming down, the heavy rains we've been getting, it's piling up and puddling up in that parking lot, seeping through the dirt, seeping through the cracks, coming under the parking lot and flowing out, and it's liquefying all the sands and soils and sediment underneath that parking lot, and it's taking it out with it.

This is a shot standing on the water, looking up. As you can see, the center of it, this is the top cement, top cap of the sea wall. As you can see, there's a good size dip in that. That's dipping down probably about an inch and a half. There's nothing underneath it.

And as I walked around the parking lot, this is the shed, here. If this was to come in and get approved and we go into construction and go into design and look at construction, we met at site. Once again, we met with all those same departments. It was the same day, they were within an hour of each other, we all met at Chappy and then we came over to here. These are the footings to the shed. It's all sinking. It's all falling into the pavement. The pavement, all that material is getting sucked through the rocks, getting sucked through the granite, and these are the footings getting sucked down into the - in through the pavement.

So, what we'd have to do is that shed would temporarily have to probably be moved up on top of the dock or at another point while they did the work.

Once again, I want to apologize for the crude pictures, but I was – this is something that I did put together today because, like I said, I wanted to clarify any questions. This is a little bit different area here. What we have here is a cement cap. We have the pink granite walls. It's all uneven spaces, it's all dry stacked. I think through the time they cement them as time goes on to try to hold the wall in place, what happens is you got the granite coming down, it comes down to the bottom, no footing into it. You've got the wave action coming in, the tide, the tide hits the wall, the tides go up, the tides go down. It comes into the wall on the back of the wall, same thing. The water's coming through the wall, tides go up, tides go down. So, that is not only storm water, it's also the ocean water. And, once again, when the tide goes down, it's pulling material out. At this point in time there's no filter fabric or any kind of material behind this wall, holding it back.

I just wanted to show in some of the areas around the parking lot that this is a section, the collapsed pavement. What happens is they're getting sinkholes out there. I showed a couple of pictures of it, but they're getting sinkholes out there. We've had a few more this week – excuse me, this year. We had Lawrence Lynch out yesterday doing some paving in

these areas and they filled in some of the sinkholes that we had.

With the work that we've done recently on Old Dock, we're planning on paving – just another clarification – we're planning on paving Old Dock Road in the next month or so, but we're not looking at doing too much more work in this parking lot that we can of the parking lot pavement is pretty much all map cracked and alligator cracked. And when you touch it, when you go in there with a machine and you touch it, it all comes up. And the contractor did have a hard time trying to keep his – trying to get some even cuts on that area.

We'll patch it as best we can, we'll patch the areas and try to stop the top and any storm water coming down, but at this point in time until this is resolved in this area, you'd be chasing it. We'd be filling it in.

THE MODERATOR: Okay. Mr. McGrath.

MR. MCCONARTY: And I think that's it.

THE MODERATOR: I had you next on the list from last night.

MR. MCGRATH: [No mic:] No, I yield.

THE MODERATOR: Yield, okay. Mr. Wilber and then  
Ms. Cuny.

MR. WILBER: Mr. Moderator and Town Meeting Members.

Last night I presented an amendment to zero out line item 1 of Article 14. I have a short and a longer reason. The short reason is the article combines two very different projects under one dollar number. I still

haven't heard a good reason for this nor a good explanation provided why this should be so. I thus submit that the article is seriously flawed and should be set aside for that reason. The figures for the two different projects should be split out exactly before Town Meeting considers this article.

The longer reason will include some history as necessary. This article's in basic conflict with the Coastal Resources Working Group, CRWG henceforth. This is particularly true with regard to the road, not necessarily the dock. The CRWG was appointed by the Board of Selectmen, BOS henceforth, in 2001 and charged with producing findings and recommendations for comprehensive restoration of our coastlines, beaches, bluffs, ponds, all of it, what I call the integrated whole coastal environment. And it has to be looked at in that fashion. You cannot parcel out bluffs, you cannot parcel out beaches, you cannot parcel out ponds.

In 2004, the CRWG completed its task on Falmouth's south shore. That's the Vineyard Sound side. It was accepted by the BOS in 2004. It was accepted by every board that has anything to do with the coastal zone by the end of 2005. It was particularly supported by Town Engineer George Calise at that time, who I worked very closely with.

At the time, Heather Harper said that the CRWG was the model of how every appointed committee should operate in this town. She was, as always, correct.

[Laughter.]

MR. WILBER: The CRG has finished its task now on the Buzzards Bay side, which is particularly pertinent to this article. This report will be presented in approximately one month. I should tell you that the South Shore Report has been on the Town website for five years. The Buzzards Bay Report will be posted as soon as it is accepted.

The Town should know that this effort has represented approximately \$20 million of the highest quality coastal geology, ecology, physical oceanography and engineering available from scientists of USGS, WHOI, MBL and Webnar [sp?]. This has been augmented by numerous outside experts. In addition, there has been as many private citizens involved in this effort as scientists.

I must point out that nothing like this has ever happened anywhere, anytime. I must also point out that Falmouth is the only place that this could have happened. The real cost to the Town has been approximately \$500 to print the reports. The rest has been 100 percent volunteerism.

I can present billable hour records if anyone wants to challenge my numbers.

I suggest that to ignore the gift of the CRWG to Falmouth would be an absurdity. I further suggest it would be a major regret for all of us here tonight, the decision makers of this Town.

The CRWG will disband. The Falmouth Coastal Restoration Initiative has formed. Henceforth, I refer to this as the CRI. Many in this room have joined or are still considering. In 300 invitational contacts, I have received one straight up “No”. I can also tell you that the two men who have fought the good fight for decades, only to watch their coast die, have accepted membership. Both Don Hoffer and Bruce Magorda [sp?]are solid supporters of CRI.

The CRI will begin bringing articles to Town Meeting in November. The first will ask the Town Meeting to accept the gift of CRI’s work simply as, quote, “The guiding philosophy for integrated whole coastal restoration”. The guiding philosophy, simply put, is: work with nature, not against it. To date, Falmouth has taken the latter route exclusively.

Town Engineer Peter McConarty recently reported – and I think that this is correct because I read it in the Enterprise —

[Laughter.]

MR. WILBER: And correct me if I’m wrong, Peter. That it would take at least \$10 million to repair some of the groins, jetties, seawalls and riprap in this town. Fifteen years ago, Town Engineer George Calise came to an identical conclusion. Is this a tear it all down tomorrow approach? Those words have followed me around for nearly a decade. I was misquoted. Ask Brad Stumcke of FACES, henceforth

known as FACES. In 1999 I presented a long range plan. In 1999 I presented a long range plan to FACES. There was never any talk of tearing it all down tomorrow. That phrase is a classic red herring; please let it swim no further in this discussion.

Thus I affirm my amendment on two major points. There is an apple and an orange co-joined by a single dollar number here. This is a serious technical faux pas.

Two, any money spent on design of any coastal structure at this time is arbitrary and premature. These issues need to be considered in the context of the comprehensive planning articles to be brought before this assembly by the Falmouth Coastal Restoration Initiative.

I thank you for listening. I thank you for your time and consideration.

THE MODERATOR: Okay, Ms. Cuny, next on the list.

MS. CUNY: Sandra Cuny, Precinct 2 and Recreation Committee Chairman. I would like to ask Town Meeting to vote no on this amendment. On the second page in your warrant booklet there is a list of 15 names, Finance Committee Members, who scrutinized this warrant inside and out. And, as you go down the list of these 15 items in this article, you see where they cut out about four: Executive branch said this amount, Finance Committee said zero. It's sad to see that we have to have eleven items that go out on a Capital Exclusion to ask the people of

the Town of Falmouth to support. Years ago, we never saw this, because we had money in our budget to buy police cruisers. And we probably had money in our cash fund to support armor that the police needed, or the heating system to be fixed. But we don't have the money.

Now, the Finance Committee has scrutinized this article. They meet with every Department head, they go back and they debate it themselves and they bring us something. I urge Town Meeting to support this article as recommended, and vote No on the amendment. Thank you.

THE MODERATOR: Okay, Mr. McGrath, and then Ms. Lichtenstein.

MR. MCGRATH: Could you put back on the screen the map that shows the area? For the people that don't know me, my name is Mike McGrath; I'm a civil engineer and land surveyor and I do a lot of permitting in the Town.

I want to talk about the Chappaquoit map. There was a map. By the way – go back one – further towards the north, I actually climbed down to the base of the wall and I could put my hand under the wall. So that is – that wall is going to undergo a catastrophic failure.

We have here a subdivision that was created in 1895, and the access to the 41 houses is along the shore of Buzzards Bay. The only other place that you could put the road is across the dunes that lie from Chappaquoit Road all the way to the waters of Buzzards Bay harbor

across the throat. If you start at the blue area, that's a pond, and you go to the south, that's all dunes. All the way between West Falmouth Harbor and the road. I do not believe that you can get a permit under the Wetlands Protection Act to move the road. We are absolutely prohibited from altering dunes. And so I believe that we're going to have to face rebuilding this road in place. It is the only access for not only vehicles but also the utilities. So I would also urge you not to approve the amendment. Thank you.

THE MODERATOR: Ms. Lichtenstein. And then I think we're ready to vote on the amendment.

MS. LICHTENSTEIN: Leslie Lichtenstein, Precinct 8. I have a question for both Mr. Wilber and the Town Engineer. I am not in favor of docks and groins and seawalls because they go against nature. But, I have a question: what is going to happen to the West Falmouth parking lot? As it stands now, it has Jersey barriers in it. And for those of you who aren't aware, the Cape Cod Commission's Cape Walk, which goes from one end of the Cape to the other, will begin in Falmouth this year in June. It will start at West Falmouth Harbor and it will end one week later in Provincetown. We're going to have a lot of people here starting that walk on our new beautiful bike path, right next to the Town Harbor, and they're going to ask a question. They're going to say, "Why are there Jersey barriers there and what are you doing?", and I would really like to be able

to tell them.

So, could you just tell me, if we don't do this, what's going to happen to that parking lot in the future? Thank you.

THE MODERATOR: Mr. McConarty.

MR. MCCONARTY: The Jersey barriers were put up last summer, when we did notice, as I showed the pictures of the wall sagging and sinking and dipping down, that's when we decided it was a safety concern and the Public Works went out and put the Jersey barriers there; we didn't want any vehicles parking on top of that, putting any loads on top of that wall with the hollow voids below that.

We were out there today. We did take some more photos. We did look at the parking lot. What we were looking at is, as I say, Lawrence Lynch Corp. was going to go out and do some asphalt paving in the parking lot. They did do some asphalt paving in that parking lot, but they did not pave the areas where the drainage basins were, and there's a frame and grate sticking up, approximately four inches. A little unsafe, so we did put the orange barricades back up. I do expect that they will be out there. There are plans as Owen will be out there the end of this week, early next week, to have that paved. At least to have that parking lot opened up again. We know it does get busy and we're coming into the season where it gets busy.

I also would, while I have, Mr. Moderator, if I could. I'm going

to put everything on the table and I'm not putting anything past anybody. I do want to mention once about Chappaquoit Road is that what we're looking at at Chappaquoit Road is we're looking at approximately 150 to 200 foot section of that sea wall. We're not looking at fixing that sea wall from the private section, granite posts, all the way back to Chappy Beach.

That is not the intention. We're looking at taking care of the most serious issues at this time and as to get it constructed, get it repaired and then, as funding becomes available in the future, at the most critical times, we'll continue the construction. As you can see, on that sea wall there's a lot of cracks, there's a lot of separation between the concrete pours.

THE MODERATOR: If we can get a mic down front here. And I think we're going to be – or you can use that one, okay.

FROM THE FLOOR: [No mic.] Point of order. Can you ask him to address the question?

THE MODERATOR: Okay, tell us that it's going to fall into the ocean. Well, she asked what the plans were and he's the Town Engineer. Go ahead, what's going to happen if we don't do anything?

FROM THE FLOOR: [No mic. Inaudible.]

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

MR. WILBER: Is that a respectful attitude, Mr. Vieira?

THE MODERATOR: Well, I think the question was what was

going to happen, and the Town Engineer is the one that's in charge of the lot, and he's telling us what's happened. But if you'd like to contribute to the answer, go ahead.

MR. WILBER: She asked me specifically, Mr. Vieira.

THE MODERATOR: Okay, what's going to happen?

MR. WILBER: Mr. McConarty has presented a classic example of the collapse of a vertical seawall. These diagrams can be picked out of a hundred textbooks on coastal engineering and coastal sedimentology. There's nothing new here. There's nothing unique here, okay? If you have to patch it up for public safety, you have to patch it up for public safety.

One thing that I was not misquoted on years ago was saying that we are approaching the New Jersey-fication of the Falmouth shoreline. And it's just been pointed out, we have Jersey barriers now on our shoreline, okay?

It has been shown, again and again in states like New Jersey, that slap-dashing things together that should be removed and redesigned are money pits. Towns go broke over doing this. And they destroy the resources that people want to come to the town for. This seems to be the critical factor that many people cannot get their head around.

THE MODERATOR: Okay.

MR. WILBER: Once you accept the philosophy of working

with Nature, instead of against Nature, the solutions suggest themselves in abundance. Okay? So, yes, he has presented a classic example. I've seen this – I've seen these diagrams a hundred times.

THE MODERATOR: Okay, Mr. Wilber, could you answer Ms. Lichtenstein's question: what will happen if we don't do this. That was the question as I heard it. It was the question. So could you answer the question, please?

MR. WILBER: About the dock or the park –

FROM THE FLOOR: The dock.

MS. LICHTENSTEIN: The parking lot.

THE MODERATOR: The parking lot because of the Walk coming up; that was the question.

MR. WILBER: It will probably continue to deteriorate. I can't say if or when it'll fall in. But it's clearly deteriorating.

I want to make clear that I have no objection to the dock. It is not a critical open coastal structure. It's an inner embayment structure. It is not a critical coastal structure. The CRWG has prioritized these things.

So I support the rebuilding of that particular structure. That has no detrimental effects to our overall coastal resources. So that's why I think that, you know, unless this is split out, it is technically incorrect, and I think that that's a very important point. That's my first point. If you can't split out the costs, you know, you hand over \$50,000 and what do you do

with it?

THE MODERATOR: Okay, is it something new?

MR. JONES: Douglas Jones, Precinct 2. I have a question for the engineer as to the priority of this job. I'm a little confused as you guys are too busy, but this is a very important job.

THE MODERATOR: Mr. McConarty.

MR. MCCONARTY: Yeah, as I stated, we are busy. We're looking at we put a roadway – we have a program for roadway projects going on right now. We're out to 2013, minimum, and with the weather and the machinery and what we're doing with our work, we're out to maybe 2014, 2015. And with the funds we have, could be longer than that. That's why we're not looking at that and we can't go in that direction and that's why we were looking at bringing in a design firm for the design portion of that.

I will be hand in hand with it all along the way during the initial processes, during the town meetings and during the permitting, I will be sitting in there and I will be going through the plans, and ultimately it will be up to the Engineering Department to make the ultimate decision on the design plans for the 100 percent. But we do not have the time at this time to go through those plans. Our office is short two people and we don't have the time.

THE MODERATOR: Okay, the question will come on zeroing

out line item one. All those in favor of the reduction, 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.

Number two here: Old Silver Beach Septic Replacement. Any discussion on this one? Mr. Wilber.

MR. WILBER: this is a prime example of what the CRWG supports. That is, cleaning up messes that are impacting our natural resources, and doing it correctly to the highest grade of technology. I have been on Silver Beach, the section below the failed septic system, and you have a noxious seeps, basically raw sewage, pouring through the beach face on low tide. Okay? So this is something that the CRWG would support fully, that the CRI would support fully, and I would like you to consider the distinctions here.

I said it's not a tear it all down project. I said it's a consideration of what's best for the Coastal environment on a case by case basis.

THE MODERATOR: Okay, further discussion on the line item 2? No.

Okay, number 3 here: the Beach Permitting Dredging and

Nourishment, the recommendation is zero.

We dealt with line item 4 last night. Line item 5: Gus Canty Peaked Roof Replacement, zero. The Gus Canty HVAC Replacement and Energy Efficiency, 40,000.

The East Falmouth and North Falmouth School Repairs for the Roofs, zero.

Number 8, the Police Cruiser Replacement, \$206,530.

Number 9, the Fire Rescue Shift Commander Vehicle, \$37,500.

Mr. Brodeur, I thought you were going to be with us for the Fall Town Meeting and I was informed that this is your last Town Meeting, as well. So, Mr. Brodeur, thank you very much for your service to the Town as the Chair of the LEPC and our Fire Chief.

[Standing ovation.]

THE MODERATOR: I'm going to miss the sounds effects in the PowerPoints. Go ahead, Mr. Brodeur.

CHIEF BRODEUR: [No mic. Inaudible.]

THE MODERATOR: Okay, discussion on line item 9.

Ten, Natural Resources, a four by four Vehicle, the recommendation is zero.

The Police Soft Body Armor Replacement, the recommendation is 20,000.

Communication and Technology, the Town/School Financial Systems Upgrade and Installation, 175,000.

Information Technology/GIS Equipment Upgrades, the recommendation is 10,000.

The Meters, Mains, Fixtures and Hydrants for Water Utilities, the recommendation is 200,000.

And Repair to the Mares Pond Well, 15,000.

Any further discussion?

MR. SCHLITZ: Ron Schlitz, Precinct 8.

Just a point of information. If this passes, can someone explain how it will appear on the ballot? Will it appear as 15 separate items or will it appear under Coastal Resources Maintenance, et cetera? So, will we be voting 15 separate times or a subset of that?

THE MODERATOR: Yes.

