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157 pages

COMMONWEALTH OF MASSACHUSETTS

TOWN OF FALMOUTH

ANNUAL FALL TOWN MEETING

Lawrence School

Lakeview Avenue

Falmouth, Massachusetts

MODERATOR: David T. Vieira

Tuesday, November 13, 2012

7:00 p.m.

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

2 THE MODERATOR: Okay, would all Town
3 Meeting Members present please come forward, take
4 your seats. Don't forget to check in this
5 evening as attendance will be published in the
6 Falmouth Enterprise.

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

11 [Pause.]

12 THE MODERATOR: Okay, the first thing
13 we need to do is establish the presence of a
14 quorum. Would all Town Meeting Members present
15 please rise for the establishment of a quorum and
16 the tellers will return a count.

17 [Pause.]

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

20 MRS. TASHIRO: 46.

21 THE MODERATOR: 46.

22 In the second division, Mr. Dufresne?

23 MR. DUFRESNE: 97.

24 THE MODERATOR: 97.

1 In the third division, Mr. Hampson?

2 MR. HAMPSON: 70.

3 THE MODERATOR: 70.

4 By a counted vote of 213, we have a
5 quorum and I call this Annual Town Meeting into
6 session.

7 All please rise for the presentation of
8 the colors by the Civil Air Patrol.

9 [Colors presented.]

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

12 [Pledge of Allegiance taken.]

13 THE MODERATOR: At this time, I'd like
14 to introduce eighth grade student Hope Blanchard
15 for our National Anthem.

16 [National Anthem sung.]

17 THE MODERATOR: At this time, I'll
18 introduce Andrew Putnam for our invocation.

19 MR. PUTNAM: Heavenly Father, may our
20 meeting this evening be not only an exercise of
21 care and concern for our community and its
22 residents, but also an example of how a community
23 can agree and disagree and still be a community.
24 We ask you to watch over and protect our fam

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10 THE MODERATOR: At this time, the Brian
11 Baru Pipe Band will play Amazing Grace for our
12 moment of silence in honor of all of those
13 members who have fallen since our last meeting.

14 [Amazing Grace played.]

15 [Moment of Silence.]

16 THE MODERATOR: Colors post. The
17 Brian Baru Pipe Band, the Civil Air Patrol, and
18 eighth grade student Hope Blanchard.

19 [Applause.]

20 THE MODERATOR: Popular opinion tells
21 me that we're going to be here tomorrow night, so
22 we have our annual appeal tomorrow night if you
23 could bring non-perishable items for the Falmouth
24 Service Center, but also on Sunday, November 18th,

1 Sunday, November 18th from 1:00 to 4:00 o'clock,
2 you can drop off turkeys and other fixings down
3 at the Service Center. So that's, again, Sunday
4 the 18th from 1:00 to 4:00 o'clock they'll be
5 taking turkeys at the Service Center.

6 At this time, I'd introduce the Town
7 Clerk for swearing in of Town Meeting Members.
8 Mr. Clerk.

9 CLERK PALMER: Because everyone was re-
10 elected this time, we're going to swear in
11 everyone all at once. So, I know you all wanted
12 to hear me mispronounce peoples' names, but -

13 [Laughter.]

14 CLERK PALMER: We're going to have
15 everyone stand at once; I'm just going to swear
16 everyone in again. Raise your right hand and
17 repeat after me: I do solemnly swear and affirm
18 that I will faithfully perform the duties of Town
19 Meeting Member according to the best of my
20 ability and agreeable to the Constitution and the
21 Laws of the Commonwealth of Massachusetts, the
22 United States of America and the Bylaws of the
23 Town of Falmouth. So help me God.

24 Congratulations.

1 THE MODERATOR: Congratulations and
2 welcome back.

3 For our new Town Meeting Members that
4 this is your first election, we are going to be
5 doing, before the April meeting, an orientation.
6 There are very few folks that have never been in
7 Town Meeting before and in order for us to purge
8 the list during the election cycle - it was
9 getting a little difficult - so we're going to do
10 the orientation just before the April Town
11 Meeting. So if you've never been a Town Meeting
12 Member before you'll be able to learn a little
13 bit through this meeting and then we'll have the
14 question and answer session just before the April
15 meeting.

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

24 At this time, I'd start with a motion to

1 dispense with the reading of the warrant. Mr.
2 Chairman of the Board of Selectmen.

3 CHAIRMAN MURPHY: Yes, I move to
4 dispense with the reading of the Warrant, except
5 for the Officer's Return.

6 THE MODERATOR: You've all heard the
7 main motion to dispense with the reading of the
8 warrant. All those in favor signify by saying
9 aye.

10 {Aye.}

11 THE MODERATOR: All those opposed, no.

12 [None opposed.]

13 THE MODERATOR: The ayes have it
14 unanimous.

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

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

21 FROM THE FLOOR: So moved.

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

24 [Aye.]

1 THE MODERATOR: All those opposed, no.

2 [None opposed.]

3 THE MODERATOR: The ayes have it

4 unanimous.

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

9 FROM THE FLOOR: Moved.

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

12 [Aye.]

13 THE MODERATOR: All those opposed, no.

14 [None opposed.]

15 THE MODERATOR: The ayes have it

16 unanimous.

17 At this time, I'll recognize the
18 Planning Board for notification of Public
19 Hearing.

20 MR. FOX: In accordance with Chapter
21 40A, Section 5, Massachusetts General Law Article
22 43 of the Falmouth Zoning Bylaw, a public hearing
23 was held on October 2nd, 2012, on Articles 3 and 4
24 for the November 13th, 2012 Annual Fall Town

1 Meeting, and all those who wished to speak were
2 heard. Thank you.

3 THE MODERATOR: Okay, if you could turn
4 to the back of your warrant booklet on the back
5 blue cover, we'll review the simplified Rules for
6 Town Meeting.

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

13 Only Town Meeting members may vote.

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

17 Two amendments will be accepted on any
18 article.

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

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

1 money.

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

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

13 Our Hours of Operation, first night
14 seven o'clock; subsequent nights, 7:00 and we'll
15 close at eleven o'clock unless Mr. Hampson makes
16 a motion and you vote by two-thirds to stay.

17 Okay, tonight we're going to use the
18 blanket vote. What I will do is I will go
19 through each of the articles, give a brief
20 description, calling your attention to the
21 recommendation. If you would like to debate the
22 article, or you want an action to be taken that's
23 different than what is in the recommendation,
24 please stand and yell, "Hold"; the Clerk will

1 make a note of it.