MS. HARPER: Mr. Moderator, it will appear as a single question for the Town of Falmouth Capital Projects Exclusion in the full value of all the projects. One question.

MR. SCHLITZ: Without the individual –

MS. HARPER: Correct.

MR. SCHLITZ: – sections there?

MR. HARPER: Correct, one question.

THE MODERATOR: Would the Selectmen be willing to list

what the projects are? I mean, the Selectmen are the ones that are going to put this on the ballot, not Town Meeting, so.

Madame Chairman?

CHAIRMAN FLYNN: Yes, thank you, Mr. Moderator. The Board of Selectmen will be taking up the ordering of the ballot, and I would certainly ask the Board to consider that listing.

THE MODERATOR: Okay. So, we're going to authorize this to be spent in excess of Proposition 2 ½, but the legal authority to set the ballot question and placing it on the ballot is that of the Selectmen. So, tune into that Selectmen's Meeting.

Okay, any other questions on the general article, here?

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 a two-thirds and I so declare.

Article 15, this was held by Mr. Rhodes. Mr. CHAIRMAN of the Finance Committee for our main motion.

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

THE MODERATOR: As recommended. This is \$650,000 for

the roofs at North Falmouth and East Falmouth schools, subject to a capital outlay exclusion of Proposition 2 ½. Mr. Rhodes.

MR. RHODES: Scoba Rhodes, Precinct 8. In Article 14, the request for \$750,000. The recommendation for 15 is \$650,000. Now, did somebody get a cost for putting in these new roofs?

THE MODERATOR: Mr. Chairman.

CHAIRMAN ANDERSON: The School Department met with the architect and got an estimate. The School Department indicated that the architect said that if you do both roofs at the same time, they'd put them under one project, you could save \$100,000, and therefore that's the difference between what was originally \$750,000 in Article 14 and what came about to be the recommended number in Article 15. So there is a savings there by doing both roofs at the same time.

I would point out also that the estimated property tax impact, because this is also a Capital Exclusion, would be about six cents on the property tax rate for one year, or roughly \$18 on a \$300,000 home.

MR. RHODES: Thanks for saving us some money.

THE MODERATOR: Okay, Mr. Dupuis, did you want to add or you're good with that answer. Okay, further discussion on Article 15?

Okay, all those in favor of Article 15, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The Ayes have it and I declare the two-thirds majority.

Article 16 was held by Mr. Shearer. Mr. Chairman of the Finance Committee for the main motion.

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 16 as recommended.

THE MODERATOR: As recommended. This is to appropriate the sum of \$1,925,000 to repair and expand the main marina bulkhead at 180 Scranton Avenue and to authorize borrowing. Mr. Shearer.

MR. SHEARER: Mr. Moderator, I would prefer to have Mr. Frazier explain the whole thing before I made a comment. I was hoping that would be done.

THE MODERATOR: Okay. Can we have an explanation of this project? Mr. Frazier.

MR. FRAZIER: Good evening, Greg Frazier, Harbormaster. I have with me Michael Kenney, who is the Chairman of the Waterways Committee. We have a very brief presentation and give you an overview, for those of you who weren't able to see the presentations at the precinct meetings.

This particular article, to give you a little bit of the history that

goes behind this, back in 2003, you may remember that we basically did the same thing at the Town property, where Robbins and Scranton Road meet. We removed the fixed piers and put floating docks in their place, thereby increasing from nine slips to 22 slips. That additional revenue was about \$40,000 a year, which meant that we were able to pay off that project in three years.

Ever since we got that project finished, we have been in the planning stages to do something similar to the main marina. We started the permitting process for the main marina back in 2008, and at that time – oh, I should say that Holmes and McGrath is the engineering firm that handled that for the Town and he's here to answer any structural questions. But when we started the permitting process for the expansion, it was discovered that what was previously believed to be small settlement problems with the main marina bulkhead were much more severe. The hardware holding the tie backs have basically corroded and fallen off. So the only thing holding the main marina bulkhead in its place now are the finger piers.

We could not move forward with the expansion because the bulkhead would essentially have nothing holding it if we moved the finger piers out and put in the floating docks.

So, this project is basically to do three things. The first and most important would be to correct the problem with the bulkhead. What

we're proposing to do is drive vinyl sheathing down through behind the existing wood bulkhead. It won't be visible; there will be a walkway on top of it, and the whalers and pilings are all in good shape; it's just the tie back situation that needs desperately to be repaired and the fill will no longer be able to go into the harbor.

A new section of tie back, new hardware, will be driven through the vinyl sheathing and then back-filled.

The second part of the project is to upgrade the electrical system, which we have been having trouble with for years and been fixing it piecemeal as we go along. We will be adding 29 additional slips and therefore the current electrical system we have is not adequate for that. This article will cover that as well.

And finally, we will be replacing all of the fixed piers in front of the harbormaster's office with seven floating docks with finger piers off of them, and that will create an additional 29 slips. As you may all know, we have a very extensive waiting list for people waiting for Town slips. It's currently over 150 people. We'll have absolutely no problem filling those slips with people. In fact, when word has gotten out about this project, we had the list actually swell, people trying to get on it to – in anticipation of the new slips.

Next slide, please. Based on 2010 wharfage fees, we estimate that we'll be bringing in additional close to \$140,000. The

balance of the payment will therefore be from the Waterways Improvement Fund.

Next slide. So you know, there'll be no general taxpayer liability for this article, and we say that because the Waterways Improvement Fund is made up of two things: the mooring fees and one-half of the boat excise tax fees. The rest of the boat excise goes into the Town's General Fund. So, those are the two ways that this article would be paid. It will be a ten year bond and the payment will basically be between the new revenue and the Waterways Improvement Fund.

As I – I've already gone over this, basically, and you know, we have gotten at the question from time to time about what happens if we don't fill the slips. That virtually is not an issue. We have never had any problem filling our slips. And, as I say, you know, the turnover at the Town Marina is extremely small this year; even as bad as the economy is, we lost one slip holder. And quickly filled that vacancy.

Next. We do want to make sure that Town Meeting knows, not only for this article but the next article: the most important part of this is the bulkheads, themselves. The most visible evidence of this can be seen at The Tides bulkhead, which we'll talk about in the next article, but the main marina, if you stand on the walkway and look down, you can see where it's bowed. And, as I say, if it were not for the finger piers, we could have a collapse situation on our hands. Something similar to what

Barnstable dealt with. And we obviously wanted to avoid that.

I also wanted to let you know that we have applied for state aid for this project and the other bulkheads. We've applied through the Department of Conservation and Recreation, Rivers and Harbors Act, and through concurrently with the Seaport Bond Council. We don't know if we're going to receive any funding, but we're certainly trying. We've been working closely with Senator Murray's Office to see if she's able to help us in that regard as well.

And I'll be happy to answer any questions.

THE MODERATOR: Okay, Mr. Shearer, Mr. Shearer. Yes, I'm recognizing you. And then Mr. Boyer.

MR. SHEARER: Dan Shearer, Precinct 6. I'm a member of the Finance Committee; I am talking for myself, not the Finance Committee.

First of all, I want to say I think this is an extremely important thing to do. We have to fix this bulkhead. It should be for this town a real cash cow. It isn't at the moment. Yes, we have a waiting list of 150 people. I'm surprised it's not 500. We're literally thousands of dollars less a year to rent a slip here than we are across the harbor at McDougall's or at Falmouth Marine. We are a bargain, and we have probably the best marina, the best facilities of anywhere on the Cape. You can park your car right beside your boat. You've got a great bathroom, et cetera, right up

there. It's a real joy to have this in our town.

My problem, right now, is how it's going to be paid for. The people that have moorings in all the other harbors are really taking a brunt beating if anything needs to be done in their harbors for the next ten years if we're taking all the funds.

One of the problems is that our administration has been taking \$250,000 out of the Waterways Fund, your harbor fees every year, to balance the budget. I would like to ask, through the Moderator, our Town Administrator if he intends to keep doing this. Because if he does, I don't think the finances for this are going to work. And we're going to be back here asking you people for money to finish the job. And I would like to see my money in the moorings I have pay for my harbor's problems and also this problem. And not have to come back with extra money a year or so from now. Thank you.

THE MODERATOR: Okay, Mr. Whritenour. He asked is there an intention to use \$250,000 of the Waterway account money for future operating budgets.

MR. WHRITENOUR: You can't address a hypothetical question of exactly what next year's budget amount will have in it, but I will say that since the time, it was approximately four years ago, the state law changed. It was a very fundamental change for Waterways funding in the Commonwealth of Massachusetts, and that changed to place all of the

mooring fees in that one reserved account, fifty percent of the boat excise fees. The use of the fund was expanded at that time to include all marine-related law enforcement.

In our community we have a very good marine-related law enforcement department. It's a small department; a portion of that department's operations is funded through this newly-expanded Waterways Fund. And that is in compliance with all of the laws of the Commonwealth of Massachusetts. The remainder of the funds goes to funding Waterways improvement projects.

If you take that money out of the budget, you'll have to pretty much delete the Harbormaster Department. So, it's a balance right now. We'd like to work – in a perfect world, we would have enough revenues to sustain all of the Town operations and the marine-related law enforcement, but a portion of the mooring fees has always, always been used for marine-related law enforcement. The only change was all of those funds, instead of half going into the General Fund so that we could use it for that, were placed into an account and a small portion is voted out each year. It's something we discuss every year and that's the status of the budget, and we'll have to move forward. Next year we'll have additional discussions on what the Town's revenues are, but we will continue to support both waterways improvements and the waterways law enforcement. Overall, comprehensively, it a highly successful program

and a quality program.

THE MODERATOR: Okay, Mr. Boyer.

MR. BOYER: Peter Boyer, Precinct 5. I've been trying to do the math, and I don't think anyone as I sense the meeting is opposed to the project. But I think I need to focus, as Mr. Shearer did, in the financing. And, as I try and click this through my head, I think we're trying to do too much with the limit of financing.

If, for example, this provides another \$140,000 and if in fact we need to debt service and it's a revenue bond -- and I think that may need some revisiting. I think it may need to be a general obligation bond, regardless. But that means that the annual debt service on \$2 million, a million nine fifty, is going to start out somewhere around \$300,000 for the first year. It goes down after that, but that's supposing a five percent or something in that range, and I'm just trying to guess what that would be. But, if that's it, then we've got \$300,000 of the first year of debt service, and we've got \$250,000 of use for the operating budget, and I certainly don't quarrel with it being a legal choice that the Town is able to make. Whether it's a wise choice or an unwise choice is a different question. It certainly is legal.

But that means that, in order to pay for \$300,000 worth of debt service plus \$250,000 of operating expenses, you need \$550,000. I think if the current revenue into the Waterways Fund is something like \$330,000,

300, something around that, you don't get to 550 with another 140. So I think we're going to end up short. By how much, I don't know. But it just seems to me that we're over-committing, particularly if you call it a revenue bond. General obligation bond means that the taxpayer does subsidize that, and you can't manager it simply through the added revenue from the Waterways Fund.

THE MODERATOR: Okay, Mr. Chairman. Do you want to address the funding part and then Mr. Chairman?

CHAIRMAN ANDERSON: Gary Anderson, the Finance Committee. The Finance Committee did look in considerable detail at the economics of this particular project. We modeled it. We did not use a five percent interest assumption. We started out at a three and a half percent interest assumption and we used a four percent interest assumption.

Mr. Boyer is approximately correct on the annual bond payment. On a three and a half percent interest rate, the first year's payment would be just under \$260,000. We took some fairly conservative assumptions. We first modeled it rather than \$140,000 of income coming in, we modeled it at \$125,000 of income coming in from the slips. The economics still worked. What it means – and that includes continuing to draw down \$250,000 each year for the full ten years to fund the Waterways budget. We assumed a constant revenue inflow from the one-half of the boat excise tax and the mooring fees in the amount of \$350,000,

which is pretty close to what the revenue number was in 2009.

There is currently, or, excuse me, as of February 18<sup>th</sup>, 2010, there is a balance in the Waterways Reserve Fund of \$718,337. Now, some of you have paid your boat excise taxes as I have, and so that number has probably gone up, but that's a reasonably good number. There is a sufficient balance in there to fund this project along with the income that comes from the new slips and the revenue that flows to the Waterways Fund from the boat excise tax and the mooring fees.

THE MODERATOR: Okay, did you have anything else to add to that, or you're good, okay. Let's see, Mr. Netto. Then Mr. Wilber.

MR. NETTO: Joe Netto, Precinct 9. I think tonight's going to be all about figures. Yes, Mr. Boyer's correct and yes, Mr. Anderson's correct. When this article came up, I met with the Harbormaster and I too went over the figures with Mr. Frazier. Because I am a boater in the Town of Falmouth, been here all my life and been boating, and I'd like to remind the people, Mr. Anderson, here's the problem with you figures, so to speak, sir. There are 14 harbors in the Town of Falmouth. The Waterways Excise Tax is paid only by boaters. If you don't own a boat, you don't pay the water excise tax. You heard me say this last year when I brought to the attention of the \$250,000 by the Town Administrator for the regular budget.

Every time the Waterways Committee brings up a Waterways

article, it is funded by the tax from the boaters. We don't mind paying taxes on our boats. You give us services. You're going to hear me repeat that again at the end of the night with the dump issue. And I think that's what most of us agree with. But you can't take the same dollar and spend it twice. And that's why Mr. Shearer is exactly correct. Asking the administration that you can no longer take the \$250,000 out of the Waterways Fund to balance the – look in your book, it's right there again, the appropriations for FY '11. Because those of us that live in the – this project will benefit Falmouth Harbor.

Those of us that live in the other 13 harbors, we have costs effected with boating there. We just spent \$650,000 in Green Pond and we're already looking to gain more parking spaces because in that somewhat of a fiasco of a project, we ended up losing almost 50 percent of our parking with the new plan that went in. Can you imagine in this day and age when everybody wants the use of the water, we came up with a design that gave us less parking? So that's a problem and we're going to have to pay for that.

So, what about the other 13 harbors? This is the problem I have. I want to support this article, but we have to have a better commitment. Because right now this bill, if I'm not mistaken, this will be paid for entirely by the boaters. The slip revenue, Mr. Frazier told me, goes into the General Fund. So when the money for the additional 29

slips, that goes into the General Fund. But my mooring fee and my excise tax on my boat, is what pays – what stays in Falmouth and pays for the Waterways.

Now, I have one question, Mr. Whritenour, I'm a little confused on this – the justification is for the maritime police. And in all the years I've been in Falmouth, all my life, 63 next month, I am not familiar with the – who are the maritime police, sir? Enforcement. It's a new term.

THE MODERATOR: Mr. Whritenour.

MR. WHRITENOUR: The Harbormaster.

MR. NETTO: Oh, I thought the Harbormaster's first function – I realize – so it's justifying \$250,000, that part of the budget is used in enforcement for police work? I'm not – I'm just saying you had a place to come up with a quarter of a million. I think if I was in your shoes I'd do the same thing to balance the budget. But to ask the boating public to float this bond, eventually if we can't pay it, you the general taxpayer of the Town of Falmouth is who's paying the bill, here.

So Mr. Shearer asked you if you'd refrain for this, and I think the public before they can vote for this. And if you don't take the 250, it's got to come out of the general tax rate. And the Town of Falmouth is the bottom line on the check. If the excise tax doesn't pay for this, obviously we're responsible.

I think we have, as Mr. Boyer pointed out and Mr. Anderson,

we have some grey issues that we needed cleared up before we can vote on this, thank you.

THE MODERATOR: Mr. Wilber. Mr. Freeman, I've got you on the list.

MR. WILBER: I'd just like to say I followed along on this project with Mr. Frazier for a number of years and I think it's an excellent project. I think it's been engineered correctly. I think it's needed. I think this is a money making project. It maximizes a coastal resource that's solid. I think that we should act on this sooner than later because deterioration gets more expensive as we go on. This is the sort of coastal project that involves a structure that is completely legitimate and would be supported by me and the CRI.

THE MODERATOR: Okay, Mr. Lewis.

MR. LEWIS: Gardner Lewis, Precinct 6. Most of the precinct meetings that I went to, people were concerned with revenues, and here we're offering you a chance for a new revenue source, \$140,000 a year. That has to be paid attention to. And a few round numbers. The income from this department is \$100,000 from the boat excise. It's 250 from mooring fees and it's close to \$500,000 from slips. The slips and the 140-thou is going to go, correct, into the General Fund. I have a nice little spreadsheet which you can't see, but at three and a half percent, we would need about \$120,000 the first year from the General Waterways Fund,

after the 140, to pay that first year's note. And by down at the bottom we're going to need \$50 - 60,000. There's more than enough cash to do this, and this is a revenue source that will be there for a long time.

THE MODERATOR: Mister –

MR. LEWIS: Excuse me, one more thing. The 140-thou comes from the minimum of 30 feet per boat in those new slips, and he figured them at the resident rate and the non-resident rate, which is \$143 a foot for resident and \$173 for non-resident. So I think that's a fairly solid number, the 140 is a fairly solid number. And if they should raise the footage rate next year, it'll be better.

THE MODERATOR: Mr. Freeman. Ms. Abbott, I'll put you on the list.

MR. FREEMAN: Thank you, Mr. Moderator, Michael Freeman, Precinct 8 and also a boater here in Falmouth. I'd like to remind everybody that our marina, our marina is a municipal marina. This is not a private marina, a cash cow for the areas that those private marinas exist.

I spent some time with Dana Smith these past few days. He's the past chairman of the Waterways Committee and he would also like to get a message across that this is a gem. This is a magnificent piece of property that we, the Town of Falmouth, own. It attracts many tourists throughout the year, not just in boating season, and it generates its own money, its own funds, to sustain its operation. The DPW and the

Harbormaster's staff maintain it beautifully. We need this.