2 After I go through the entire warrant
3 once, I'll run through just by number on the
4 second run. Then I'll accept a motion from the
5 Finance Committee to accept all articles not held
6 as recommended as the official action of Town
7 Meeting. And then we'll serve notice of
8 reconsideration and then we'll begin with Article
9 1.

10 So Article 1 is a hold to hear reports.
11 Article 2, unpaid bills.

12 FROM THE FLOOR: Hold.

13 THE MODERATOR: Article 3, the windmill
14 zoning bylaw.

15 [Pause.]

16 CHAIRMAN MURPHY: Hold.

17 THE MODERATOR: That was almost too
18 good to be true.

19 [Laughter.]

20 THE MODERATOR: Article 4. You'll
21 notice the recommendation is slightly different.
22 This is dealing with the definition of structures
23 in the zoning code. Article 5, to authorize the
24 Board of Selectmen to grant an easement.

1 CHAIRMAN MURPHY: Hold.

2 FROM THE FLOOR: Hold.

3 THE MODERATOR: Article 6, to adopt a
4 bylaw for temporary repairs to private ways. The
5 recommendation is indefinite postponement.

6 Article 7 is a hold; we have a new main
7 motion.

8 Article 8. This begins the Home Rule
9 Charter Amendments. This is dealing with
10 vacancies of Town Meeting Members.

11 Article 9, Home Rule Charter amendment
12 for the Rules and Procedures Committee.

13 Article 10, the amendment again for the
14 Rules and Procedures Committee dealing with the
15 Town Clerk serving as an ex officio member and
16 mailing notices for Town Meeting.

17 Article 11, another amendment for the
18 Watchman of the Warrant.

19 Article 12, powers of the Board of
20 Selectmen, communicating policies to be carried
21 out by the Town Manager and making
22 recommendations to Town Meeting.

23 Article 13, another amendment dealing
24 with governmental bodies.

1 Article 14, another Charter Amendment
2 dealing with the Planning Board.

3 Article 15, a Charter Amendment
4 regarding Town Manager appointments.

5 Article 16, Charter Amendment for
6 administrative organization.

7 Article 17, Charter Amendment for the
8 acting and interim Town Manager.

9 Article 18, a Charter Amendment for
10 publicizing vacancies. Notice that the language
11 is slightly different on the recommendation than
12 the printed article; is a hold by the Finance
13 Committee.

14 Article 19, a Charter Amendment for
15 general provisions applicable to appointed Town
16 boards.

17 Article 20, is a Charter Amendment
18 dealing with enforcement.

19 FROM THE FLOOR: Hold.

20 THE MODERATOR: Article 21, a Home Rule
21 Charter Amendment dealing with revisions of
22 bylaws.

23 Article 22, a Charter Amendment dealing
24 with definitions.

1 FROM THE FLOOR: Hold.

2 THE MODERATOR: Article 23, this is to
3 approve contract of the American Federation of
4 State, County and Municipal Employees Local 1636,
5 the recommendation is indefinite postponement.

6 Article 24, contract for the
7 International Association of Firefighters Local
8 1397; the recommendation is indefinite
9 postponement.

10 Article 25, contract for Laborers
11 International Union of North America, AFL-CIO
12 Local 1249.

13 CHAIRMAN MURPHY: Hold.

14 THE MODERATOR: Hold by the Board of
15 Selectmen.

16 Article 26, Superior Officers
17 Association contract; the recommendation is
18 indefinite postponement.

19 Article 27, Lieutenants and NEPBA Local
20 165; the recommendation is indefinite
21 postponement.

22 Article 28, to amend the Town's Salary
23 Administration Plan, creating a new Grade 10A.

24 Article 29, amending the Town's Salary

1 Plan by deleting an Assistant Superintendent
2 Parks, Forestry Grade G12 and adding one Deputy
3 DPW Director at Grade 10A.

4 FROM THE FLOOR: Hold.

5 THE MODERATOR: Article 30, to amend
6 the Salary Administration Plan to add a Fisheries
7 Technician at Grade G7.

8 FROM THE FLOOR: Hold.

9 THE MODERATOR: Article 31, to
10 appropriate a sum for the Capital Improvement
11 Stabilization Fund. The recommendation is
12 indefinite postponement.

13 Article 32 is a hold for a new motion by
14 the Finance Committee.

15 Article 33, to rescind four previous
16 authorizations.

17 Article 34, to appropriate a sum of
18 money for a feasibility study for a multi-purpose
19 athletic field at the high school.

20 FROM THE FLOOR: Hold.

21 THE MODERATOR: Hold.

22 Article 35, to request the Planning
23 Board to draft an updated zoning bylaw for wind
24 turbines. The recommendation is indefinite

1 postponement.

2 FROM THE FLOOR: Hold.

3 THE MODERATOR: Hold.

4 Article 36 --

5 FROM THE FLOOR: Hold.

6 THE MODERATOR: Hold.

7 Article 37, this is an amendment to the
8 Home Rule Charter; the recommendation is
9 indefinite postponement.

10 FROM THE FLOOR: Hold.

11 THE MODERATOR: Hold.

12 Article 38, this is a resolution dealing
13 with the Pilgrim Nuclear Power Station. The
14 recommendation is indefinite postponement.

15 Article 39, this is the Falmouth's Eco
16 Toilet Demonstration project.

17 FROM THE FLOOR: Hold.

18 THE MODERATOR: This is a hold.

19 Article 40, this is to conduct studies
20 for the wastewater nutrient discharge into Sites
21 7 and 10.

22 FROM THE FLOOR: Hold.

23 THE MODERATOR: Hold.

24 Article 41, to support the Board of

1 Selectmen in the Consensus Building Institute
2 process.

3 FROM THE FLOOR: Hold.

4 THE MODERATOR: Hold.

5 Article 42, hold, Ms. Siegel.

6 Article 43, this begins the Community
7 Preservation Committee articles. To appropriate
8 the sum of \$201,500 from the Community
9 Preservation Fund from Estimated Receipts for the
10 purpose of historic preservation for the
11 restoration of the foundation of the Historical
12 Society's Conant House.

13 Article 44, to appropriate the sum of
14 \$63,000 from the Community Preservation Fund
15 Estimated Receipts for the purpose of historic
16 preservation restoration of the exterior of the
17 Bell Tower.