Don't let us fall into the same situation that Barnstable just did.

If anybody is paying attention to what happened in Hyannis Harbor, there are 66 slips that are going to be inoperable this year because of the bulkhead failures that they had. We need to fix the marina, we need to update the marina. Those 66 slips will not provide any income to the Hyannis Marina, and the people that are going to be evicted from there, the fishermen have priority as to wherever they can find places for them. Don't let this happen to us.

Positive. There's two articles for the Falmouth Town Marina.

Thank you.

THE MODERATOR: Okay, Ms. Abbott.

MS. ABBOTT: Jane Abbott, Precinct 7. Mr. Moderator, I had no idea where the money went, the moorings and slips, that they went to a different place. It seems to me that if the Town needs more money for things, rather than taking the money from the Waterways, they should just increase the rates for the slips. I don't know how they differ from private yards, but I think that is something that should be considered.

THE MODERATOR: Okay, Mr. Shearer, did you have--?

Then I think we're--.

MR. SHEARER: I'm going to vote for this. There's no question in that. It's got to be done, it's good. All I ask for was that we

have the funding to do it so it doesn't end up like the high school and somebody coming back to us, or the job isn't done complete. Which I think it should be done.

And I disagree with the maritime police. I don't believe Mr. Frazier, and I have his salary right here in my hand, is making that kind of money. We do have a lot of people in the Harbormaster's office, but a lot of those take care of the slips and that idea. I mean, we do have 14 people in the summer. But our total for the Harbormaster's Department, in salaries, is \$165,560.33. That includes a secretary and an assistant and a deputy. I don't see how you can take one of the dock boys and charge him to maritime police.

We also have the pump out boat person who is somewhat paid for by the state of Massachusetts. We get paid for that. So I don't understand why we can take the 250 out all the time, or that we have to.

I really think this is something we have to ask our Selectmen. I have gone to the meetings on fees. \$110 a foot difference between Falmouth and McDougalls across the way, who also has a waiting list, I think is very excessive. I think we should compete with private enterprise, not undersell them –

THE MODERATOR: Okay, Mr. Shearer, we're getting a little outside the scope, here. We're talking about the Operating Budget.

MR. SHEARER: Well, the Operating Budget comes from the

slip fees and so forth. But, yes. Please vote for this and try and influence your selectmen not to take this money every year. Thank you.

THE MODERATOR: Last – something new? Ms. Bumpus, something new? Microphone.

MS. BUMPUS: Catherine Bumpus, Precinct 1, and I have two questions. One for Waterways and one technical design question. The Waterways question is do we anticipate any increase in the mooring fees to have to pay for this, in your funding models? And the other technical design question would be: do we have sacrificial anodes on this so that we don't have to go replacing all the tie back systems again and losing the bulkheads again? Are we going to design this to last longer?

THE MODERATOR: Okay. On the engineering side, Mr. McGrath?

MR. MCGRATH: The answer to the second question was yes.

THE MODERATOR: Okay. And to the first question? The first question was will the fees go up. I betcha the answer is yes.

MR. FRAZIER: I can answer, as far as all the fees including the mooring and the Waterways/Wharfage fees go through the standard fee hearing process. So the Waterways Committee only recommends the fees. They do that to the Board of Selectmen in the fall; the Board of Selectmen sets those fees. So they're looked at every year. Whether they

will go up or not it would be up to the Board of Selectmen in October or whenever the fee hearing is.

THE MODERATOR: Okay, and does the ten year model include the fee increases?

CHAIRMAN ANDERSON: The Finance Committee modeled it with the fees remaining flat for the entire ten years, and the economics still worked.

THE MODERATOR: Okay, so the question is going to come on Article 16. This requires a two-thirds vote because of the authorization for borrowing. All those in favor of Article 16, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it by the two-thirds majority and I so declare. Yeah, unanimous.

Article 17. Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 17 as recommended, with the following change. If you look at the recommendation, go three lines up from the bottom. The line starts from "from Proposition 2 ½, under the provision of Mass. General Law Chapter 59, section 21C" sub it should be "(k)" rather than "(j)".

THE MODERATOR: Okay, so the only change to the

recommendation is the notation of the sub-section of the General Law. This is for repair and construction of the marine bulkheads at the Tides Landing, Robbins Road and Simpson's Landing in Falmouth Harbor. Any discussion on Article 17?

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

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

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

Article 18 is a Community Preservation Committee article. Madame Chairman for the main motion.

CHAIRMAN SCHNEIDER: I move that the Town vote to appropriate the sum of \$25,000 from Fiscal Year 2011 Community Preservation Act estimated receipts for the purposes of Article 18 to be expended under the jurisdiction of the Community Preservation Committee.

THE MODERATOR: Okay, so the main motion is 25,000 rather than 20,000 as written in your recommendation. Madame Chairman.

CHAIRMAN ANDERSON: The explanation is this is when the

jovial meter goes back up and starts to move to the smile: the Mass. Historical Commission has asked us to accept an additional \$5,000 in addition to the \$12,000 reimbursement for this project, so that the expenditure will remain \$8,000 out of Falmouth's Community Preservation Funds. The reason being that they have analyzed the scope of work; they feel that the scope of work stays at approximately \$25,000 rather than twenty and they are offering to fund the additional money.

[Applause.]

THE MODERATOR: Okay, Mr. Chairman.

CHAIRMAN ANDERSON: Gary Anderson of the Finance Committee. The Chairman of the Finance Committee is requesting a royalty for the use of the "jovial meter fund" on a constant basis.

[Laughter.]

CHAIRMAN ANDERSON: Ninety percent of the process will be returned to the Town.

[Laughter.]

CHAIRMAN SCHNEIDER: We can pay that out of the Administrative Budget, thank you.

THE MODERATOR: Okay, any further discussion on Article 18? Hearing none, then the question will come on the main motion of \$25,000 change from the recommendation. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it unanimously.

Article 21, Madame Chairman.

CHAIRMAN SCHNEIDER: I release the hold and at this time recommend that the Town vote to appropriate the sum of \$275,000 from Fiscal Year 2011 Community Preservation Act Estimated Receipts for the purposes of Article 21.

THE MODERATOR: Okay, so that's the recommendation that's in the warrant book. Any discussion on Article 21?

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

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The ayes have it unanimous.

Article 23, Madame Chairman.

CHAIRMAN SCHNEIDER: I move that the Town vote to appropriate the sum of \$61,706 from Fiscal Year 2011 Community Preservation Act estimated receipts for the purposes of Article 23.

THE MODERATOR: Okay, you've all heard the main motion,

the appropriation of \$61,706. Any discussion?

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

All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it unanimously.

Article 25. Madame Chairman of the Board of Selectmen for the main motion.

CHAIRMAN FLYNN: I move Article 26 as recommended.

FROM THE FLOOR: 25.

THE MODERATOR: Article 25. As printed, Article 25?

CHAIRMAN FLYNN: As printed, thank you.

THE MODERATOR: Okay, Article 25 as printed. This is the Chapter 213 of the Code of Falmouth, Vehicles and Traffic, adopting a noise abatement bylaw. Ms. Murphy held this. Ms. Murphy held this.

FROM THE FLOOR: She's not here.

THE MODERATOR: She's not here tonight; would anybody else like to speak on this one? Mr. Wilber.

MR. WILBER: Excuse me, last night I was approached by a member of the Massachusetts Motorcycle Association, of which I'm a member. And the person that wanted to speak could not be here tonight

and I checked with the Moderator and he said it would be okay for me to read this letter into discussion, here.

So, I'm going to read this letter from the Massachusetts Motorcycle Association concerning Article 25. "To Whom This May Concern: I present myself" – This is from Rick Gleason, who is the MMA Legislative Director. "I present myself as the legislative director on the Board of Directors of the Massachusetts Motorcycle Association. Henceforth MMA. The MMA is the recognized leader for motorcyclists' rights in the Commonwealth of Massachusetts, representing approximately 400,000 motorcycle licensed riders in the state. On behalf of the MMA I wish to formally announce our opposition to the proposed Town of Falmouth bylaw identified in Article 25. The proposed language, harsh and objective, is an arbitrary and subjective statement that is unmeasurable and unscientific and will not stand to challenges in a court of law. Enforcement procedures need to be measurable and performed in a definitive and scientific manner.

The proposed language is literally, quote "word for word" to that of the existing Massachusetts General Law Chapter 90, Section 1690-16. Precedent against 90-16 is already present in District Courts as a result of numerous citations issued from the Sterling and Princeton Police Departments in concert with RMV officials. These citations were issued in July of 2009. The final court dispositions with findings of Not Responsible

were handed down in March of 2010. All with charges dismissed.

If Article 25 is adopted, the Town of Falmouth will likely see similar results, while also incurring hundreds or thousands of dollars per citation in administrative court cases. Referencing last year's attempt by Hingham to enact similar legislation, the Hingham Town Counsel James Toomey stated, "The difficulty is that such an action as requested would not be approved by the Attorney General and wouldn't be enforceable because the Town can't enact a bylaw that conflicts with state statutes when it intrudes in an area already regulated by the state.

The MMA, in conjunction with Peabody, Salem, Saugus and Tewksbury police departments, has conducted numerous voluntary motorcycle sound checks over the last few years. These sound checks give the rider definitive assurance of compliance with the state law should they pass. Those who do not pass know that changes must be made to their motorcycles in order to be compliant with the existing law. All tests are performed per MGL c. 90, sec. 75, 17 (7)(u) and Massachusetts Regulations 540 CMR 3.02 and 3.03. Last July, 2009, the MMA also partnered with the Falmouth Police Department and we are awaiting word that Falmouth's "enforcement through education collaborative" was ready to go into effect.

In fact, the MMA remains ready to assist with any educational effort, our motto being, "Educate, don't legislate", and is very willing to

participate in any voluntary sound testing opportunities the Town wishes to pursue. The MMA is encouraging all motorcycles to ride with respect, especially at this time of year, during the Commonwealth's Motorcycle Safety Awareness period. While we're asking other motorists to be more aware of us, we want to demonstrate that same respect.

Thank you for your time. I welcome any questions or comments. Sincerely, Mr. Rick Gleason, Legislative Director."

May I speak as a –

THE MODERATOR: Sure.

MR. WILBER: As a member of MMA, there are issues here. The quote from Town Counselor Toomey from Hingham sounds an awful lot like language that has been used by Mr. Duffy with regard to approval by Attorney General on enforceable town bylaws. And I'm not sure that I can get a rendering from Mr. Duffy tonight, but it does sound like Counselor Toomey is aware of this Attorney General problem, which has popped up in Falmouth bylaws before.

I certainly support the Enforcement Through Education Collaborative, which the MMA has partnered with the Falmouth Police Department. I certainly support the Educate Don't Legislate. My motorcycle, which only has one cylinder, is never going to be in question here, but I know that some of the larger bikes, particularly the road rockets that make so much noise are really at the center of this issue.

In most cases, when those motorcycles are making too much noise, there are illegal road maneuvers involved in those, which I think is the way to enforce this. There's usually an illegal pass, there's usually speeding, there's usually a number of road regulations that are being violated in order to generate that noise.

So, I'm just reading this in for Mr. Gleason. I support the general tone of the letter. I ask Town Meeting to consider it carefully.

THE MODERATOR: Mr. Duffy, did you want to make any comment about the review of the A.G.?

MR. DUFFY: This proposed bylaw was submitted by the Chief of Police, and he is here tonight and he will explain to you why he would like the Town Meeting to adopt this as a bylaw. The language in this proposed bylaw tracks the language in the state statute; I believe it's almost identical. Every bylaw that you enact has to go before the Attorney General to be approved, and one of the things he looks at, is it inconsistent with the state law. So this will be subject to scrutiny by the Attorney General. If he finds it inconsistent, he'll turn it down, that'll be the end of the story. He may approve it, in which case the Police Department will be charged with enforcing it and I'm sure they've thought about how they're going to do it because it does raise some issues of law enforcement and the Chief perhaps can explain.

THE MODERATOR: I'm hearing it's a she. It's actually Mr. –

Mr. Ritchie is the one that reviews it for the Municipal Law Division at the Attorney General, so that's why he said "he", because it's Mr. Ritchie's office.

Mr. Riello.

CHIEF RIELLO: Thank you, Mr. Moderator. I would like to comment on this. I want to first say I do not have a PowerPoint presentation. We cut that out of the budget this year.

[Laughter.]

CHIEF RIELLO: I don't have any pictures, either. Sold the cameras on E-Bay.

[Laughter.]

CHIEF RIELLO: You laugh. [Laughs.] I'm serious, folks. Go on Propertyroom.com, you'll see all that neat stuff we're doing.

I do want to comment on this, and a couple of things: I want to give you a little history on this, on where this came from. When I came here, two and a half years ago, one of the first groups of folks that I met in Falmouth was a group that has called themselves the Quiet Roads Association, and it's a representative group from several parts of Falmouth. And, again, their issue is noise, motorcycle noise, loud muffler noise, loud music noise, you know, the kind, you know, when you're driving down Main Street and the kid with the base thing who's blown out his eardrums and your stomach's turning upside down. That's one of the folks

that we'd like to re-educate through this program, and then using this.

But the history of this, and where we've come in the last two and half years, we have enforced Chapter 90, Section 16 as far as writing citations or giving warnings. And our officers have used their discretion over the last couple of years.

One of the things that we've also done, we've relied on the members of the Quiet Roads Association to keep us focused in terms of where some of these issues and problems are so we can dedicate our resources. We also went to the level of putting out special details to deal with these kinds of issues, and we have been doing that, and we've been doing that very successfully. I know when this thing was first proposed, some folks said, "You're not kidding anybody. You're going after Dufresne and his motorcycle." Absolutely we are. And that beard is not going to help disguise you, either, man. You watch tonight when you leave.  
[Laughs.]

Oh, the little kid with the tricycle in Troy Clarkson's driveway?

Hah! Took care of her, too, she's gone. Never bother him again.

No, this is really, and I know Mr. Wilber mentioned as well, you know, it's that kid, you know, the misguided person on their crotch rocket who's trying to get to heaven early and take as many people with him, we really want to re-educate that kid.

And the other person that really stands out to us is the person

– and many of us in this room. We have members of the Mass. Motorcycle Association who's in the Quiet Roads Association Group. And I want to say that Mr. Gleason is a fine gentleman, and we have partnered with him, and I'll get to that part, as well.

But it's also the person – it's not the guy, like Mr. Dufresne – and in all due respect, you have one of those motorcycles that doesn't make any noise. It's not a real motorcycle, it's not a Harley. It's not a Harley.

[Laughter.]

CHIEF RIELLO: It's okay, though, Andy. Oh, you laugh, it's true.

We're after the guy with the Harley that takes the mufflers off. I mean, Harleys are wonderful; you get five or six of them together, they make some noise. But they're Harley-Davidsons; it's America. God bless America. It's the guy that takes the mufflers off and says, "Look at me, look at me, look at me. I'm making a lot of noise." Well, we want to re-educate him, too.

So, we do use our discretion. We've written 60 tickets the first year, 14 the second. And a lot of those were warnings. And they were educating folks that, "Hey, look it, there's people in this town that care about the quality of life." Since that point, and I say, I do say Mr. Gleason is a fine gentleman and the Mass. Motorcycle Association is a great

association because we are in fact partnering with them. And you will see this brochure. And we decided, before we approached them, to embark on a campaign; as you see, it says, “No noise.” And what it is is, it’s called, “How To Avoid A Ticket When You Come To Falmouth.” Yeah. We don’t want to give you a ticket. Except a kid trying to get to heaven, we want to tag him. But the others, no.

Here’s how you avoid it. Come in, be respectful. You know, if you’ve got an illegal motorcycle, go to Sandwich, go to Hyannis, go to wherever you want, we don’t care. Don’t come here.

[Laughter.]

CHIEF RIELLO: Or you’ll get re-educated. But we do – and, what we plan to do, we did – and this is, we accepted MMA’s recommendation as far as calling this thing – Christ, cheap paper too. Here we go, “Enforcement Through Education Collaborative”. And that is what we’re doing. And what that means is we know that enforcement alone is not going to solve this noise problem. We know that. We know we do it through awareness, education, engineering, improving the roadways, and then finally enforcement has to be a piece.

So, we’re looking at the whole picture. And on behalf of the Quiet Roads Association, they felt very strongly, they said, “Let’s get the Town of Falmouth behind us.” We’re using Chapter 90, Section 16 very effectively: it’s a \$50 fine when we write the fine. We also have the

discretion with the warning. They wanted to send the message that, hey, let's go to 75, 150, 300 for multiple offenses. And if we have someone who hasn't learned, my God, after three times it's going to cost him 300 bucks, then, you know, I don't know, we'll probably lock him up for something else or something, but we'll figure something out. But that's the idea of it.

And they wanted to make a statement and we said, "Sure. I'll be happy to sponsor it." We've gotten calls from other Departments around the state, "Hey, what are you doing in Falmouth? We saw the headlines. We see you got folks that are really interested."

And the only other thing I want to mention, though, to you about this, and I'll be very frank and honest with you, folks. You know, the last two years, we have, we had dedicated patrols on the weekends, we've had folks out, it cost us money to do that. And I just want to just very quickly say that that enforcement strategy will change this year, just like many of what we're doing this year, is changing. And I just want to just quickly point out why. You know, I did say we had the camera thing and the PowerPoint, but the fact remains we did cut \$450,000 from the Police Budget this year. That included five officers: they're not laid off but they're gone. They're not in the budget.