18 FROM THE FLOOR: Hold.

19 THE MODERATOR: That's a hold.

20 Article 45 -

21 FROM THE FLOOR: Hold.

22 THE MODERATOR: Hold.

23 Article 46, to appropriate the sum of
24 \$8,600 from the Community Preservation Fund

1 undesignated fund balance for the purpose of open
2 space for Phase Two of the Invasive Plant Removal
3 Project. The remaining \$4,616 to complete the
4 project will be raised by the Oyster Pond
5 Environmental Trust.

6 Article 47, vote to appropriate the sum
7 of \$839,353; \$295,142 from Estimated Receipts and
8 \$544,211 from the Community Housing Reserve
9 Account previously appropriated under Article 38
10 of the April, 2007 Town Meeting for the Community
11 Housing - for the Affordable Housing Fund.

12 Article 48, vote to appropriate \$80,000
13 from Overlay Surplus for the purpose of the
14 Assessor's Revaluation.

15 Article 49, to adopt the provisions of
16 Massachusetts General Law Chapter 59, Section 5,
17 clause 54, establishing a limit to the tax
18 exemption allowed under said statute to personal
19 property valued at \$2,000 or under. That's the
20 recommendation.

21 FROM THE FLOOR: Hold.

22 THE MODERATOR: Article 50 -

23 FROM THE FLOOR: Hold.

24 THE MODERATOR: Okay, hold.

1 Article 51, this is the School
2 Department budget.

3 FROM THE FLOOR: Hold.

4 THE MODERATOR: Article 52, to
5 appropriate a sum to make adjustments to the
6 Fiscal 2013 budget.

7 FROM THE FLOOR: Hold.

8 THE MODERATOR: Article 53, to
9 appropriate \$175,000 from Certified Free Cash for
10 a fish ladder between Cedar Lake and Rand's Canal
11 at Bay Road.

12 Article 54, to appropriate \$50,000 from
13 Certified Free Cash for dredging.

14 FROM THE FLOOR: Hold.

15 THE MODERATOR: Hold.

16 Article 55 -

17 FROM THE FLOOR: Hold.

18 THE MODERATOR: - is a hold for a new
19 motion.

20 Article 56, to - hold.

21 And Article 57 is a hold by the Finance
22 Committee.

23 All right, we'll run through it one more
24 time. Article 1 is a hold. Article 2 is a hold.

1 Article 3 is a hold.

2 Article 4.

3 Article 5 is a hold.

4 Article 6.

5 Article 7 is a hold.

6 Article 8. Article 9. Article 10; 11.

7 Article 12. Article 13. Article 14.

8 Article 15. Article 16. Article 17. Article

9 18. Article 19.

10 Article 20 is a hold.

11 Article 21.

12 FROM THE FLOOR: Can I have a hold on
13 that? I have a question.

14 THE MODERATOR: Hold.

15 Article 22 is a hold.

16 Article 23. Article 24.

17 Article 25 is a hold.

18 Article 26. Article 27. Article 28.

19 Article 29 is a hold. Article 30 is a
20 hold.

21 Article 31.

22 Article 32 is a hold.

23 Article 33.

24 Article 34 is a hold. Article 35 is a

1 hold. Article 36 is a hold. Article 37 is a
2 hold.

3 Article 38.

4 Article 39 is a hold. Article 40 is a
5 hold. Article 41 is a hold. Article 42 is a
6 hold.

7 Article 43.

8 Article 44 is a hold. Article 45 is a
9 hold.

10 Article 46. Article 47. Article 48.

11 Article 49 is a hold. Article 50 is a
12 hold. Article 51 is a hold. Article 52 is a
13 hold.

14 Article 53.

15 Article 54 is a hold. Article 55 is a
16 hold. Article 56 is a hold. Article 57 is a
17 hold.

18 Mr. Chairman of the Finance Committee
19 for the main motion.

20 CHAIRMAN RIPLEY: Mr. Moderator, I move
21 all articles approved in the blanket.

22 THE MODERATOR: Okay, the main motion
23 is all of the articles as recommended. All those

1 in favor signify by saying aye.

2 [Aye.]

3 THE MODERATOR: All those opposed, no.

4 [None opposed.]

5 THE MODERATOR: The ayes have it
6 unanimous.

7 Mr. Chairman for notice. For notice of
8 reconsideration.

9 CHAIRMAN RIPLEY: I move
10 reconsideration of all articles approved in the
11 blanket vote.

12 THE MODERATOR: Okay, notice of
13 reconsideration has been served on the blanket.

14 Okay, Article 1. This is to hear
15 reports of committees and town officers. We
16 have a number of committees that have asked to
17 report this evening, and I'm going to start with
18 the Board of Selectmen.

19 CHAIRMAN MURPHY: Thank you, Mr.
20 Moderator. Thank you very much, everybody. The
21 Board of Selectmen would just like to at this
22 time acknowledge a few individuals.

23 First of all, we would like to introduce
24 to Town Meeting a couple of our new employees.

1 One happens to be Jennifer Petite, who is our new
2 Director of Finance. Is Jennifer here, please?
3 Ladies and gentlemen, your new Director of
4 Finance.

5 [Applause.]

6 CHAIRMAN MURPHY: Another new employee
7 over the last several months is our new Personnel
8 Director Denise Coleman. Denise, are you here
9 this evening? In the back of the room.

10 [Applause.]

11 CHAIRMAN MURPHY: As most of you all
12 know, Falmouth is, and I'll quote a term of
13 former Selectman Virginia Valiela, Falmouth is a
14 can-do town. And the can-do aspect of this
15 community is because of the number of volunteers
16 that we have. Folks who will go above and beyond
17 the call of duty, who give of their own time and
18 the time from their families, from their hobbies
19 and even from their work experiences. Including
20 each and every one of you who is a volunteer this
21 evening.

22 But the first person I'd like to
23 acknowledge on behalf of the Board of Selectmen
24 is, and if I can get him to come up this evening,

1 is Gary Anderson, former Chairman of the Finance
2 Committee. Mr. Anderson, please.

3 [Applause.]