In addition to that, if you take four that I've got deployed, two in Afghanistan, one to Kuwait and one that'll just be deployed in the state

of Massachusetts, that's four more. I've got four out on long term disability that will probably be retiring. Do the math: I'm down over 20 percent. We're going to barely be able to answer calls for service, so. And that's not to say, "Geez, don't help us with this bylaw," because the officers that are out there, if they see it, then they'll deal with the issue. As far as doing details and that kind of stuff, you know, specific, you know, I'll be very honest with you, folks, that's going by the wayside along with, you know, the hot spot summer program, the Woods Hole patrols, the downtown walking, all of that stuff, we've got to really just shrink back. We're down to the minimum number of cruisers. Again, we answer 30,000 calls plus, you know, for service a year and we're down to just answering calls for service. That's where we're at.

You know, didn't get too nervous when you were talking about the five cruisers. I don't know if I've got officers to put in them, anyways. But we're happy to get them. That will keep our program going, and I mean that, I mean that. And I thank you for that.

But this is reality. I'm not trying to scare you, I'm just trying to tell you: this is what it is. And we'll do the best we can. I'll take any questions, whatever you'd like.

And, as far as this thing goes, if you'd like to support it, you know, we think it's another tool that we can use. It does mirror state law. You know, if it doesn't pass, we'll still use state law which is the same

thing, just a little, you know, smaller fine.

THE MODERATOR: Okay, Mr. Latimer. I've only had one speaker here. Mr. Latimer.

MR. LATIMER: Rich Latimer, Precinct 2. I've been a trial lawyer for as long as I can remember now. I have no problem with the intent of this article and I certainly have no problem with the specific items here that dictate equipment changes, deletions of equipment, because that's specific; it gives people reasonable notice of what's been required.

I'm going to assume that it is consistent with the state law, although I think Jude Wilber raises a very important consideration that we better be sure it's consistent with the state law.

However, I do have a lot of problems with the language that reads: "...sound a bell, horn or other device...so as to make a harsh, objectionable or unreasonable noise..." Now, I think that language is extremely vague, extremely subject to very subjective enforcement. Objectionable on that basis alone.

I also would point out that our emergency vehicles clearly make a harsh noise, and therefore if you read it leaving out some of the verbiage, but this is the way it reads: "sound a bell, horn or other device so as to make a harsh noise." Well, that's every police cruiser going out on an emergency call, every ambulance going out on an emergency call. So I think that, because, let's face it, sirens make harsh noises. That's what

they are.

So, I do believe –

THE MODERATOR: I think they're exempt in the first sentence.

MR. LATIMER: Okay. It is still a very subjective –

[Laughter.]

MR. LATIMER: It is a very subjective, subjective criteria.

Because if we leave out –

THE MODERATOR: Folks, come on.

MR. LATIMER: If we leave out emergency vehicles and we just go to our own cars, all of our cars have horns. Those horns make harsh noises. Those horns have purposes. Now, there are people that abuse that, however there are also people who do not abuse it; who, if they see a bicycle coming and they want to alert the bicyclists because they can't slow down, they're going to use their horn. And, the way that reads now, it says "or unreasonable". I would suggest that this should be corrected by saying, "and unreasonable". So it would read: "...a harsh, objectionable and unreasonable noise..." That way, if you sound your horn, you're not strictly violating the language of this.

And I think it is still somewhat subjective, because who is going to make that determination in writing this ticket as to what is harsh and objectionable? I'm sorry.

THE MODERATOR: Mr. Latimer, is that in the form of an amendment?

MR. LATIMER: It's not my article, but I have objection to it.

THE MODERATOR: Okay.

MR. LATIMER: Yeah, I'll make a proposed amendment that we change a "harsh, objectionable and unreasonable noise," so we don't have to worry about making a harsh noise whenever we hit our horn, as long as, you know, leaving it up to somebody else to determine whether that's reasonable.

THE MODERATOR: Okay, so the amendment here is third line up from the bottom of the first paragraph, delete the word "or" and replace it with the word "and". Is there any discussion just on the amendment? Just on the amendment? Okay, Mr. Putnam.

MR. PUTNAM: Brent Putnam, Precinct 9. I will respectfully disagree with Mr. Latimer and ask that you all keep this article as printed, pass it as recommended. It does mirror the state law, and if we make changes to it it may not pass. The idea here is, as our chief noted just moments ago, is another tool to address issues of noise. If this was a problem, because again this mirrors the state law that they have already used, if this was a problem as Mr. Latimer suggests, we would have heard complaints, en masse, already.

As Chief Riello noted, they've used the identical state law to

write warnings over the past several years in order to address the issue of noise. It works; let's keep it as it is and get it done. Thank you.

THE MODERATOR: Okay, Mr. Latimer. Bring down the mic.

MR. LATIMER: Again, Rich Latimer, Precinct 2. You've got to know how to read a bylaw. The clause about "except fire department and fire patrol apparatus" appears in context of the equipment. It does not appear in context of – if I'm a lawyer and I'm, you know, trying to defend somebody, this is how we do it. You know it does not qualify the use of a horn or a sound device. And it also does not read "police patrol"; it also does not read "private ambulance service". Now, all of those problems can be easily corrected by changing the word "or" to "and", because it is by definition reasonable for a police car, a fire department or an ambulance, whether it's a public or a private ambulance, to make that harsh noise. And, you know, otherwise it is a flawed bylaw in terms of its specific language. Thank you.

THE MODERATOR: Okay, are we ready to vote on the amendment? Go ahead.

MR. LATIMER: Again, I would move that we amend it by changing "or" to "and", and that way it removes the ambiguity there. Thank you.

THE MODERATOR: Mr. Murphy on the amendment.

MR. MURPHY: Yeah, I have a question for the Chief. Carey Murphy, Precinct 7. You know, there's a lot of charitable motorcycle rides, and there will be three or four hundred motorcycles going by. I know that's going to – the police are going to have their work cut out for them, but how do you measure like sort of a collective noise? We had this issue with cigarette boats in the past. How do you address that on a Sunday morning at ten o'clock, other than not license them? And they raised a lot of money. So, I'm just curious on that collective.

CHIEF RIELLO: We lead them right to the Village Green, we circle them, and then we write them all a ticket.

A lot of folks have called us and we've responded to them. And we know when you get several motorcycles together that they will make some noise, but what we've also told them is, "If you've got folks that don't have mufflers or people that want to participate that have illegal equipment and you know it's going to draw attention and make that kind of noise, then please, just take care of it. Police your own."

We've reached out to people that want to come through town, because they usually call us and say, "Can you help?" Our motorcycles will lead them through town, and we do that. We bend over backwards to accommodate them. And we just – we try to put them on notice, say, "Hey look it, just be respectful. Here's where you're coming. You've got people watching. If you're not legal, then don't come here." But, to be a part of it,

a group together, absolutely, I don't have a problem and I don't think anybody on the Quiet Roads Association has a problem. But we do reach out to these folks before they happen.

THE MODERATOR: Okay, the question will come on switching the word "or" to "and". 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 No's have it.

Back to the original question. Mr. Dufresne was next on the list.

MR. DUFRESNE: Through either legal counsel or the Chief of Police, since the Chief would now be enforcing – and I absolutely hope everybody will vote this bylaw – if he's enforcing and increasing the fines, would signage be necessary on the main roads coming in, in order for you to legally collect monies over and above what the state law requires?

THE MODERATOR: Mr. Duffy.

MR. DUFFY: No, you wouldn't need any additional signage.

MR. DUFRESNE: What?

MR. DUFFY: No, sir.

THE MODERATOR: No, we would not need any additional signage.

MR. DUFFY: It would help, but you don't need it.

THE MODERATOR: Mr. Finneran – or, Mr. Riello, did you want to address it as well?

CHIEF RIELLO: I thought Mr. Dufresne was talking about the signs that we have that have been approved to be placed in certain strategic areas warning folks about excessive noise. That was part of the Quiet Roads Association Program, again, to again develop the awareness. A lot of these folks are not aware, and it's part of the effort to educate, make folks aware, and we do have signs – you will see signs around Falmouth. They've all been approved and actually paid for by the Quiet Roads Association Group.

THE MODERATOR: Thank you, Chief. Mr. Finneran.

MR. FINNERAN: Just a quick question. Would this include the annoying stereo systems that rattle the windows on Main Street?

THE MODERATOR: Chief?

CHIEF RIELLO: Yes, absolutely. Yes. We can write them now under excessive noise, but you know the folks that you're talking about, the ones that rattle – they turn the base on and, if you're behind these people on traffic as I said earlier, your stomach will actually turn, it starts to do funny things, it's because of that base and that excessive noise

and yes, they can be – it can be enforced. And we can do it under the excessive noise Chapter 90 statute as well.

THE MODERATOR: I hope my brother is listening to this Town Meeting.

Okay, the question will come on Article 25. Mr. Smolowitz, is it something new? Okay, microphone for Mr. Smolowitz, please.

MR. SMOLOWITZ: Ron Smolowitz, Precinct 8. I've made a study of noise bylaws because of other issues and one of the things that I've noticed, and any legal people could correct me, but most towns that have rewritten noise bylaws have added times and decibel levels. And there's a reason for that, apparently, is that if somebody wants to really challenge a bylaw, they could usually win if in fact it doesn't have times and decibel levels.

What this bylaw does is basically gets out in front – Falmouth is out in front by raising the fines. It's really not changing the state laws which are old. And most big cities, Boston, they all have decibel levels and times.

So, we're getting out front. We might find ourselves in court because, because we're out in front, people will come here to challenge the law and then take us to court to make an example. So there is a risk in doing this, and what we're gaining is getting out there and making a statement that you pay a bigger fine in Falmouth, but the consequence

might cost this Town some money.

THE MODERATOR: Okay, were we set? Okay, Mr. Latimer.

FROM THE FLOOR: Come on.

THE MODERATOR: No, just let him do it quickly and then we'll vote.

[Laughter.]

MR. LATIMER: Question for the Chief: how are you supposed to deal with the situation where there is farm equipment or construction equipment in operation and you receive a complaint that it's making harsh noises. How are you going to deal with that?

CHIEF RIELLO: We get noise complaints all the time. Thousands a year. People call because their neighbors stereos are too loud or their kids are making noise or you're running your lawn mower before a certain hour. We get them all the time, folks, and we respond. And we talk to folks. And we try to get them to comply, and generally they do.

And we always give them a first, second or third chance and then we arrest them for disturbing the peace. Because we can do that. Are we going to go out and look for somebody – you know, I think what you have to do is take a look at that and, again, the spirit of this thing was to support the Quiet Roads Association and say, "Hey, look it, the Town of

Falmouth's behind us.”

If it doesn't go, folks, we still have the same thing, Chapter 90, Section 16, that we've been writing for two years with \$50 fines. I mean, it's the same. It's not going to derail the efforts that we're making. The only thing it's going to derail the efforts that we're making was what I talked about before: we don't have people to do it. And I'm not making that up. But we need – this is another tool. That's all we're looking for.

You know, we could take several laws and we could apply them all different, crazy ways. We rely on the professionalism and the discretion of the police officers that work for this town, and that's what we do every day. They make a decision. They use their discretion. That's what it's based on. That's the way we operate. That's the long answer to your question, but, yes, we respond to noise complaints all the time and we deal with them.

FROM THE FLOOR: Question, question.

THE MODERATOR: The question is on the main motion as printed. All those in favor of Article 25 as printed, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The Ayes have it by a majority.

Article 26. Article 26 was held by Mr. Schmitt. The

recommendation from the Board of Selectmen.

CHAIRMAN FLYNN: I move Article 26 as recommended.

THE MODERATOR: Okay, well, the recommendation of the Board of Selectmen is Indefinite Postponement. Mr. Schmitt for a positive motion?

MR. SCHMITT: Yes, I'd like to put a positive motion on the floor. Mr. Moderator, I move that the Town of Falmouth amend its local room occupancy excise under Massachusetts General Law Chapter 64G, Section 3A, to the rate of six percent, to become effective on October 1, 2010.

I'd like to just say a few words. It's been a long three nights. I know you were all hoping to be out of here maybe by 9:30, so I'm going to try and be brief.

Over the last couple of weeks, I've tried to provide information on this issue to all of you, with the help from the Enterprise and the Cape Cod Times, by answering your questions at precinct meetings and by tapping into the potential of email. So I think you've had a lot of information by now. I expect therefore that you've probably thought about it. Hopefully you've discussed it with your friends and neighbors and you are now ready to vote.

You have a choice to make. The reason I think you should vote yes on this article is that the annual revenue potential amounts to,

very conservatively, \$400,000 a year and probably a good bit more. Now, this is not in my opinion an insignificant amount of money. And I think there are many ways that this extra revenue – many good ways that it can be spent.

I think everyone of us can identify some budget item that has been cut or some capital project rejected that we would like to see restored to our Town's budget for the year ahead. There are in fact over 70 towns throughout the state that have already adopted this extra two percent tax. Now, that is twice the number compared to last September when we last met here and discussed this. So I think that's a suggestion that momentum for this article in favor of it. The momentum continues to grow.

Just this past Monday night, on the other end of the Cape, in the Town of Provincetown, Provincetown joined the Town of Brewster and down south of us Nantucket Island in approving this two percent incremental local excise tax.

Over the next five weeks, the towns of Eastham, Chatham, Dennis, Harwich and Yarmouth will all be voting on this room tax increase. And these towns all have a stake therefore in what you decide here tonight and they're all watching to see which way Falmouth chooses to lead.

Now, let me just explain the reason for adding the October 1 effective date to the motion that was printed in your book. Without this

added language, the change would have gone into effect on July 1<sup>st</sup>. But when we spoke about this revenue opportunity at Special Town Meeting last September, Milt Kelly, Manager of the Green Harbor Waterfront Lodging, advised us that much of the group travel business is contracted months ahead of time and if this tax is increased effective July 1, the innkeepers in town will probably have to eat the difference.

I've spoken to travel company managers as well and they've confirmed this fact. I've been to meetings in other towns where this room tax has been discussed and I've heard the same thing there, in the other towns on the Cape. So therefore I think the date of October 1 gives our innkeepers about five months of extra protection, including the busy summer season, so they will not be burdened by your vote tonight.

There's one other huge issue that Andy Dufresne and Ahmed Mustafa have both mentioned to me more than once, and Kevin Murphy, who's probably over here somewhere, I believe – yes – Kevin mentioned this last September as well. That is that currently timeshares and condominium rentals are exempt from the room excise tax by law. This exemption gives these businesses roughly a ten percent advantage from a competitive standpoint, and from what I've come to learn, this is a much, much bigger issue with the innkeepers in town in fact than the room tax before us tonight.

There have been, you should know, a number of bills

submitted to the state legislature designed to change this situation and level the playing field, but these bills have been sent off for study by a legislative committee and that's been a big disappointment to many. But there is in fact a different approach we can take to bring about change and correct this inequity. It's called a Home Rule Petition and it just might be a way to bypass the legislative roadblock and spur the legislature at least to move into some kind of action.

I've learned this will not be an easy process, but it would be good as well if there were a unified Cape-wide effort and we will need to work on that and I intend to do that. A starting point will be to learn more about the concerns of the legislators who've decided to put this into committee and others who've opposed the change.

But, beyond the issue of fairness here, as I've looked into this, I find that there's a very significant extra revenue potential for the Town if we can bring about this change. We might in fact be talking possibly as much as another half million dollars on an annual basis. That was a big surprise to me because I had no idea of this fact when I began looking into the issue. But I'm committing myself tonight to continue to work to try and make this thing happen, and I think all of the innkeepers in Falmouth and the rest of the Cape would be very happy if we can.

Let me close by saying we're at a crossroads at this moment. It's for you to decide whether the time has come to fund town services by

looking for and accepting new and expanded sources of revenue that don't impact the local property tax. We can put Town finances back on an upward growth track. The future doesn't have to be all dark and cloudy, and a rebounding national economy just might add additional rays of sunshine on our beaches This summer and move the dial on Gary Anderson's jovial meter a little bit further to the right. We all like that meter, don't we?

I think we need to do these positive things if we are to maintain Falmouth as the pearl of Cape Cod and a destination of choice for all of those who come to visit. I hope you'll vote yes on the amendment and I'd be happy to answer any questions anyone might still have.

THE MODERATOR: Mr. Chairman.

CHAIRMAN ANDERSON: That jovial meter's really getting a work out, isn't it? I'm Gary Anderson, Town Meeting Member from Precinct 7. I'm not speaking for the Finance Committee as we did not formally vote on the article, although we did have two discussions regarding the hotel/motel tax.

On Monday night at our meeting I did ask for a sense of the committee on this issue. The 13 members of the Finance Committee who were present were unanimous in not supporting this article. Some of our committee members undoubtedly will give their views as Town Meeting Members tonight.

Now I'd like to share my view as a Town Meeting Member from Precinct 7, not as a FinCom Member.

Given the Town's financial struggles, many of you may feel like we should welcome new revenues to alleviate some of our fiscal problems. And you may be surprised as to why the Chairman of the Finance Committee would not strongly advocate for it. Let me tell you why, by bringing you back to some things I said Monday night. We do need to look at solutions to help us in the short term. I commend Town Meeting for having done that over the past two nights by making the necessary changes to the Fiscal Year '10 budget and passing the slimmed-down Fiscal Year '11 budget. But we must also consider the actions and decisions which position us for affordability of Town services and prosperity for the future.

I don't think this proposed quick fix as part of our short term solutions heads us in the right direction. As enticing as this easy revenue source may be, I caution Town Meeting Members to sequence our actions properly. Along with the Town leaders, we must do the hard work required to get us back on solid financial footing. The first two parts of the sequence are to determine which services the taxpayers want and will pay for and the second is the cost of the programs embedded within them. That's what I showed on Monday night.

The last piece of the sequence is for the Board of Selectmen

to establish financial policies to determine affordable and sustainable ways for taxpayers to pay for all the services.

Now, one way to pay for the services might involve the local option increase to increase the hotel/motel tax by two percent. But Article 26 jumps the gun and takes this component out of sequence. It presents what appears to be an easy option but one which may lead us to fall back into old habits: spend first and find ways to pay for it later. Unless we exercise fiscal discipline, we risk repeating past behaviors.

Let's give the Town Manager time to survey taxpayers and identify and compare the cost of our services with other towns. Let's give our Board of Selectmen time to create funding policies and develop equitable and appropriate strategies for taxpayers and visitors to pay for services.

Visitors who come here should pay their fair share for the services that the Town provides. But might we be asking them to subsidize our municipal services simply to benefit us? The appeal of letting someone else pay makes it far too easy to not do the hard work regarding spending. We can salve the wound of our deficits with the soothing balm of someone else's money, but in doing so we do nothing to heal ourselves when we don't face up to what we must do.

I don't have a problem with visitors paying for services which they use, but I do balk at the expectation that outsiders should subsidize

our desired standard of living. Part of our identity is that we are a leisure destination community. Our businesses must remain competitive and solvent, so they can continue to provide a key service to the visitors who nourish our Town with their tourist dollars. If we want people to visit and vacation here, we need to make it appealing. And part of that appeal is affordability.

Give our taxpayers and town leaders the time to gain appropriate insights so that we can make knowledge-based decisions in the proper sequence, rather than easy emotional decisions. We don't know if this additional tax will put Falmouth at a competitive disadvantage relative to other towns. Frankly, it may end up not being a terribly important consideration. But waiting until the Fall Town Meeting will give us time to gather more information. We should make our decision based on what's best for our town, the taxpayers, our residents and our visitors. Let's postpone this decision until we have performed our work in the proper sequence and have the knowledge to make an informed decision.

I ask you to vote no on Article 26. Thank you.

THE MODERATOR: Mr. Zavala.

MR. ZAVALA: Thank you, Mr. Moderator. Town Meeting Members, elected and appointed officials, citizens of Falmouth. I'm that guy that's on the pages of the Falmouth Enterprise in those pictures. I'm Jay Zavala, the President of the Falmouth Chamber of Commerce,

Precinct 8.

We thank the Board of Selectmen, the Finance Committee and the School Committee for their hard work and honest efforts to find balance and equity in the distribution of our Town's hard-earned resources. They have also worked hard to be objective in their duty to fairness.

I also thank Ed Schmitt, the author and prime advocate of Article 26. We met, we discussed his position. We agree that we have a responsibility to scrutinize every cost and consider every revenue-generating opportunity. I thank him for that. We do not agree that Article 26 is a solution.

The Falmouth Chamber of Commerce opposes Article 26. The cost is potentially too great and it is not in the balanced interest of our community. The Chamber is not inherently opposed to taxes. As Supreme Court Justice Oliver Wendell Holmes said when asked, "Do you like taxes?", he replied, "Yes. It gives us civilization." But taxation must be the last act of a desperate society, and it should be balanced and it must be fair.

Further, the members of the Chamber support education and our school employees. We support a safe and secure Falmouth and the police, fire and rescue employees that make that possible. However, given the economic stagnation, we also believe that these same employees in fairness must share equally in today's fiscal limitations of our

town. In this economy, and as a result of hard work done on this Town budget, school employees and our police professionals still have well paying jobs better than most.

This article before us is about jobs and about risk management. Last night, it was risk management that prevailed when we voted to keep the North Falmouth Fire Station doors in the budget. Let's stay that course.

The real question before you is should we risk placing a primary revenue-generating industry, its hard-working employees, their vendors and suppliers, as well as the food service sector, retailers, entertainment, recreation, transportation and other downstream businesses that benefit directly and indirectly from lodging and that also generate tax revenues. The additional revenues estimated to be generated by this local options tax of two percent is \$331,000 according to Town Hall, not the conservative \$400,000 as projected by Mr. Schmitt.

For many, rooms tax imposed as a way of exporting the tax burden to visitors from distant places, is misguided. When visitors pay a higher hotel tax, they indeed spend less in hotels, they stay fewer nights; they spend less in restaurants, that reduces meal taxes; they spend less in retail stores, reducing general sales taxes; and they spend less on entertainment. These establishments then purchase fewer supplies and services from their suppliers and pay less to their employees, a ripple

effect follows through the town and the negative impact reaches all sectors of the economy.

Room taxes, meal taxes and general sale taxes are at risk.

Over the past ten years, as our economy has stagnated and spiraled downward, the local lodging businesses, those still in business, those not converted to timeshares and condominiums, have contributed over \$11 million to the tax revenues collected at four percent, and yet they have managed to keep their doors open. The number that I just gave you came from a compilation taken from Town Hall from 1999 through 2010, and the 2010 figures include only the first two quarters of the year. The total came to \$11,272,194.

As you can see, annually they generate a lot of tax money for Falmouth. To do so, they have invested in the upkeep and improvements of their properties, hiring locally. They have spent untold dollars marketing and advertising extensively, using printers and other local resources. They have held their room rates level, or reduced them to remain competitive. They have employed citizens of Falmouth and paid living wages, and they have contributed, they have supported, and they have donated to worthy causes and countless local programs. They have contributed all this with only 50 percent of the travelers staying in their establishments, while more than 40 percent of overnight travelers have stayed in condos, timeshares and rented houses that do not collect and do not contribute taxes to this

town.

These hoteliers have not prospered, ladies and gentlemen, they have survived. And yet, they are the golden goose.

I want to speak to Ed's comparison fact sheets. Ed began his letter in the March 30 edition of the Enterprise with, I quote, "When making a decision, it is usually responsible to base it on facts." I know that Ed did us all a favor by passing out his hotel/motel room tax comparisons. You have copies. These handouts are not comparisons. Ed invites us to compare Falmouth to large cities, distant locations and even foreign countries.

He added, for extra measure, places like New Zealand, Canada, England. He has areas like California. He invites us to compare Falmouth to densely populated urban areas that have publicly supported marketing and tourism programs that have major attractions and also have visitors and convention centers. Ed's fact sheets show me that if we reject this tax increase, we can promote our town more effectively against these high cost big cities, distant locations in foreign countries, and make it through this recession without putting our hardworking neighbors at risk. This tells me we have a chance.

Ed didn't include Vermont, New Hampshire and Maine in those calculations. They have lower lodging tax rates. Maine taxes all vacation rentals, and New Hampshire taxes rentals under 185 consecutive

days.

We all know the stiffest competition we have is here, on Cape Cod. We compete for every visitor crossing the bridges and then we work even harder to get them to come back to Falmouth. Ed asked, “Have you yourself ever changed travel plans because you didn’t like the room tax?” Oh, we don’t change your travel plans because of a tax rate. People like me simply don’t make travel plans that are too expensive for their budgets.

I’m told nobody wants to hear that vacation visitors ask about tax rates. Well, I’m not going to deprive you of reality. They do and they make their travel plans accordingly. In a study commissioned by the Massachusetts Office of Travel and Tourism, visitors living more than 50 miles away look for value when planning overnight stays. Our experience at the Chamber is that when callers first inquire about room rates and the next – they first inquire about room rates and the next question is about tax rates.

These are not scientists who have to come to Woods Hole, these are tourists traveling for leisure and pleasure.

Patrick Hellstrand, the author of The Price Impact on Guest Satisfaction states that perception influences purchase, repurchase and recommendations. Excuse me. Thank you. And people will purchase accordingly. Earmarked use of room rates increases visitors’ cost without attracting more visitors. Plymouth, Nantucket and now Provincetown have

raised their taxes. They are handing us opportunity. And since Brewster raised their tax, we now have a marketing opportunity to invite their guests to discover Falmouth also.

That's how business works, ladies and gentlemen, we capitalize on advantages.

Ed's second fact sheet, the Local Options Tax. Of the remaining towns who have room taxes on their warrant, consider this: their Town Meetings, as Ed indicated, are after ours with the exceptions of P'town and, checking within each town, we've learned that they're awaiting to see what Falmouth does. Chatham hopes Falmouth will increase its rooms tax. If we do, it will help make a strong case for them to outright defeat or reduce the rate increase to something less than two percent. They, like us, want the competitive edge.

Last night, Dennis took the room tax off their warrant. They rejected it. Eastham, abutted by Wellfleet and Orleans, two towns that will not be raising their tax, is a pass-through to Provincetown. Their interest lies in bus travelers. We're told they may defeat the rooms tax or increase it, but certainly not the full two percent, and if passed, it will not start this year.

The Harwich Board of Selectmen and Finance Committee are expected to vote against theirs. We've learned their desired position is to be last or tied for last to increase room tax. That will be the enviable

position to hold.

With regard to Truro, Ed is speculating. The warrant has not been finalized and the tax rate increase is still in discussion.

Provincetown raised their room tax last night, Monday, by two percent. They also transferred \$450,000 from their funds to marketing, beautification and to enhance tourism. Thirty-five percent of all new funds will go to tourism. Their Article 12 also passed, petitioning the General Court for special legislation to impose a room occupancy tax on vacation rentals not currently subject to those taxes. Some parts of that are worth thinking about, and better yet, worth acting on.

Lastly, Yarmouth. Their Board and Finance Committee are divided on the issue. They, too, are waiting and watching what Falmouth does. Yarmouth also has a reinvestment formula which established a Tourism Revenue Preservation Fund. Under the reinvestment formula, the Yarmouth Chamber of Commerce will draw substantial funds for tourism marketing.

Finally, please note that more than 1/3 of the Towns of Cape Cod will not be raising their rooms tax this fall. Six will not be considering it and one has already rejected it. Ed makes no mention that three of those towns that will not be raising their rooms are abutters to Falmouth. If we raise our room tax, we won't have to tell the world about our new, higher tax rate. Bourne, Sandwich and Mashpee will do that for us, and for

themselves.

Ed noted that Nantucket passed the two percent increase but ignored that Martha's Vineyard rejected it. He also failed to mention that Nantucket has a home rule petition to tax vacation rentals.

THE MODERATOR: Okay, are we almost ready to open this up?

MR. ZAVALA: Each Cape Cod town is fundamentally different in character, size, wealth distribution and visitor appeal.

THE MODERATOR: Okay, are we almost ready, Mr. Zavala, to open this up?

MR. ZAVALA: Excuse me?

THE MODERATOR: Are we almost ready to open this up?

MR. ZAVALA: We're just about, sir, thank you.

A couple of final notes. I cut this out of page six of the Tuesday, March 30 edition of the Enterprise. It is a large bed and breakfast –

THE MODERATOR: Folks, quell the undercurrent, please, so that we can complete this Town Meeting tonight. Mr. Zavala has the floor.

MR. ZAVALA: Thank you, Mr. Moderator. Thank you, ladies and gentlemen.

FROM THE FLOOR: Question, question.

THE MODERATOR: I asked you to quell the undercurrent,

not to yell for the question. Mr. Zavala has the floor.

MR. ZAVALA: Thank you.

THE MODERATOR: Let's wrap this up, Mr. Zavala, so others can speak.

MR. ZAVALA: I will. I cut this out of page 6 of the Tuesday, March 30 edition of the Enterprise. It is a large bed and breakfast program insurance advertisement for property and liability coverage for residential homes used as bed and breakfasts or country inns.

I will wrap it up. Please join the Board of Selectmen, join the Finance Committee, join the Falmouth Enterprise, join the Falmouth Chamber of Commerce and join the men and women of the business community, your neighbors, by rejecting Article 26. Let's not raise taxes, let's raise revenues. Please reject Article 26. Thank you.

THE MODERATOR: Okay, Mr. Dick, who is next on the list. And then Mr. Murphy.

MR. DICK: I'll try to be very brief. My other life is as a scientist at Oceanographic, and I used to think that when I came here travel was wonderful. Well, I've been traveling now for 35 years; I spend about \$15,000 a year on travel out of my grants. I hate these taxes, it strongly influences where I go when I have a choice, and if the room rates taxes are high, if I can find a friend's house to stay at when I go to a foreign city, I do.

I bring to the Oceanographic as a scientist 18 scientists from all over the world every year for courses I run. They stay at the Falmouth Inn, they stay at the Coonamessett Inn, they stay at the Sands of Time. They spend money here. I'm able to do that because coming to Falmouth is reasonable.

I also work -- in my work, I arrange for international meetings. Well, I hate travel; I like to bring them here. One of the things that's allowed me to bring conferences here -- and I've brought as many as 300 people to this town -- are the reasonable room rates and the reasonable cost of coming here. Now, I'm one of 150 scientists at the Oceanographic. We do a hell of a lot of travel, and if we can bring people here, we like to do it. And one of our big advantages in doing that is reasonable costs. Please do not vote for this.

THE MODERATOR: Okay, Mr. Murphy.

MR. MURPHY: Carey Murphy, Precinct 7. Jay, I will say that it wasn't a unanimous vote of the Board of Selectmen to knock this down. It was a petitioner article, so we -- we really didn't -- we don't support petitioner articles in general, but we let Town Meeting.

There were two other articles that were proposed for this warrant. One was to raise the room tax, one was to raise the meals tax, and by a three-two vote, those were taken off and we were left with Mr. Schmitt's article as a petitioner article.

I will remind, you know, Members of Town Meeting that this is — we're in extraordinary times. And Gary talks about sequencing. Well, we're probably about halfway into that sequencing in my mind. You know, we've had a couple of extraordinary Town Meetings where we've cut services and we've cut services and we've cut people and we're down to the bone. And I agree with what Mr. Schmitt talks about.

I am sort of affected by the fact that, you know, this could be checkerboarded in or not. In different towns you're going to go to different places. I certainly don't go and look at, you know, the taxes of a destination for a vacation and make my decision. If I go to Colorado, I go to Colorado and I pay a lot more in a short room rental tax in taxes than I do here. And everybody has horror stories about New York City.

I think the Town and the administration and the department heads and the Finance Committee and the Board of Selectmen have made extraordinary efforts to cut the budget. I think we need to focus on in the next — and I'll take Gary up on his challenge for the Fall Town Meeting to come up with some sort of revenue package that is agreeable and is fair to everybody around here.

The very services that Henry Dick talks about that these scientists come and enjoy are a result of the financially sound practices that we have. If we continue to cut, those services will be cut. This won't be a place where you're going to get those kind of services anymore.

We've got a library to take care of. We've got DPW. We've got a public safety infrastructure. You know, we've got schools to take care of; thank you, Jamie, for putting your hand up. We do have our challenges. We can sequence this in. We're into the sequence, deeply. We're looking at reductions in budgets. You know, we've done this the last couple of years.

And lastly, you know, I'm in the retail business. I just had my sales tax affected from going from five percent to six point two five percent. I don't think it's affected my business. I don't think people come and say, "Well, I'm going to go shopping somewhere else because your sales tax is high." It's actually sort of low unless you live in New Hampshire, which is nothing, but on average they pay more.

And I would remind Town Meeting Members and I asked Ed about this, about sun-setting this. Can we do this for four years, get us over the hump and reduce it? And I asked Frank Duffy the same question, and the fact of the matter is that Town Meeting can reduce this back to another level if we get over the hump and we find, you know, we have some solvency moving down the road.

So, you know, I came here tonight prepared actually to vote for this, and at some risk, because, you know, a lot of people I know are urging me not to vote for it and a lot of people are urging me to vote for it because of the revenue. So, you know, I think that we need to look at the

Fall Town Meeting and we can't cut this budget anymore or we're going to affect the very services that people come here and expect from the beaches, from the restaurants and the hospitality industry.

So, I'll let Town Meeting decide it, but I would rather they had decided the rooms and meals tax as a package and I think that Mr. Schmitt is absolutely correct: we need to look at the short term rental taxes and the timeshares and the industries that are created out of people's private homes. I know, because my brother was just here with 15 people and rented a house and paid not a nickle in sales tax but used every service the Town provided. Thank you.

THE MODERATOR: Okay. Mr. Herbst.

FROM THE FLOOR: Question.

MR. HERBST: Ralph Herbst, Precinct 8. I'd like to raise a red flag. Otherwise, why would a person like me wear a shirt like this?

[Laughter.]

MR. HERBST: I have to disagree completely with what I've heard here tonight. The eloquent presentations made by the Chairman of the Finance Committee and the Town Manager the other night: 95 percent of what they said was about cutting costs. There was no real, substantive information about improving revenues. Now, the Town of Falmouth is a non-profit, multimillion dollar organization. No organization runs with just looking at one side of a balance sheet or one side of a profit

and loss statement. This is an opportunity to pass on some of the costs that the people that visit this town – and rightly so – and not burden ourselves.

When I travel, I could care less what the taxes on the food that I'm going to eat or where I stay, because I'm going there for the amenities that that destination provides me. And this town has more amenities than any other town on the Cape. Flat, slam-dunk wins it all. That's Falmouth.

The amount of money that a person staying here in this town for three days, which is about the average because we have all of these weddings and people that come to stay and get married on our beaches – which the Selectmen approve – the average stay for a person coming here, or two people coming here, renting a room for \$200 a night, if you passed this tax, that's going to amount to a \$600 bill for them, three days, two percent, \$12 total, or \$4 a day. That's a little bit more than a Big Mac. That's it. And we're going to turn this town upside down, let the infrastructure crumble, which we've seen examples of tonight. It's happening. Fortunately we voted to tax ourselves for that one. But the tourists that come here, they park in those places, they use those beaches, they use our police force, which is understaffed. They use our fire department and rescue. And the fire department and rescue, by the way, the Chief said 80 percent of it is rescue. You think those people that come here don't need rescue? Of course they do.