4 CHAIRMAN MURPHY: If I could read the
5 following proclamation voted on by the Board of
6 Selectmen: Whereas Gary Anderson is a proud
7 citizen of the Town of Falmouth and one who is
8 impressed by the level of excellent volunteerism
9 and involvement for which these efforts
10 contribute significantly to the quality of life
11 in this community; whereas Gary's background in
12 running a hundred million dollar businesses for
13 both American Express and Fleet Bank provided him
14 the skills in finance to best serve the Town
15 through his role as a member of the Finance
16 Committee; whereas Gary was appointed in
17 September, 2003 to serve the Town Finance
18 Committee with a commitment to helping the town
19 insure its financial stability through the
20 oversight of fiscal policy and providing reviews
21 and recommendations of the financial issues;
22 whereas in 2004 Gary was appointed vice-chairman
23 of the Finance Committee; whereas in June, 2006
24 Gary was appointed to the Chairman of the Finance

1 Committee and served in that position until June,
2 2012; whereas in June, 2012, Gary - 2011, Gary
3 formed the Capital Advisory Group to provide
4 guidance on local government, the Town of
5 Falmouth and the Board of Selectmen wishes to
6 convey its gratitude for all Gary's unselfish
7 donations of time and his dedication to the
8 people of Falmouth, now therefore the Board of
9 Selectmen of the Town of Falmouth do hereby
10 proclaim Wednesday, November 14th Gary Anderson
11 day. And, on behalf of the entire Board and
12 everyone in this community, I'd like to thank
13 you.

14 [Applause. Cheers.]

15 MR. ANDERSON: Thank you very much. I
16 am truly honored to have this award, this
17 proclamation, but the reality of it is, is that
18 this group and the Finance Committee that serves
19 you, is really who deserves it. God bless you
20 all and thank you.

21 [Applause.]

22 CHAIRMAN MURPHY: And the last person
23 I'd like to acknowledge this evening has served
24 this town well. In the transformation of the

1 years this person has worked for this community,
2 we have seen a notable change within the
3 community. Respect for the department that this
4 person has headed, not only from the community
5 but those who work in the department, as well.
6 If I could bring up retiring Chief Anthony
7 Riello, please.

8 [Applause.]

9 CHAIRMAN MURPHY: Thank you, Chief.
10 This is one guy I do not quickly relinquish the
11 microphone to, because he will quickly garner the
12 microphone.

13 But another proclamation if I may read
14 it into the record. Chief Riello, a proven
15 police executive, began his law enforcement
16 career in 1978 with the Pittsfield Police
17 Department. Whereas, with the Pittsfield Police
18 Department he served as patrolman, DARE officer,
19 sergeant, detective sergeant, lieutenant and
20 captain before being appointed chief in 1997. He
21 was appointed chief of the Falmouth Police
22 Department in 2007, a position which he holds
23 until today, his last day in actual official
24 office. Chief Riello was a past president of

1 the Mass. Chiefs of Police. Chief Riello is
2 proud to serve the Falmouth community and
3 believes the police mission is to serve and
4 protect together.

5 Some of Chief Riello's major
6 accomplishments were the reorganization of the
7 Falmouth Police Department, the inclusion of the
8 community, and his proactive stance in making
9 Falmouth Police Department a more professional
10 organization. Therefore we, Kevin Murphy, Brent
11 Putnam, Mary Pat Flynn, David Braga and Doug
12 Jones, Selectmen of the Town of Falmouth,
13 authorized, invested in us, do hereby proclaim
14 today November the 13th as Chief Riello Day.

15 Chief, on behalf of the entire community
16 and the Board of Selectmen, we would like to
17 thank you for your years in service.

18 [Applause.]

19 CHIEF RIELLO: Thank you for those kind
20 words and the kind reception. You're still not
21 going to get Priuses, though.

22 [Laughter.]

23 CHIEF RIELLO: Anyways. I told
24 Captain Dunn, soon to be Chief Dunn, "Yeah, no

1 kidding, us too. That was a ruse, too, I guess,
2 huh? We still have the money."

3 No, folks, I'll only take a couple of
4 minutes because I know you're going to be here
5 for several hours. I'm not, but you are. I'm
6 going to miss that.

7 But I just want to quickly say that the
8 last five years in Falmouth for me actually were
9 the best of my career, and you're just a great
10 community. And, I'll tell you, I just had the
11 time of my life, I really did. And I love this
12 community and the department is just - they're
13 tops, they're tops. You've got the best, there,
14 Man.

15 And we leave it in the capable hands of
16 soon to be Chief Dunn. All week I've had him
17 take the stars off. He would have mine before I
18 got to the station in the morning. I said, "No,
19 no, no, not until the 14th."

20 But, anyways, we are leaving the
21 department in the capable hands. He has the
22 support of the men and women there and they
23 support the community, as well.

24 So, folks, I really appreciate your

1 kindness and good luck and Godspeed. Thank you.

2 [Applause.]

3 MR. MADDEN: Good evening, everyone.

4 For any of you that don't know, my name is Tim
5 Madden and I represent part of Falmouth in the
6 Great and General Court and it's an honor to be
7 your representative there.

8 I'm here with my colleague,
9 Representative Vieira; you know him as the
10 Moderator but also as your representative, and he
11 explained to me that he's in charge today even
12 though I have seniority, by virtue of being the
13 Moderator, and that I shall be brief. And I
14 will.

15 But before I start in on Tony, I wanted
16 to say to Gary Anderson: congratulations. You
17 have done a thankless job. You know, we talk
18 about the Chief being a thankless job, the Town
19 Manager a thankless job, and without a doubt the
20 Board of Selectmen being a thankless job. But
21 when it comes down to spending money, that's
22 where you've been on the hot seat. You've had to
23 deal with all those individuals, and granted you
24 gave due credit to this body and to your fellow

1 committee members. But serving on the Finance
2 Committee is really a yeoman's job and you've
3 done it extremely well and this town is
4 fortunate.

5 With that, I just want to move on to
6 Tony. He can be quite humorous, as we all know,
7 and I am one of those people who absolutely
8 adores someone with a sense of humor. I quite
9 frankly never expected I would say that of a
10 police chief, but with that, I think you've made
11 that job one of the most remarkable things for
12 anyone to try to fill your shoes.

13 This community was struggling a bit.
14 Every community does, whether it's with a police
15 department, fire department, board of selectmen,
16 town manager, no matter what the agencies are,
17 there's not a town in the Commonwealth who hasn't
18 had to deal with adversity. But to find the
19 person who can guide them out of that adversity
20 in a short time is really a treat. And you were
21 treated to the chief.

22 He dropped out of the air, I think.
23 Parachuted right into Falmouth about five years
24 ago. I happened to be in the Selectmen's Meeting

1 when he was giving his first presentation to the
2 Board. And it was my first, really, chance to
3 get him - get an opportunity to see him go on and
4 on and on and on, much like myself. And what I
5 appreciate was the fact that he did have that
6 sense of humor. And he codified that, really, I
7 think, kind of last April, where he stood before
8 this body with his slide show which, quite
9 frankly, once again, your Moderator forbid me
10 from bringing my slide show. But he sat here
11 with his slide show and had this room in stitches
12 - at the same time he was asking for money.
13 Even Gary Anderson couldn't stop that.

14 So, Chief, that's an amazing feat. You
15 deserve a lot of credit for doing it.

16 I know you would much rather have had
17 Hope Blanchard sing your praises. She is truly a
18 talented young lady, as this town is full of
19 talented individuals.

20 But it's been an honor to be in this
21 Town serving with you; I know we both do a little
22 bit of commuting, but we always enjoy it when
23 we're here. And you've done such a terrific job,
24 I didn't even know you didn't live here. I

1 thought you lived at the station.

2 CHIEF RIELLO: He's everywhere, he's
3 everywhere.

4 MR. MADDEN: Exactly. But Chief, it's
5 been a pleasure and I really have enjoyed getting
6 to know you and I may take up skydiving myself.
7 As much as I'm in a plane, it would probably be a
8 good thing.

9 Now I'm going to turn it over to my
10 wonderful colleague and your Moderator, David
11 Vieira.

12 THE MODERATOR: Thanks, Sam, I'll be
13 brief. Chief, I'm going to need you to come up
14 to Beacon Hill next week. I need a new speech
15 writer for the second term, so hopefully you can
16 help me out with that. As you know, I'm very
17 serious, too often too much so. And I've always
18 admired the sense of humor that the Chief has and
19 hope that he can help me along the way.

20 Chief, as a lifelong Falmouth resident,
21 we went through some struggles here before you
22 arrived, and in a short five years, when I was at
23 the ceremonies we've had over the past year at
24 the department, I've seen an esprit de corps that

1 I haven't seen at least in my short time here.

2 So, on behalf of all of the residents of
3 Falmouth, I want to say thank you for bringing
4 back the pride, bringing back the sense of esprit
5 de corps with our police department, and I know
6 that Captain Dunn, soon to be Chief Dunn,
7 hopefully not just Acting Chief but Chief Dunn,
8 will continue to show that this department can
9 grow and can respond to the needs of our
10 community in a way that we can all be proud.

11 So, with that, Chief, I'd like to issue
12 you a Citation from the Massachusetts House of
13 Representatives. Be it hereby known to all that
14 the Massachusetts House of Representatives offers
15 its sincerest congratulations to Chief Anthony
16 Riello in recognition of your service and
17 dedication to the Town of Falmouth as Chief of
18 the Falmouth Police Department and for your
19 constant commitment to improving and protecting
20 our community as a whole. Congratulations on
21 your retirement. The entire membership extends
22 its very best wishes and expresses the hope for
23 future good fortune and continued success in all
24 endeavors. Given the 13th day of November.

1 Signed by the Speaker Robert DeLeo, myself and
2 Representative Madden.

3 CHIEF RIELLO: Thank you very much.

4 [Applause.]

5 CHIEF RIELLO: Folks, it really has
6 been an honor and a privilege for me to serve you
7 and I just want to end by saying that you guys
8 are the best, Man, I'm telling you.

9 [Applause.]

10 THE MODERATOR: At this time the Chair
11 would recognize the Charter Review Committee for
12 a report.

13 MR. STUMCKE: Here we go. Good
14 evening, I'm Brad Stumcke and on the slide you
15 see the other members of the Charter Review
16 Committee. Tonight I want to give you a very
17 brief status of our committee's work and our
18 future schedule.

19 Over the last 14 months, we've
20 interviewed 21 town officials, held many
21 committee meetings in Town Hall, two meetings in
22 the Hermann Room at the Library to solicit public
23 comment, plus a questionnaire for Town Meeting
24 Members and a survey for the general public.

1 As you can imagine, we've received a
2 great deal of information so it was a challenge
3 to get our arms around the 60-odd suggestions.
4 Using a one, two, three priority system, we
5 arrived at the 15 proposed changes you see
6 reflected in your warrant book: Articles 8
7 through 22.

8 However, not wanting to disregard other
9 valuable input, we intend to include other
10 meaningful inputs in our final report to the
11 Selectmen.

12 We have already started on our final
13 report but obviously we're waiting for your final
14 vote on our recommendations tonight. All the
15 changes that Town Meeting approves will be sent
16 to the Attorney General for review. This review
17 process will take several weeks. Once approved
18 by the Attorney General, each article will be
19 placed on the May, 2013, ballot as individual
20 questions.

21 That concludes my presentation and the
22 committee will be happy to answer any questions
23 on the two held articles when Town Meeting takes
24 them up. Again, we thank you for your support.

1 THE MODERATOR: Okay, Thank you, Mr.
2 Stumcke.

3 Community Preservation Committee, we
4 have a report. Yes, Ms. Cuny.

5 MS. CUNY: Good evening, Mr. Moderator
6 and Town Meeting Members. I'm Sandra Cuny,
7 Precinct 2. I'm chairman of the Falmouth
8 Recreation Committee and the appointed
9 representative to the Community Preservation
10 Committee, otherwise known as the CPC.

11 That's it. On behalf of the Community
12 Preservation Committee, this short presentation
13 is to enlighten Falmouth citizens and Town
14 Meeting members regarding the use of taxpayer
15 monies from the Community Preservation Fund.

16 Next slide. The Community Preservation
17 Act, known as the CPA, Mass. General Laws Chapter
18 44B, is statewide enabling legislation allowing
19 cities and towns in the Commonwealth of
20 Massachusetts to adopt a property tax surcharge
21 of up to three percent. Revenues from this
22 surcharge plus state matching funds must be used
23 only for open space, recreation, community
24 housing and historical resources. The CPA

1 requires that at least ten percent of CPA funds
2 received each fiscal year be spent or reserved
3 for open space, historic resources and community
4 housing.

5 Recreation was an allowed categories
6 with monies available, but it wasn't a ten
7 percent required until the recent legislation,
8 which has now made recreation a part of the open
9 space category.

10 Next slide. Falmouth Town Meeting voted
11 approval of the CPA in November of 2004 in
12 Article 13. It followed the April, 2005, Town
13 Meeting Article 32, which was the approval of the
14 bylaw that codified the committee contingent on a
15 ballot vote. And in May of 2005, Falmouth voters
16 passed the CPA to be effective July 1st.