Anyway, I'd like to just remind you of why we're in this dilemma. The reason we're in this dilemma, as far as this tax is concerned, is because the number of rooms that are available in this town that can be taxed has been going down, okay? And there's no other taxes to make up for it. So what has the state allowed us to do? They said, "Number of rooms going down, you can increase the taxes." And that's what they allowed us to do. Now, if we don't take advantage of it, we're shooting ourselves in the foot.

It doesn't make any sense to me not to adopt this. And when Mr. Schmitt talks about a home rule petition, it's very difficult to have the state approve home rule petitions. I spoke today with a previous representative to the state legislature and he said it's almost impossible. So you can't hang your hat on that one.

So, if you want – just let me wrap this up. And if brevity means anything, I think you're going to listen to what I have to say.

The number of – these are the – I've calculated eight places in this town that have gone from taxable rooms to non-taxable rooms. You had the motel on Route 28A in North Falmouth went to condos. You had the Park Beach Motel, went to condos. You had the Mariner's Point Motel, went to timeshare. You had the Captain's Walk Motel, went to timeshare. You had the motel in Maravista, went to timeshare. You had Briarwood on Gifford Street, condos, went to timeshare. You had Beachside Village,

Surf Drive, inn, went to timeshare. Falmouth Hotel, went to employee housing. So, that's what's happening here. And we're not able to tax the condos and the timeshares and private homes that are being rented. So, if you can't do that, do you want to still continue to cut all of the services and the things that we hold dear in this town just because you don't want to ask somebody to pay \$4 a day to stay here and enjoy what we have to offer? We need to pass this. Thank you very much.

THE MODERATOR: Okay, Ms. Fenwick.

FROM THE FLOOR: Question.

THE MODERATOR: Ms. Fenwick.

MS. FENWICK: I'm Judy Fenwick. Town Meeting Member from Precinct 1. And also a member of the Falmouth School Committee and the Budget subcommittee of the School Committee.

I read with great interest March 27<sup>th</sup> front page of the Sunday New York Times. The headline was: State Seeking Cash, Hope to Expand Taxes to Services. Most states tax a lot of very elementary things like utilities. Well, in the next year, We're going to be seeing states like Michigan, Pennsylvania, California if it manages to stay a viable economy, Delaware, Hawaii, New Mexico and Washington State all looking to add multiple new state taxes. These are taxes you get taxed, they go to the state, you don't get that money back in your local community.

Some of the things that are on the viable possibilities for

taxing include: hair cuts, garbage pickup, funeral services, plumbing, accounting, legal advice, dry cleaning, tailoring, golf greens fees, limousines, tailoring alternations, private landscaping. These are things we currently do not tax.

What we're talking about here tonight is a local occupancy tax. Every dollar that gets taxed comes back to the local community. So I've heard tonight the phrase, over and over again, about looking. We've got to look at this. And Mr. Anderson gave us an idea about sequencing. Well, I have a proposal for a new sequence: one is you vote this local occupancy tax tonight, two, with the amendment that it would go into effect on October 1; three, we begin the process of the home rule petition for Fall or Spring Town Meeting. I say as a community we have to be brave and we have to be bold and we have to take the risk that the New York Times says in this economic gloom that states are facing, pension funds are in the red, federal stimulus help will soon vanish, and revenues from traditional sources like income and property taxes are slumping every lower. With few elected officials willing to risk voter wrath by raising them, I say we have to take back the night and vote this now. Thanks.

THE MODERATOR: Okay, Mr. Fox was next on the list.

MR. FOX: I want to be very quick. I just want to point out a fallacy on this taxes of these timeshares and condos coming off the tax rate. Actually if you would check with the assessor, they're being taxed at

a much higher rate under the real estate tax as independent units as they would for hotel rooms, and I think it's not accurate at all the way it's being portrayed as lost as taxes. It's they've actually increased the amount of tax as much as sometimes 40 or 50 percent as a timeshare as opposed to a hotel room. So that's just bad information that we were given.

THE MODERATOR: Okay, the gentleman in the back was next on the list. Yes. Right there.

MR. COTTER: Hi, my name's Jim Cotter. I own the Captain Tom Lawrence House with my wife. This is a very somewhat – I'm very encouraged by some of the first conversations about this, very disappointed about some of the second.

This is an industry, if you haven't noticed -- I own a B&B over on Locust Street – this is an industry that's dying. It's been dying for several years. If you looked in the – when I moved here – we've owned this inn for ten years. When we moved here, there were 17 inns in Falmouth. There are nine inns currently in our association. Ten years ago there were eleven licensed inns in Falmouth Heights and today there's two. The reason that – and we are one sector of the accommodations industry in this town, and we're not – I mean, you're talking about not just taxing one part of one sector. You're talking about increasing the tax. It's not four dollars. If you raise this two percent, it's going to raise the room tax rate on a daily basis to 11.7 percent.

Vermont, I believe – or, I know that Maine is 8 percent.

Vermont and New Hampshire are 9 percent. And a lot of our business is going to the Maine coast. We are a dying industry. We've had two businesses foreclosed on in 2009. We can't – we're not going to provide room tax for you forever because if you want to sunset it and, in four years, there's not going to be anybody to sunset. It's going to be gone.

I urge you desperately, I'm begging you, not to put more of a burden on this one sector of one sector of the tourism industry. It's not going to work. I'm begging you. We've had this argument for years about the unequal – the unbalanced, unequal, un-level playing field. And the fact is, you know, we talk about sequencing, I think, you know, if you're going to hold this to tax until October 1<sup>st</sup>, then you're not going to get any substantial income from this room tax until maybe – start May or June of what? 2011. There's no reason to do this tonight. We're not going to – it's not going to provide you any income. It's not going to pay any bills. The fact is, we need to really seriously consider this home rule issue and at long last solve that problem: this uneven field.

The fact is that I'm concerned, frankly, that if we pass – if you pass this, that it will take away the impetus because of the income that'll be raised – or not raised, frankly. I have my own thoughts on that. I believe that actually your room taxes will ultimately go down because of that. But, assuming that you're going to get some income from that in the Town

coffers, I suspect that frankly we're just going to – We're going to take away the impetus to actually fix the unequal playing field and the home rule issue is just going to go by the wayside.

So, I'm hoping at long last you're not going to increase the tax on the one sector of the one sector of this tourism industry. Thank you.

THE MODERATOR: Ms. Freitag.

MS. FREITAG: Melissa Freitag, Precinct 6, Town Meeting Member, nothing prepared, sort of speaking a little off the cuff, here.

I'm a little disappointed with some of the – well, I could anticipate, but I'm a little disappointed with some of the comments that surfaced earlier. I'd like to point out the explanation to the recommendation of Article 26. One of the earlier speakers challenged the current Board of Selectmen to start really hard on policy and long-term planning, and I'd like to note that it's the policy of the Board not to take positions on articles submitted by petition. This Board occasionally demonstrates a lack of desire or a lack of ability to actually tackle the difficult issues.

I'd also like to respectfully disagree with an employee of an institution in Woods Hole who spoke earlier regarding conferences and meetings in town. I'm a wife of an engineer in town, and we've had discussions a number of times about this tax, and he is one engineer out of hundreds in town who hosts one annual meeting, and he brings in 90

rooms a year annually for this meeting and he's actually hosting a second conference in September and he anticipates at least 300 room nights.

Falmouth is becoming more and more a year round community. We are not as dependent upon tourism as we used to be. We have a half a dozen institutions and agencies in town, in Woods Hole. There are a number of high tech businesses in North Falmouth, even up in Bourne, that have large conferences, many meetings, and even the Bourne businesses send their people to Falmouth to overnight.

One reason why this September conference is happening is, yes, Falmouth is cheaper than D.C., Orlando, San Francisco. The two percent increase is not going to discourage it.

I also would like to disagree with the thought that perhaps we are in competition with Bourne, Sandwich and Mashpee for rooms. I drive through Mashpee all the time to get to Hyannis and I can't think of a single B&B or a hotel that I go past. I'm sure there are a couple there. Bourne has a couple in Buzzards Bay and on the rotary; nothing compares to Falmouth.

A new thought that hasn't been risen yet: our stabilization fund stands at about \$900,000. It's recommended that we have about five percent of our annual budget in our Stabilization Fund. That's, well, my quick arithmetic says around four million, and I know I'm always off with that. But we're \$900,000 in our Stabilization Fund.

Our Free Cash is perilously low, still at 211,000, I believe, as it was last year. We have a lot of uses for whatever kind of revenue we can generate in town. We know that we've cut service – we're cutting services. We've cut the budget. The police and fire are down a couple of percentage points in funding this year and, as Mr. Herbst mentioned, yes, our visitors do use those services. We need to continue providing these services in order to continue attracting whether they be tourists or businesspeople to stay in town.

About the home rule petition, we had a small Board of Selectmen's meeting before Town Meeting on Monday and we discussed already – we've discussed talking further about presenting a home rule petition in November. Obviously we have not taken a vote on that or anything. We have not had any discussion of debt yet on it. But you are the legislative body in this town. The Board that sits up there is the executive committee. Legislative body has every right to act on its own and to tell the Town where it wants to go. I would suggest that you not always look at the Board for direction.

[Laughter.]

THE MODERATOR: Mr. Kelly. Mr. Kelly, let's go. Mr. Kelly. Come on, folks. Mr. Kelly.

MR. KELLY: Thank you, Mr. Moderator. Some of the previous speakers obviously have not been down to Main Street, talked to

some of the restaurant owners down there that are absolutely struggling to pay their rent in the winter. They can't wait for the summer to come, for the visitors to come, so that they can start to catch up on back rent.

Take a look at the seven, eight or nine empty storefronts in Falmouth. We are a year-round community. The year-round residents do not support Main Street to the level that it needs to stay vibrant.

I hope that Mr. Herbst – sorry, I can't pronounce your name. Herbst, thank you. I hope all his friends think like him and call me up for reservations, because I'd love to have somebody call me and not care what they pay in either rate or in a rooms tax. I am here to tell you that something else has changed since last November; that is reservations are down. We do not have the reservations for this summer that we had for last summer, and last summer was down from the summer before last. It is a tough economy for us to operate in.

We spend countless thousands of dollars promoting ourselves, as we should.

One of the things that Mr. Schmitt failed to mention, I know one of the towns he had on here with a rooms tax I think was Newport, Rhode Island at 13 percent. A very, very large portion of that goes back to encourage visitors to come to that area. Falmouth, zero goes back to encourage people to come back to Falmouth. We do all our own promoting. I'm not asking you to promote my business, but we should be

promoting the town.

I'm not going to be as long as some of the previous speakers, but I got an email just this last week. This is the way people are watching their dollars. It was a family, I believe they were upstate New York, and they sent me an email wondering if they could bring their own linens and clean the room before they left so they could cut the cost. Now, I know Mr. Herbst wouldn't do that because he doesn't care what he pays. But people care what they pay.

Three questions are asked: what is the rate, does it include the tax, and how much is the tax. People are hurting, we are doing the business we were. I urge you to defeat this article. We'll try to work with the Selectmen and see if we can come up with something at a future time and maybe expanding the tax. We are the only business in town that has this additional tax. The only one that has the additional tax, and I think it should be spread out more fairly. Thank you very much.

THE MODERATOR: Okay. Anything new? Anything new, Mr. Putnam, is there anything new?

MR. PUTNAM: Brent Putnam, Precinct 9. Have you seen the new DPW trucks that we had the override to purchase? There are stripes on those trucks, ladies and gentlemen, that cost us \$500 apiece. Ostensibly for safety. They're reflective. But I can go to the hardware store and buy DOT reflective tape for ten bucks.

We have the Odd Fellows Hall, we have a vacant building at Peterson Farm, we have a corner of the Water Department, or a corner of Town Hall, excuse me, where we used to have the Water Department, yet we still pay \$24,000 a year for Town Counsel to be on Locust Street. We have – excuse me, 28?

We have, in Town Hall according to our Energy Committee which did an audit, all sorts of refrigerators, microwaves and other small appliances. They may not have cost us a penny, perhaps the employees brought them in, but the electricity they use does cost us, ladies and gentlemen.

Mr. Anderson, I will respectfully disagree with him, this is not about falling back into old habits, it is about remaining in these old habits. Passing this article, ladies and gentlemen, will not give us the impetus to change the bad habits. We need to develop a culture of thrift within Town Hall, and that will not happen as long as we continue to raise taxes, to add more money to the budget, because there will be no incentive to eliminate the unnecessary costs. These are just a few examples; there are more.

THE MODERATOR: Ms. Poole, something new? This is a huge list. I see all your hands. Go ahead, Ms. Poole. No, with a microphone, please. Mrs. Botelho, you're on the list. You're on the list, Mrs. Botelho, you can sit down.

MS. POOLE: Thank you. Diane Poole, Precinct 9. In all of

this discussion, the immediate thing that came to my mind when they said, you know, the amount of money that this would possibly bring in, is, "Gee, that might cover the deficit for the Police Department so we could keep it up to speed." And I'm surprised no one has thought of that. The Police Department, who also looks after the tourists who come to our town.

And the last thing I have to say is, speaking for senior citizens, not only is town government struggling, but everyone is struggling. Families, senior citizens, everybody. I mean, nobody's worried about the fact that all my expenses have gone up, and I'm going to be lucky if I can stay in my house. But everybody's worried about somebody paying a few extra dollars to come on vacation.

THE MODERATOR: Okay, Mr. Murphy, something new.

MR. MURPHY: Ladies and gentlemen, there are some misnomers that were said this evening. First thing I want to correct is every time you hear that fire ambulance go out the door, we all just made some money, because every fire rescue run we make money on. I hate to say that, Mr. Herbst, but the Chief and I have talked many a time. It's the best moneymaker in that department.

You know, in tough times, typically people on fixed incomes are the most vulnerable. But unfortunately, in this tough economy, people who have a public service job or a paycheck are the most lucky people now. Those folks who own businesses are struggling to keep their

business doors open.

He is right, the speaker before me, Milt, when he said, “There are nine storefront vacancies.” From the fire station to the Village Green, nine storefronts. Do you think those people really wanted to go out of business? There are other struggling businesses on Main Street that are on the brink of losing their business.

You know what? We made it through this Town Meeting. We didn't have everything we wanted. But the Town is still on solid ground. To go for the quick fix could be the final nail in the coffin in many a business, and that's a big nail. Unfortunately, folks, it's a trickle-down effect. When hotels are full, those shops are full, Main Street are full, people stop by real estate agencies, look to buy a house because they love Falmouth. Restaurants are full. My restaurant is full when I see my friends, who are construction folks in this town, who have work. I see them all the time. Because, when they have good business, that means ultimately that people that work for them can come to see me.

You know, this article is developed to go into effect on October the 1<sup>st</sup>. I would respectfully say that compromise is not an issue that has been in abundance as of late, but I will make a compromise here, and I think it's a valuable thing that we can grasp onto. I suggest that the Board of Selectmen work with the Chamber of Commerce and specifically the folks who are generating these incomes. We don't want to drive them out

of business. We don't want to make another one into a timeshare or a condo. We want to continue to keep this income. But I think that if we come up with a way to phase this in, a way to be able to take out some of the bite in putting this article through, work with the Board of Selectmen, throw them a bone to be able to say, "We'll help you market your businesses." Because, you know why? It would be in Falmouth's best interests, too. If those hotels and motels are full instead of 50 or 60 percent occupancy, we'll all be better off.

You know, my wife has a saying, in industry and in business, pigs get fat, hogs get slaughtered. Let's not be a hog here tonight. Let's make sure that we can all keep our businesses going. I look around at every hardworking person out here, and I know that we're all hanging on.

You know what? It is not the best of times. We made it through Town Meeting; we were able to put together a budget that, yes, there are some sacrifices. But you know what? Let's not make, you know, hay on some certain people's backs, and those backs are the hotels/motels. Those folks are the trickle down effect for the rest of our businesses, our small businesses in this community. It doesn't affect me directly, but it surely affects me indirectly.

I ask that you send this to the Board of Selectmen, let them bring back an article working with these groups to be able to come up with a viable alternative that's a win-win situation. This is the way you do

government, you work together, come up with a solution to move forward.  
Thank you.

THE MODERATOR: Okay, Mrs. Botelho, something new?  
Let's go. Anything new, otherwise I'm going to cut this off and we're going  
to vote.

Mrs. Botelho. It's right behind you, Mrs. Botelho.

MRS. BOTELHO: Cynthia Botelho, Precinct 4, and I'm up  
here tonight talking to you with many hats. I'm a retired Town employee --

THE MODERATOR: You're on the list, relax.

MRS. BOTELHO: Pardon?

THE MODERATOR: No, someone else who's sort of jumping  
around.

MRS. BOTELHO: I'm a retired Town employee, so, you  
know, I want to look out for the Town employees, of course. But after I  
retired I got talked into something by a friend from Barnstable and I've  
been a tour guide for many, many years, for about 20 years. And, also,  
because of an illness in the family, I've worked at the Village Green Inn as  
an innkeeper to help my daughter. And so I'm looking at this from many,  
many perspectives and, number one, as a tour guide for years I have been  
torn over the fact that Falmouth doesn't get half of the – doesn't even get  
not less than half of the percentage that Barnstable and Yarmouth get, of  
tours. We just don't pull it. And there's no reason why we can't.