17 Next slide. In Falmouth, the local
18 revenues from the CPA are dedicated in repaying
19 the previous Land Bank obligations. The history
20 being: the Cape Cod Land Bank bill adopted by
21 voters in 1998 collected a three percent
22 surcharge on all property taxes, which accessed
23 millions of dollars over 20 years to be used
24 exclusively for open space.

1 The Town of Falmouth appointed the 300
2 Committee that was established here in 1986 to
3 oversee the land purchases using Land Bank funds.
4 In six years, the Town of Falmouth purchased 904
5 acres of land in 31 land transactions, committing
6 \$38 million in future payments. There's a list
7 of those parcels available on the 300 Committee
8 website if anybody wants to review them.

9 Next slide. Because of the existing
10 three percent surcharge for Land Bank debt, Cape
11 Cod was designated as having a modified CPA.
12 Which means, the CPA funds received from the
13 property tax surcharge of three percent must
14 cover the Land Bank debt. At this time, the
15 Community Preservation Act is authorized in
16 Falmouth until 2020. According to Mass. General
17 Laws Chapter 44B, Section 16, it clearly states
18 the Town may not amend the amount of or revoke
19 the three percent surcharge on real property
20 until the fiscal year 2020.

21 However, the Land Bank debt extends well
22 beyond that year, to 2035, and that's primarily
23 due to the purchase of the golf course.

24 Next slide. The Community Preservation

1 Committee consists of nine members, one from each
2 of the following appointed by their own
3 committees: the Conservation Commission, the
4 Planning Board, the Housing Authority, Historical
5 Commission and the Recreation Committee. There
6 are four at large members appointed by the Board
7 of Selectmen. And right now the Board of
8 Selectmen are currently advertising the fourth at
9 large position, so if anyone is interested to
10 join us, please fill out an application at Town
11 Hall.

12 Next slide. The Community Preservation
13 Committee wouldn't be where it is today without
14 the leadership and commitment of these past
15 members, and so they deserve acknowledgment and
16 certainly our personal thanks.

17 With CPA state matching funds, since its
18 passage in 2005, the Community Preservation
19 Committee recommended actually 71 projects for
20 Town Meeting, and 70 of those have been approved
21 by Town Meeting. From April and November Town
22 Meetings of 2006 to April of 2012, a total of
23 \$13,588,228 has been spent in the four allowable
24 categories, and this is quite impressive because

1 this is state matching funds.

2 The next four slides - we'll take one at
3 a time - are pictures, examples of projects that
4 we completed. We took one from each category.
5 This is the Haddad parcel. It expanded Menauhant
6 Beach by 700 feet. \$290,000 of CPA funds went
7 towards this project.

8 Next. Historic preservation. The
9 restoration of Town documents. We made Michael
10 Palmer very happy, didn't we, Mike? \$150,000.
11 This is quite impressive, the before and after.
12 And just so you know, these are required by law
13 that we keep them.

14 Next slide. Recreation. Near and dear
15 to my heart. These fields were built on the
16 Dupuis property that was bought with actually
17 Land Bank funds. It qualified because it was a
18 new creation under - for Recreation. As you see,
19 it's mostly all CPA money but we did have \$46,500
20 by the Jimmy Gahan Charitable Foundation that
21 have helped to finish these fields. We have
22 Falmouth Youth Lacrosse, Pop Warner and Babe Ruth
23 using them right now. They also take time to
24 help out in the maintenance, help the DPW, and we

1 have more than 400 of our youth playing on these
2 fields today. So, thank you very much, everyone.

3 Next. Community Housing. \$500,000 of
4 CPA funds towards this project. This is located
5 behind the old VFW on Teaticket Highway, which is
6 now the greatly improved Old Schoolhouse.

7 Another wonderful project. The Committee has
8 actually had a tour of the inside and they came
9 out beautiful.

10 Next parcel. Next parcel - next slide.
11 The Community Preservation Committee weighs very
12 carefully the use of taxpayer dollars. With Town
13 Meeting's positive support we've been able to
14 make many important improvements and purchases in
15 the past seven and a half years.

16 On behalf of the CPC, we'd like to say
17 thank you to Town Meeting Members and Falmouth
18 citizens, and we hope to have your continued
19 support in future endeavors. Thank you very
20 much.

21 THE MODERATOR: Thank you, Ms. Cuny.

22 [Applause.]

23 THE MODERATOR: We'll have a report by
24 the Wind Turbine Options Process Group.

1 MR. OPPENHEIM: Mr. Moderator, Jeff
2 Oppenheim from Precinct 2; member of the Wind
3 Turbine Option Process. I'm going to be
4 introducing the members as they filter down here.
5 If you'd just sort of raise your hand as I
6 introduce you.

7 You can go to the first slide in our
8 presentation, if you would. Next slide. We
9 have five residents who are from the adversely
10 impacted neighbors. They have health and
11 economic impacts. Todd Drummey, Kathy Elder,
12 Alden Cook, Diane Funfar, Jim Luyten. And we
13 have some alternates up here: Malcolm Donald,
14 John Ford and Maurice Rowe, who is not up here, I
15 believe.

16 Two residents who are primarily
17 concerned with the Falmouth Climate Action
18 Protection Plan to reduce use of fossil fuels:
19 Sia Karplus and Megan Amsler. Is Sia here?
20 Right behind you, okay.

21 Next we have two residents who are
22 concerned with the fiscal benefits provided by
23 our turbines: Kathy Driscoll and Joe Hackler.

24 And there's two residents who have or

1 are supposed to have strong empathy for all
2 perspectives. I'm in that category and Judy
3 Fenwick, who's right over here.

4 Three representatives are our town
5 government: Dave Bailey from our Assessor's
6 department, Karen Cardeira from our Human
7 Services department, and Bob Shea from our GIS
8 department.

9 I failed to mention Linda Davis, who's
10 an alternate with Judy and I.

11 And lastly, we have two selectmen who've
12 been sitting in on the process: Doug Jones, Mary
13 Pat Flynn, and Nils Bolgen from the Mass. CEC,
14 also participate.

15 At this point, I would like to introduce
16 our facilitator, Stacy Smith, who's right here.
17 She is employed by the Consensus Building
18 Institute, which we refer to as CBI, out of
19 Cambridge, Massachusetts. She's been working
20 with the community since early in 2012. She'll
21 explain the process to you. She'll take you
22 through a series of slides.