Oftentimes, if you've seen a coach parked out behind the town parking lot and people in the stores shopping, that's because I've brought them into town. Because from when we've gone through town to get to the Vineyard, on the way back, I stop and, you know, I arrange for them to have a late dinner when they get back into Barnstable or Yarmouth and they can stay in Falmouth to shop, to try to help the shops in Falmouth, because I just have felt so bad over the years where I've seen a major, major, major difference.

And also, with the inns, when I was innkeeping summer before last, the questions that people asked, "Where's the best restaurants? Where are the best stores? What's the best entertainment? Where can we go?" They pay to go on the beach. A lot of them are here because they're looking for property. "Who's a good realtor?" All kinds of things like that.

The previous speaker just said it trickles down. It does trickle down. And so in essence they are the cow that gives the milk. And if you vote for this article tonight, you're going to kill that cow. And many, many, many taxpayers in the Town of Falmouth, what we should be doing is trying to promote the Town of Falmouth more to make money. You're not going to make money this way. People are not going to – they're going to come to Falmouth even less than they do now, and then you're going to perhaps have less income from all this. And I'm speaking from many,

many points of view and I've been at this for about 20 years, now. I do know what I'm talking about. Please listen. Do not vote for this article. Thank you.

THE MODERATOR: Okay, Mr. Pinto.

MR. PINTO: [No mic.] Call the vote, sir. That is my motion.

THE MODERATOR: Move the Question?

MR. PINTO: [No mic.] Move the question.

THE MODERATOR: Mr. Pinto's asking to move the question, to close discussion. That takes a two-thirds. All those in favor of closing discussion, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The opinion of the Chair is that the Ayes have it by a two-thirds majority and the question is closed, moved.

The question will now come on the main motion, Article 26, to amend the local room occupancy excise tax to the rate of six percent, effective October 1<sup>st</sup>, 2010. All those in favor, signify by standing and the tellers will return a count.

[Pause.]

THE MODERATOR: Mrs. Tashiro.

MRS. TASHIRO: Seven.

THE MODERATOR: Seven.

Mr. Dufresne.

MR. DUFRESNE: 20.

THE MODERATOR: 20.

Mr. Hampson.

MR. HAMPSON: 24.

THE MODERATOR: 24.

All those opposed, signify by standing and the tellers will return a count. The reason why we're counting this is I was told it was going to be challenged anyway, so I'm just going to get it done quickly.

[Pause.]

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

MR. HAMPSON: 31.

THE MODERATOR: 31.

First division, Mrs. Tashiro.

MRS. TASHIRO: 46.

THE MODERATOR: 46.

And in the second division, Mr. Dufresne.

MR. DUFRESNE: 73.

THE MODERATOR: 73. By a counted vote of 51 in favor and 150 opposed, the article does not pass.

Article 27, the recommendation of the Board of Selectmen is

indefinite postponement. Mr. Finneran, would you like to make a positive motion?

MR. FINNERAN: Thank you, Mr. Moderator. Members of the Board of Selectmen, Town officials, Town Meeting Members, and most importantly the taxpayers in this town who pull this wagon. First I'd like to say I'd like to amend this, if possible, to just remove the 62 percent that was taken off one of the water bills that I had, and it was actually the increase for the sewers. But it still applies to everything else and I'll make this as quick as possible.

THE MODERATOR: So you want the main motion to just be the Selectmen should roll back the recent Water Rate increase?

MR. FINNERAN: Yes.

THE MODERATOR: Okay. So the main motion that we'll have on the floor does not include the 62 percent. Mr. Finneran.

MR. FINNERAN: Okay. First off, I'm actually here because I tried to get these answers when this Water Rate increase was done in front of the Board of Selectmen and I was shut off by Chairman Flynn. The questions I asked were relative to the amount of water pumped and the amount that was billed. If you could – where's my presentation?

Okay, there's the article minus the 62 percent. In order for me to go through this, we have to go back to 2007, when the previous Water Rate increase was granted. At that point, Mr. Chapman explained to us

that it was – and everybody should remember 2006 was a very rainy year.

So the gallonage was down to about 1.4 billion --

MR. WILBER: [No mic.] Point of order, point of order.

THE MODERATOR: Yes, Mr. Wilber.

MR. WILBER: [No mic.] Since the 63 percent number's been struck, does that include the word "millions" in the second sentence?

MR. FINNERAN: No.

THE MODERATOR: Yeah, Mr. Chapman would know that, but go ahead. Go ahead.

MR. FINNERAN: Okay. At that time, Mr. Chapman explained to us that he had the numbers for the previous eight years, and those eight years we pumped 1.7 billion gallons. He also explained to us at the time that in 2007, due to the 2006, that at the 1.4 gallons, they were basically at the break-even, but they had very little money to operate with. So he was granted a rate increase.

Next slide, please. Okay. The following year and the year after that, we went back to pumping 1.7 billion gallons. That's an overage or an extra 300 million gallons each year.

Actually, to go back, the Water Rate increase was increased to 255 per hundred cubic feet. I'll make this as quick as possible.

Next slide, please. Okay. Just to show you what a cubic foot of water is, there's 1728 cubic inches in a cubic foot. There's 231 cubic

inches in a gallon. So that makes 7.4 gallons per cubic feet, and 100 cubic feet would be 748 gallons. I'm going to call it one unit for the sake of argument – for the sake of this. You can see that 300 million gallons, divided by 748, which is a unit, equals 401,069 units.

At the overage price of \$2.55, that 300,000 gallons – and, I mean, this is a sliding scale. It depends on, you know, some houses don't use as much water as others. Someone might not be into the overage, but the majority of this extra water is used for irrigation and it makes money. So that figure's not completely accurate and nobody can put a figure on it.

Okay, next slide, please. In November, 2009, we were told it had been two years since the last rate increase, which is true. We were told that that was the normal interim, which is actually false, because it was five years previous. And then, prior to that, Mr. Chapman I don't believe was with the Water Department.

We were told at that time that there was a \$150,000 shortfall. I tried to get the amount of gallonage that was pumped and that was actually when I was shut off.

On the 25<sup>th</sup> of January, when Selectman Putnam was discussing the Mare's Pond Well, he was told by Mr. Chapman that we pumped only 1.3 billion gallons in 2009.

Next slide, Please. Okay. If we were \$150,000 short at 1.3 million gallons, you can do the arithmetic there, it works out to be \$150,000

minus 255 equals, you know, 58,000 units or 43 million gallons. So basically the break-even point is somewhere in that neighborhood, obviously, as he told us.

So, if you review the last four years or three years, you can see that in 2006 they broke even; in 2007 they were given the rate increase plus they pumped the 300 million more gallons. 2008, they pumped 300 million more gallons past their supposed break-even point. 2009, we were down \$150,000.

When I watched this first in 2007, I questioned why no one brought up the excess gallonage: how much it was sold for, where the money was. Basically, as was explained to us by Mr. Chapman, in the water business you have a bunch of fixed cost. You know, it's your pipe, it's your trucks, it's your employee – you know, it's employees, it's regular work. And once you hit the break-even point, after that, all you have is the electricity it takes to pump the water and a small amount of chlorine. And whatever chems [inaudible] and potassium hydroxide, sodium, whatever they're using. But basically that 300 million gallons is a lot of profit. It just doesn't seem to get mentioned here. And I want to know, you know, why a rate increase was given when it's only a temporary shortage. I mean, if the average is 1.7 gallons and we go back next year to the same amount, he's going to pump somewhere near a million dollars worth of water, which far exceeds the \$150,000. That was my point, that's the point I wanted to get

at when it was run through by the Selectmen, and whatever the figure is for the extra 300 million gallons, I mean, that money just didn't disappear. I mean, it has to be somewhere.

And that was the question I wanted to ask at the Selectmen's Meeting. That's the question I ask tonight.

Can you go to the next slide, please. You're not going to be able to read this, but this is the notice for a new program they have in town to inspect the plumbing and businesses for cross contamination or cross infiltration or back flow. I went to a friend of mine's business; she was given this notice and they were told that a company from out of town was going to do the survey. The man came and did the survey. He was there for about eleven minutes. She was billed for two hours, at \$110. She called the Water Department and they told her that – there's the bill – that the time allot in there was travel time from Sandwich, with the – because that's where the inspector came from, private contractor. That was good enough answer, for the moment, she accepted it.

But the thing was, I found out that on the very same day that inspector went across the street to the Tin Man Diner, he was there for somewhat over 15 minutes, and that woman got sent a bill for three hours, at \$165. Then I went to another business up the street; on the same day, the inspector showed up and he was there for around 12 minutes and he left and again they were billed \$110, two hours' labor. That all happened

within 45 minutes, near as I can recollect.

FROM THE FLOOR: Point of order, point of order.

THE MODERATOR: Okay.

MR. FINNERAN: It's all to do with the Water Department and the money they get in.

THE MODERATOR: So, do you want to get some answers to the questions?

MR. FINNERAN: Yeah, I'd like to know how come if a man worked one hour he billed out seven hours, and it seems to me –

THE MODERATOR: No, that's beyond the scope here. This is about whether or not we're going to recommend to the Board of Selectmen to roll back the rate.

MR. FINNERAN: Pardon me?

THE MODERATOR: It says "roll back the recent Water Rate increase", is what it says. Yeah, because we can't bind the Selectmen to do anything; you know that. So, are we addressing any of the questions that were raised in the presentation?

Mr. Chapman.

The Moderator will remind Town Meeting that Article 27 does not bind the Board of Selectmen. They have the power – matter of fact, you just voted to re-authorized it two nights ago – the power to set fees outside of any control of Town Meeting. So this would be a sense of the

body, a resolution to the Board of Selectmen, just like the whole cranberry bog issue was, we couldn't bind them to do anything on the Coonamessett River, but we gave them our opinion, and that's what this article is.

Mr. Chapman.

MR. CHAPMAN: Thank you, Mr. Moderator. Bill Chapman, Water Superintendent. Good evening, Ladies and Gentlemen.

First off, I'd like to thank Mr. Finneran for pointing out the inaccuracy to the article. I was in question myself when I read it, the 62 percent. I wasn't certain where that came from. His explanation satisfies me. For the record, we did have a four percent increase on the minimum; 2.5 percent increase on the excess.

Water rates are, they're reviewed constantly. They're looked at on a monthly basis to see exactly where we stand with our financial assets. It is not uncommon for Water Rates to be adjusted two to three years, and that's exactly what happened. Why does that happen? Because we have to take into consideration the fluctuating cost to do what we have to do: electricity, chemicals, water supplies, those are all fluctuating.

We do our due diligence, we do the best we can by putting everything out to bid. However, when we put things out to bid, it's on an annual basis, fiscal year to fiscal year. The problem is our budget is already solidified months before that. So we're at a disadvantage right

from the very beginning.

When we look at the water rates, it's a collective effort between the Town Manager, the Director of Public Works, Town Treasurer, Town Collector, Director of Public Works and the Water Superintendent. Together, we can look at exactly where we are, where we stand at any given time, and that gives us our projection.

Now, we just got hit, in FY '09, by a double whammy, and I've been cautioning you about this for a while, now. One was the rain. We had no control over that, and if you own an ice cream store, I'm sure you saw the decrease in sales. If you were selling umbrellas, I think you probably retired, but that's neither here nor there.

But the other thing that comes into play is the faulty meters. We're not replacing them. Originally the intent was to replace ten percent of the meters on an annual basis; we haven't done that in five years. More and more meters are failing; we're not collecting the excess revenues anymore. That in itself brought up the deficit of \$152,000.

Now, we can wait until next year and see if it gets worse and then play catch-up, but I think we've all learned in the past three nights that playing catch-up is rather difficult. You've heard me say this before: I like to catch the horse before it gets out of the gate. And I thought it was in our best interest to put this rate in effect, to keep up with our increasing costs to do business.

Mr. Moderator, would you like me to address the second question?

THE MODERATOR: If you're prepared to.

MR. CHAPMAN: The Cross Connection Program is an issue that we've been struggling with here in Town for quite some time. And what the problem is is we outsource that to a company called Syrian[sp?]; it's in Sandwich. The Cross Connections Surveys protect the rest of the distribution system from potential harm. Potential harm, that coming from a dentist's chair, that coming from an oil cooler, or any other food process, medical industry.

The survey goes through the facility of a potential risk and it examines exactly what's there and what kind of protection devices have to get put into place. We presently do not have anybody certified, with the exception of myself, to do these surveys. I certainly can't leave the office for hours on end on any given day to do these surveys, that's why it's outsourced.

Now, it is billed to us by the company, naturally. We in turn bill the customer. There is a two hour minimum. I've never seen, as a licensed surveyor myself, I've never seen a survey take 12 minutes, but I'm not going to discredit what Mr. Finneran had researched. He's only acting on the information he was provided. The minimum that it would take to survey any structure would be an hour, and then of course there is an

hour for processing and the paperwork and to make sure that everything is compliant with Mass. DEP standards.

We are looking into getting certified operators – I'm sorry, certified inspectors to cut down on costs. Again, we pull the hair out of our heads trying to figure out how we cut costs, do more with less, and the problem is the classes and the courses for the certification are not offered very often. The other thing is I have limited staff as to who could actually take this and fit this in with their working schedule.

I believe I've addressed the questions with the rate increase. Was there anything else, Mr. Finneran?

MR. FINNERAN: I don't think they were addressed at all. If you can count the water and account for the low gallonage and have a number on that, where does the other 300 million gallons go? And don't you get paid for it? Do you mean the meters actually work up to a point and then they stop? And, another thing about the meters is it's been repeated several times in the DPW – in the Water Department, they say that every dollar you spend in the meter returns two dollars. If a meter runs or lasts anywhere from 12 to 20 years, that's 24 to 40 billing cycles. I don't see how that two for one would even apply. But, no, you haven't answered either one of my questions.

THE MODERATOR: Well, I think, I mean, we've got an overview of why he proposed it, then the Selectmen authorized it. So, I

mean, that's – you might not like the justification, but that was the reason why Mr. Chapman, he wanted to get ahead of the game and do his projections and, I mean, I heard that answer.

Mr. Lowell. Microphone for Mr. Lowell.

MR. LOWELL: [No mic.] I'd like to move the Question.

THE MODERATOR: Move the question?

FROM THE FLOOR: Yes, yes.

THE MODERATOR: Article 27, to close discussion, all those in favor signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it by a two-thirds. The main motion comes, Article 27 as printed, removing the 62 percent number. All those in favor of Article 27, 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 by a majority.

Article 28, the recommendation of the Board of Selectmen is indefinite postponement. Mr. Finneran for a positive motion. Make a

motion?

MR. FINNERAN: Pardon me? Yes, I want to.

THE MODERATOR: As printed?

MR. FINNERAN: As printed. You can see it as printed.

Next slide, please. These are some of the issues we had at the dump. I mean, we've been through numerous Solid Waste Advisory Committees Meetings. They had the deficit anywhere from 270,000, 67,000, to in the black. There's other people here that have figures to show, so I'm not going to spend a lot of time on this.

Many efforts were made at the dump by the employees to make money. One thing was, in the dump manual itself there was a provision in there for excess charge. Ernie came to the Solid Waste Advisory Committee on a couple of occasions, asked them what excess charge was, so he could make money on excess charges. They could never give him a definition of excess charge, so instead of coming up with them, they just removed it from the book. I mean, that cut down on the amount of money that the dump could make, and it sent garbage to Bourne.

And, I'd like to add that the Bourne landfill closed this morning at 8:30. It was full capacity for the day. There's a lot of garbage going to Bourne that's from Falmouth.

We don't have a C&D at the dump. We have a C&D at the

dump, that's where the money is; they're not allowed to use it. We were told that the dump could make money in a heartbeat, and obviously it isn't. Now the paradigm is to save money. I don't understand.

When the Solid Waste Advisory Committee gave their review last week at the Selectmen's Meeting, if you'd looked closely, you noticed that they didn't have the sticker sales for the year. There's only been about 1300 dump stickers sold this year, and the normal cycle I believe it would be somewhere around 3500. So, you're talking of \$160,000 difference that hasn't been mentioned to anyone. I mean, the dump sticker sales are down because people in town aren't happy.

A lot of the reason why the dump deficit went down was because there was always complaints about stuff blowing out of the top of the dumpsters. The guys at the dump, on their own, they decided to start segregating some of the C&D that came in, putting it on the smash pad, busting it up, and then they were putting the top third of all the dumpsters going out would be – have C&D on them. They would be charging the C&D price for it, but it would be going out to the transfer station at the low price, \$38, which it was then.

That is as much responsible for the deficit dropping as anything. And they were never given a bit of credit for it.

Next slide, please. We were told that they were not – the DPW had not noticed any increase in roadside trash dumping, nor had

they had any complaints. I think pretty much everyone knows that that's really not the case.

Next slide, please. There's one on the side of Brick Kiln Road. I think everybody's probably seen that, or a lot of people, and it remains there to this day, although someone did come and steal the garbage can.

[Laughter.]

MR. FINNERAN: Next. That's in the bogs off of Old Meetinghouse, some fence, couch, other furniture. There's numerous ones around.

Next. When I was going to my chiropractor across from the Senior Center by the Island Queen, they were picking up that carpet and cutting it up and putting it in the back of the truck. Somebody dumped it off in the middle of the night.

Next. There's some of the stuff that wasn't found, on the side of the road.

Next, please. There's another load of stuff coming in that the DPW picked up and that's down the street from me, somebody dumped some stuff into the woods. I actually had numerous other pictures but somehow my – I didn't get it wrong – didn't get it right on my digital camera.

I know people have something to add, so I'd like to open up the floor to whoever wants to speak.

THE MODERATOR: Okay, Ms. Flynn.