23 The CBI has been facilitating and
24 mediating and providing public engagement

1 services since 1993. It's been involved in the
2 Comprehensive Wastewater Management Plan for our
3 town and it's also been mediating or also has in
4 the past mediated and facilitated with public
5 agencies and the public at the Mass. Military
6 Reservation Superfund clean up site.

7 Mr. Moderator, because Ms. Smith is not
8 a resident of the Town of Falmouth, I would like
9 to place a motion on the floor to allow her to
10 make a presentation on behalf of our process.

11 THE MODERATOR: Okay, the motion is to
12 allow the CBI facilitator to speak. All those in
13 favor, signify by saying aye.

14 [Aye.]

15 THE MODERATOR: All those opposed no.

16 [None opposed.]

17 THE MODERATOR: The ayes have it
18 unanimous.

19 MS. SMITH: Thank you very much. Hi,
20 everyone. It is my honor to speak to you today
21 on behalf of the participants of the Wind Turbine
22 Option Analysis Process who have been working
23 tirelessly on the very challenging issue of what
24 to do for the future of the Town-owned wind

1 turbines.

2 You can go to the next slide. I'm going
3 to briefly just walk through the process to date,
4 just to let you know what we've been doing, what
5 led us to this point, and a little bit of an
6 overview of where we are now and what our next
7 steps are.

8 So, the process to date began in January
9 of this year. The Town of Falmouth engaged
10 neutral facilitation from the Consensus Building
11 Institute. My services are being paid for by
12 Mass. CEC, but I was selected by the Board of
13 Selectmen. I began by doing an assessment and
14 talked to 52 different people who had something
15 to say about the turbines. And, based on all of
16 those interviews, I put together a report of my
17 findings. I sent it out to everybody I spoke to
18 and I got their input and then I revised those
19 findings.

20 I then drafted some process
21 recommendations about how to bring people
22 together and I had a public meeting on April 12th
23 and, based on input from that public meeting,
24 those recommendations were revised.

1 In April and May, representatives were
2 self-selected, or selected by their constituents
3 to participate in the Wind Turbine Option
4 Analysis Process. The Process had its first
5 meeting on May 30th. The neighbor Representatives
6 joined the Process on June 19th, and we've been
7 meeting weekly, with a couple of short breaks, so
8 far 19 weeks at two and a half hours or more per
9 meeting. Plus a lot of work in between meetings.
10 So this group has been working very hard to try
11 and move us forward toward some really good
12 options.

13 I want to point out that we have been
14 posting all of our information on a web site and
15 it's cbuilding.org/falmouthwind.

16 If you go to the next slide. This is
17 just a screen capture of that website. It tells
18 you a little bit about what we're doing and then
19 it has a lot of information, over here on the
20 side, of all of the reports and the information
21 that the committee - the group has asked for over
22 the time.

23 If you go to the next slide. It also
24 goes meeting by meeting and has all of the

1 agendas, the meeting summaries, and it also has
2 all of the links to the FC-TV video of the
3 meetings you could go and watch any of the
4 meetings at any time.

5 So, this group of representatives is
6 meant to represent the range of interests that
7 people have about the turbines. And this came
8 out of the interviews that I did, the assessment
9 that I did, I found that people's concerns about
10 the turbines included the health, safety and well
11 being of impacted abutters; the property rights
12 and economic impacts on property values for
13 abutters; concerns about the Climate Action Plan
14 for the Town, as well as progress on climate
15 action overall; fiscal impacts of costs and
16 revenues on the town; and also I found that
17 people were really concerned about town unity and
18 reconciliation. This has been such a divisive
19 issue and it's been so challenging for everyone
20 in the town to deal with, and so the group also
21 has specific representatives who are here to try
22 to speak for town unity and reconciliation and to
23 make sure that there's a fair process for all.

24 The group - just to go back for one

1 second - the group, I want to highlight that the
2 group is seeking outcomes that can address, at
3 least to some extent, all of these concerns.
4 And they're not necessarily seeking just one
5 outcome, they're seeking a range of outcomes and
6 to understand the outcomes. But each of the
7 outcomes that the group is examining need to try
8 to address all of these concerns at least to some
9 extent.

10 So the committee's tasks. First they
11 were going to develop a widely acceptable shared
12 history of events, of what got us to this place.
13 We had put that task aside temporarily, but the
14 group has now boldly taken it back on. So we are
15 working to try and compile a history of what
16 brought us to this place with the turbines.

17 The group seeks to clarify the range of
18 potentially acceptable long-term options. So,
19 what might they be able to do that could address
20 all of these core interests? To identify the
21 questions that they needed to answer in order to
22 understand what the implications of those options
23 would be. They worked together to determine how
24 to get answers to those questions, such that,

1 when the answers came, they could know that they
2 all could accept those answers. They weren't
3 going to say, "No, I don't agree with that."
4 They were really working to make sure that all
5 the answers and the data was going to be
6 something that, from all perspectives, they could
7 agree was valid.

8 And they have been jointly reviewing and
9 interpreting the data as it comes in, and asking
10 questions and asking for more data as we need.

11 The group is also working to evaluate
12 the options based on the information and based on
13 the interest that they each represent.

14 So, so far we have developed a long list
15 of options. We've identified questions and
16 information gaps. We've acquired a lot of
17 available information, acceptable information,
18 and asked for more information. They've
19 developed some initial analyses of some of these
20 initial options. They've started to put them
21 together into packages and they are now working
22 on getting additional information to really hone
23 what these packages are and the analysis
24 understanding what those packages would imply.

1 So, just a short list of some of the
2 pieces of information that the group has asked
3 for and received to date. And all of this
4 information is available on the website. From
5 understanding turbine sound to understanding how
6 we might reduce turbine sound, at the home or at
7 the turbine site itself. How you might change
8 the Turbine to make it quieter. How you might put
9 up photovoltaics that would also respond to the
10 energy needs. How you might move the turbines to
11 another location and where that location might
12 be.

13 They've looked at shadow flicker,
14 they've looked at DEP's noise monitoring
15 findings. They've been examining a range of
16 curtailment scenarios and what the financial
17 implications of those would be. So they've
18 really done a tremendous amount of work in
19 figuring out what the questions are and what the
20 answers might be.

21 So, I want to stress that all the
22 options that participants have raised have been
23 looked at by the group or are being looked at by
24 the group.

1 There's a couple of things that the
2 group, in its deliberations so far, had decided
3 are not options that they're pursuing further at
4 this time. One of those is berms and barriers
5 and physical structures that would reduce noise.
6 They're also not looking any more at mechanical
7 alterations to the turbines because there are
8 none that are commercially available at this
9 time.