CHAIRMAN FLYNN: Thank you, Mr. Moderator. I think it's safe to say that the Board of Selectmen is very aware that this issue is loaded with controversy, and has been ever since the 2.50 per bag fee was imposed January of this year. A couple members of the Board have already indicated that they would be willing to have a discussion about how and in what fashion the Board might wish to revisit the issue. So, I think you might find that that discussion, at least a discussion on what to do with it, would come up within the next few weeks. So, stay tuned.

THE MODERATOR: Mr. Netto.

MR. NETTO: Thank you, Mrs. Flynn, that's a great comment.

Now fellow Town Meeting Members, I spent 35 years standing in front of classrooms, and I got to tell you, I never had one look at me this tough.

I have some figures to show you tonight and I just, as every other speaker has – we haven't taken a break, it's tough, but I think we have to look at some things. I'm not here to advocate mismanagement. I'm not here to advocate deficit spending. I think when it comes time to make a financial decision, you make it on looking at the facts and the figures. And I became involved in this approximately a year ago after we left Town Meeting we heard about the DPW was going to put out the trash bid and things were in the wind of changing.

Many of us attended the Solid Waste Advisory Board's meeting in the library, and that spurred two public meetings that were very beneficial. As a matter of fact, Mr. Clarkson reported that we counted we had over 100 people here if I'm not mistaken, last May. And we had another meeting in the Selectmen's Office that was standing room only.

So, everything was fine. The process was transparent, and Mrs. Flynn told me she was going to advise obviously that the Board of Selectmen was going to look at this again.

Could I have the slides. And that was great. And then, all of a sudden in October, a report was given and the Board of Selectmen voted the infamous \$2.50 bag fee. And I do believe that it should be a transparent process, and I do feel that all of a sudden that ended.

One thing the Solid Waste Advisory Board did teach me is that we have duplicity and that's what led to the deficit spending in the dump. And I was one of the culprits when I took my recycling down to the dump because it was overflowing because it only came once every two weeks. My wife told me to take the garbage there, too, and you always do what your wife says. So now I know if you can pick it up at curbside, you leave it there.

Let's move on, let's end this. Before I start, though, these figures that you're going to see, I have a few people to thank, because the figures that you're going to see here tonight are not from one year. As you

can see already, 2007, that is the year that the report was given, and that's what made something in my head say, wait a minute. It's 2010. We use it in a report that's three years old. So here you see the figures for FY 2007, 2008 and 2009. Obviously we're in FY 2010. Nothing here is going to change; the dump is still operating in somewhat of a deficit. But there's some figures here and some missing figures that we all have to see.

We appropriated – oh, excuse me. Before I go any farther to thank tonight, because Mrs. Alwardt, our Town Accountant, is the one who supplied me with most of these figures. I didn't make them up. They come from the figures that the Town is run by. Robin down the DPW, I worked with her over the phone.

The PowerPoint presentation, before yesterday morning, I had never met Mr. Shea, and I was talking and saying, "How am I going to give all these figures to Town Meeting? They're not going to be able to follow this." And Mr. Shea was there and said, "Let's go up to my office." So, to Mr. Shea from IT, thank you also.

I owe some thanks for the figures on Metal Recycling to Town Meeting Member John Turner, a Falmouth resident who now has the metal contract. And the Chairman of the Board of Solid Wastes and I have spent a great deal of time together, Ms. Ruth Brazier, and spent a lot of time discussing this and comparing notes. So, to those people, Thank you.

Very quickly, let's get: FY 2007, we appropriated at Town

Meeting, this comes from your Town Meeting warrant book -- does anybody know where the little pointer that --

[Pause.]

MR. NETTO: As you can see, we appropriated \$560,000 -- we'll use all round figures, here. "E" stands for expended figures. This is what Mrs. Alwardt told me; this comes from our Town Accountant. This is actually what it cost on June 30<sup>th</sup> when the books are closed, and these are the figures that I used to subtract, obviously, the income from.

So the overage, we appropriated \$87,110, approximately 15 percent of that budget. Using the encumbered funds of 499, we now have the income down at the dump. Where did the income down at the dump -- it's the dump, it'll always be the dump. Basically three sources of income: stickers, which your sticker fee at \$80 for two years generates \$225,000 roughly. Gate receipts. We were making over \$100,000 a year. That is consistent right across the board. The sticker fees and the gate receipts. I'm not going to give you the -- it's too late.

That, by the way, is \$100,000 of cash and check. And that is one problem with the system that I've -- we've had gatekeepers there handling that amount of cash with no problems.

I was down there last Saturday, six cars backed up, credit card, checks, confusion. The computer system works in recording information, but after that, if the phone rings, you can't use the credit card, because that's the

phone line. And I'm sure that'll be fixed with a dedicated line. But the time that it now takes to process someone into the Waste Management Facility takes a very long time.

The other source of income is metal recycling, and for this year and 2007 we have \$52,000 of metal recycling, and we still have a loss of \$125,000. Those are the figures that the report and the 2.50 bag fee initiated.

None, if we look at FY '08 and FY '09, appropriated 583, expended 423. We over budgeted that account \$159,000, 27 percent. The income stayed the same, basically, \$369, but now we have no receipts for metal. The two incomes of FY 2008 and 2009, when this report was done yesterday with Mr. Shea, we could not find any receipts for salvaged metal. This morning at 8:30, Robin called me and we received a check from the previous contractor on April of 2008 for \$4,700 for just those two years. And for 2009, we have no receipts, everyone I've talked to, for metal recycling.

As you can see quickly: in 2008, the loss was 54,000, and in 2009, the loss was 65. I told you, nothing – but the loss isn't as great. And if we had the 50,000 or 40,000 in metal recycling at the height 2007 and 2008 was the largest years.

Now, some of the reasons the loss went down: trips to the dump, the tonnage that came out of there, it can get somewhat

complicated, and I'm sure that's beyond Town Meeting. But this is a three year fiscal analysis. Not a one year.

This also shows you that the loss isn't as great as in 2007. I mean, 2007, that's a great -- any businessman. And as a businessman, the first thing you would say is what caused -- what was my biggest expense in this 125,000. The biggest expense, folks, was \$111,000 charged to transport to Otis, which is our transfer facility and the recycling. So if that's \$111,000, you would think that we would start asking, "Is there a way that we can do this?" At the time the contract was \$125 a trip. Today the new contract is \$108.

But I would -- excuse me, I would think we would want to look at: could we do this ourselves. I'm not here to offer solutions. The time is getting too late and that's not the purpose of this. And, again, the purpose was to get to the -- and that's what a yes vote would do, and Mrs. Flynn said they're going to do it quickly, then.

To the next slide. To show you the value of metal, with a new contractor who gives us reports, who gives us a price of what the price was, what the tonnage was, these are the figures that Mr. Turner has given me when he took over the contract in October of '09 until last month.

Now, you see that once the new effect, because the new price effect on the dump affects the traffic, as you'll see, too. Look what happened if you have no one going there, you have no one dropping off

metals. The Town makes money on the metal. It's a booming business.

So we've received basically \$9500 under the new contract.

Now, you're going to hear people – we've talked the term about duplicative costs. Anything that can be put at curbside that we take to the dump is a duplicative cost. But you need a waste Management facility to get rid of other things, and part of that, and the problem I have with the figure of the duplicated costs are the municipal vehicles that use the dump. So Mr. Santos -- who excuse me I forgot to thank earlier, who's here tonight, to give me a general gist of the operation down the dump – has been keeping track of the income if you and I were to bring in the items. Mrs. Brazier has told me that the traffic now, since they've been doing that, the figure for municipal traffic is roughly 15 percent of all the vehicles. This is what it is the taxpayers have basically not paid for, but this is the value of what the municipalities have brought in: tires, the School Department's a regular user of the dump, the DPW picks up roadside trash: 3850. And the point here is that the loss that we were told was directly related to you and I was partly a municipal use of the dump.

Next slide, please. This paragraph comes from the report which initiated the \$2.50 bag fee, where the Solid Waste Advisory said based on a survey taken in the month of May last year that the revenue raised by the proposed bag fee will cover the hauling costs, whereas a per vehicle entry charge or raising dump stickers will not.

Everyone who uses the facility I feel should pay. The inconsequential user, though, should pay a lot smaller than the people who have a business of doing dump runs or private contractors using our facility. In the garbage business, you measure volume by tons, by tons. Yes, the facility lacks a scale.

If we want to run it as a business, we have a construction and demolition permit – which the state, by the way, does not issue anymore. We could, if we wanted to, run that facility very similar to Bourne does. We have the permit. It is cost prohibitive to use the Waste Management Facility to take any amount of lumber. It is cheaper for you to go to Bourne. But wait a minute, that's our facility. Our taxes pay for that. One half of one percent is the percentage of the operating cost of this budget. Mr. Anderson told us, in opening up, "Town Leaders, when you look at budgetary items, does the program cost equal a fair value?" I don't think this applies.

Moving on, here, looking at a per vehicle charge and how this new policy has affected the use of the facility, the operating costs are going to go down, sure they are. Saturday, July 11<sup>th</sup> at 2:09, 1,238 vehicles went through the gate. Those were the taxpayers of the Town of Falmouth because you needed a dump sticker to get in, or you paid a \$20 fee just like today. Historic figures averaged 800 visits on a weekday. Now, I think it was ex-selectman Murphy that proposed a dollar a vehicle.

If you charged a dollar a vehicle for inconsequential loads, not excessive, you would have more money than what we needed to run this facility.

Look at how the figures have changed. After the program was put into effect on January 1<sup>st</sup>, on a Saturday, we're averaging 130 visits and in the weekday, 90 days.

So, this – yeah.

THE MODERATOR: Mr. Hampson.

MR. HAMPSON: I would like to make a motion that we continue past eleven o'clock so we can finish Town Meeting.

THE MODERATOR: Okay. To finish Town Meeting tonight, all in favor say Aye.

[Aye.]

THE MODERATOR: Opposed, No.

[No.]

THE MODERATOR: The Ayes have it by the two-thirds and we're going to finish it tonight.

MR. NETTO: Okay, that's the end of this presentation. I –

THE MODERATOR: Okay, are we ready?

MR. NETTO: I thank you for your time.

THE MODERATOR: Ms. Lichtenstein, Ms. Lichtenstein was next on the list.

MS. LICHTENSTEIN: [No mic. Inaudible.]

THE MODERATOR: No, no, no, Please use the microphone.

MS. LICHTENSTEIN: Leslie Lichtenstein, Precinct 9. I asked a question at the precinct meeting. I would like to know if there is an answer. I was told at Town Hall that if you take items to the Pick of the Litter now, items over a certain size, you will have to pay for them.

I asked if we could have a – put it in black and white, what was “a certain size”, and if we could have the dump regulations updated on our website because they were several years old. My question, through you, Mr. Moderator, to anybody that knows about the dump: has this been done?

MR. NETTO: Mr. Moderator, Mr. Santos is in the back and –

THE MODERATOR: Yeah, and we also have the director of the department, so either one. Whoever wants to answer it.

MR. LYONS: Good evening, John Lyons, Highway Superintendent. There’s been no discussion of that. I’m not aware of any plans to charge for anything going to the swap shop. You do need to have a permit to access the facility, but there’s no charge to put anything in that building.

MS. LICHTENSTEIN: [No mic.] That’s what I was told at Town Hall. [Inaudible.]

THE MODERATOR: Okay. Okay. We can’t be talking without a microphone because we’re televised, so if you want the mic?

MS. LICHTENSTEIN: [No mic.] No.

THE MODERATOR: Okay, so let's update the website.

MR. NETTO: Mr. Moderator.

THE MODERATOR: Yes, Mr. Netto.

MR. NETTO: To answer that question somewhat, folks, I didn't want to do it, if the sticker fee is \$80 for two years, you need a sticker, you have to buy the sticker to get past the gate. There is no charge to drop stuff off, you know, at the swap shop. There's no charge to drop off your garbage – excuse me, not your garbage – your recycling. But you do need the sticker to get through the gate.

THE MODERATOR: Okay. Mr. McConarty, or Ms. Brazier, one of the two.

MS. BRAZIER: Ruth Brazier, Precinct 5. I'm the current Chairman of the Solid Waste Advisory Committee. Just to clarify about dropping things off at the swap shop, when you bring a sofa or a – well, you're not supposed to bring a T.V. to the swap shop – but when you bring anything through that you would be charged for, you have to pay that charge whether you bring it to the swap shop or not. And that's because it's very – one doesn't want to have arguments about whether this sofa is going to be – is worth – is in good enough condition to be chosen by somebody from the swap shop.

Also, anything that comes to the swap shop, large bulky items,

if nobody happens to take them away, they eventually have to be disposed of as if they come in as trash. Does that answer the question?

THE MODERATOR: Okay. We're good. Okay, Mr. Quintiliani. Yes, in the back.

MR. QUINTILIANI: Joe Quintiliani, I live in Precinct 9. There seems to be some real serious consideration given to the documentation of stuff being brought into the dump; which is fine. I don't have no problem saying I got three trash bags or I got a recycle.

My question is to the Town Moderator, to anybody that can answer it, is what happens on Sundays? What happens on Mondays, when the Town trucks come in and there's nobody there to inventory what's coming in? So we don't have an accurate figure. So the tonnage now is no longer accurate. What happens with – and I'm not saying it happens, but there's been cases where there's been unreported people in the dump. The survey the Town did showed there was a bunch of vehicles using the facility.

The other question I have is, I was at the swap shop the other day and one of the volunteers was turning around, saying, "You know, this is my fourth load up to the hill," that items are not being inventoried as far as being what they are. Now, here's a guy that's volunteering his time, using his pickup truck, his gas, and he's made four loads to the top of the hill. If I came in with that stuff, I would be surveyed what I have and have

to pay for some of the items. This stuff's going to the swap shop, it's not getting picked up, but it's not being recorded.

So I think we have some flaws in the system, even though they're saying that they're supposed to be, they're going to be having cameras there –

THE MODERATOR: Okay, Mr. Lyons, can you –

MR. QUINTILIANI: – they put a report out. I just don't understand where it's all at and no one's explained it and I've asked. I've –

THE MODERATOR: Okay, Mr. Lyons.

MR. QUINTILIANI: – called Mr. Ray Jack and I've asked.

THE MODERATOR: Mr. Lyons.

MR. LYONS: Thank you. Yeah, as far as the weekend access, the facility's closed on Sundays and Mondays. The only access that would normally occur would be Town vehicles. Since the new computer system went into effect April 1<sup>st</sup>, every Town vehicle has a permit, just as any resident would; that material is able to be tracked.

We, as a department, have made a decision to not enter the facility on a Monday now that that is in effect. As far as on Sundays, the Department of Public Works is not even working. The Beach people have a roll-off container at our facility on Gifford Street that, when they empty the beaches, that that's where they dump the municipal solid waste there. So there should be no activity in that facility at all on a Sunday. If it is, it's

illegal. And on Mondays we are going to restrict our entry there so that we can accurately keep track of all the material that's entering the facility.

THE MODERATOR: Okay, Ms. Lowell.

MS. LOWELL: Vicky Lowell. The Selectmen have already offered to revisit this issue and I guess it's valuable for Town Meeting to get some of this off their chest, but it's eleven o'clock and I think we've – they've already offered to do what we want them – some people want them to do, so let's go on with it.

THE MODERATOR: Mr. Hampson, something new or are we ready?

MR. HAMPSON: [No mic. Inaudible.]

THE MODERATOR: Yeah. Ms. Lowell has a valid point.

MR. HAMPSON: George Hampson, Precinct 5. A Mike Duffany I'm not, but I love carpentry. I love to do it. I don't know, I just love it. So, this weekend I decided to take the shingles off my shed because they were really – and, now I'm going to bag 'em. Bag all the shingles -- and I'm going to speed up.

So I got four bags and now I know I can't go to the dump with those, I'm going to put them on the street. I could hardly lift them out of the container, all right? We're talking about large containers. But this is the recycling at the street, and I can hardly lift those bags of shingles. And it just doesn't work. I mean, most of you couldn't do that. And that's

something I love to do, so that's another thing removed from me. Thank you.

FROM THE FLOOR: Question.

THE MODERATOR: Okay, the question will come on the main motion of Article 28. Article 28 as printed. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: Opinion of the Chair is that the Ayes have it by a majority.

Article 29, Mr. Chairman of the Finance Committee for our main motion.

CHAIRMAN ANDERSON: Mr. Moderator, I move that all articles considered in this Town Meeting be funded as voted for a total of \$113,244,948, and that the Board of Selectmen be requested to place questions on the May, 2010 Town Election Ballot as voted in Articles 14, 15 and 17.

THE MODERATOR: Okay, you've all heard the main motion: \$113,244,948 and ask the Selectmen to put the questions on the ballot. All those in favor signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

Madame Chairman of the Board of Selectmen for notification of our next Town Meeting.

CHAIRMAN FLYNN: The Fall Town Meeting will begin on Monday, November 15<sup>th</sup>, 2010.

THE MODERATOR: November 15<sup>th</sup> will be the next Town Meeting.

Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Moderator, ladies and gentlemen, I move the April, 2010 Town Meeting be closed.

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

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it and this meeting is dissolved.

[11:05 p.m., whereupon Town Meeting ended.]

**CERTIFICATE**

BARNSTABLE, SS

I, Carol P. Tinkham, a Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that:

The foregoing 201 pages comprise a true, complete, and accurate transcript, to the best of my knowledge, skill, and ability, of the proceedings of the Falmouth Town Meeting held on Wednesday, April 7, 2010, commencing at 7:00 p.m.

I further certify that I am a disinterested person to these proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this 26th day of May, 2010.

Carol P. Tinkham

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My commission expires:  
April 21, 2017