10 They've also at this time put aside
11 moving the turbines to another location. And I
12 want to say a little bit more about this one
13 because I know that it's an issue that Town
14 Meeting members will need to deal with later
15 tonight or this week. The group looked hard at
16 where possible locations in Falmouth might be
17 that they could move the turbines and avoid
18 repeating some of the same problems that they're
19 facing now.

20 They did locate a place where the
21 turbines might go. However, as they explored
22 that location, they found that there's an
23 unlikelihood that it would meet FAA approval.
24 That there would be a need for easements to

1 access the land. The cost would be quite high;
2 currently estimated at about \$4.5 million. The
3 time line for the whole permitting process would
4 be long; in the range of two to three years.
5 And there would be potential noise impacts on
6 base housing at MMR, because this new site would
7 be up near MMR. While it wouldn't be within half
8 a mile of any Falmouth residents, it would be
9 within half a mile of base housing, and the group
10 was concerned about that.

11 So, for those reasons, the group is not
12 recommending moving the turbines at this time.

13 So, some of the packages that the group
14 is currently looking at. Running the turbines
15 all the time and buying homes. To meet DEP noise
16 regulation and offering other combination of
17 mitigations for impacted neighbors. They haven't
18 honed down exactly what they are, but looking at
19 sound insulation, home purchasing, compensation
20 for any lost property damages - which they also
21 haven't fully defined what that would be yet.
22 And this option they think would probably require
23 additional funds to cover its cost. And by
24 additional funds, they mean money from the state,

1 ideally, or money from the citizens of Falmouth.

2 Curtailing one or two of the turbines to
3 conform with DEP noise regulations and also
4 offering some combination of these mitigations.
5 And again you'll note that this would also
6 require additional funds.

7 A third package that they're looking at
8 is a deeper curtailment of turbines for some set
9 of evening or night hours that would be more
10 specifically designed to address the health and
11 sleep concerns of neighbors, and it would also
12 contain perhaps some additional other mitigations
13 and this option would also require additional
14 funds.

15 And the fourth option that they're
16 looking at is removing both turbines, reselling
17 them and erecting a photovoltaic array and this
18 option would also require additional funds.

19 So, as you can see, the packages under
20 consideration right now, it's looking like all
21 will require some additional funds, but the group
22 is still really trying to figure out exactly how
23 to put these together so that they are at least
24 to some extent responsive to all of the concerns

1 of the interests and also to really understand
2 what the cost implications of each of these would
3 really be.

4 So, they're also looking at feasibility
5 and time line, other considerations and
6 contingencies, so all of those things are what
7 they're looking for.

8 They are seeking consensus on the
9 analysis and the implications and the data. The
10 group is not necessarily seeking consensus on the
11 desirability of these options. They're not going
12 to necessarily agree on which is the best package
13 to move forward, but they are going to agree, we
14 hope, on what the implications of these packages
15 would be, and this is a big step forward.

16 So, they're honing the packages, they
17 have four more meetings scheduled to finalize
18 their findings and their report. And plan to
19 present the report to the Board of Selectmen in a
20 face to face meeting by mid-January. Also in
21 writing. And the Board of Selectmen will then
22 determine the next steps. This might mean coming
23 back to Town Meeting. It might mean a ballot.
24 It might mean a financial request to the State.

1 This will all depend on the Board of Selectmen
2 once the report goes to them.

3 One final note. The group as a whole
4 made an agreement that no participant can speak
5 on behalf of the group as a whole. And it's
6 important that everybody realize that the group
7 as a whole has not made any recommendations about
8 any of the articles being considered by Town
9 Meeting. And that any statements in the media
10 do not reflect the statements of the group as a
11 whole. The group as a whole's statement is
12 right here in this report.

13 Thank you very much. I appreciate the
14 opportunity to speak with you all and I will
15 continue working with the Turbines Options group
16 hopefully for a very successful Process Report at
17 the end. Thank you.

18 THE MODERATOR: Thank you and thanks to
19 the members of the group.

20 [Applause.]

21 THE MODERATOR: Mr. Chairman of the
22 Finance Committee for a report.

23 CHAIRMAN RIPLEY: I want to first say
24 I'm glad Gary's here tonight because otherwise I

1 figure at the break people would be coming up to
2 me and saying, "You're not Gary Anderson," as
3 he's been doing this for many years.

4 But, good evening. Mr. Moderator, Mr.
5 Chairman, Select Board, Town Manager, Assistant
6 Town Manager and fellow citizens. My message
7 will be brief. As we have been blessed to live in
8 one of the finest seashore communities in the
9 United States, it is imperative we carefully
10 balance the many needs of our community with our
11 limited financial resources. Be assured that
12 your Finance Committee spent many hours preparing
13 for Fall Town Meeting, meeting weekly. We are
14 pleased this evening to present our
15 recommendations on the many articles and capital
16 requests presented for our in-depth review.

17 Working with our Town Manager, much time
18 and effort was spent reviewing Capital
19 Improvement Plan items for Town Meeting. These
20 items are a very positive step forward in
21 rebuilding the town's infrastructure. We applaud
22 department managers for submitting their CIP
23 request in a way that was fair to all
24 departments. In making our recommendations on

1 capital requests, it is our sincerest hope that
2 monies will be spent as recommended by FinCom, as
3 this opportunity to spend monies on capital items
4 has been a long time coming.

5 While CIP requests received and voted on
6 are a good start to rebuilding our
7 infrastructure, much work remains to be done. As
8 the new Capital Advisory Committee gets underway,
9 we look forward to its recommendations as to a
10 well thought out and long-term plan for the many
11 capital projects facing our town.

12 Slowly recovering from the worst
13 financial crisis since the great depression, we
14 must remain more diligent than ever to safeguard
15 Falmouth's natural resources and infrastructure,
16 being careful to balance our financial dollars
17 and the needs of our taxpayers.

18 With the hiring of a new Finance
19 Director, scheduled to begin work actually on
20 Monday, we look forward to developing a
21 collaborative effort of financial oversight and
22 review. It is imperative that we use our tax
23 dollars and grants wisely, investing in our
24 community for our citizens.

1 In closing, and on behalf of the Finance
2 Committee, I would like to take this opportunity
3 and thank Gary Anderson for his many years of
4 service to the Town and Finance Committee. For
5 nine years Gary served as Committee member, vice-
6 chairman and chairman, stepping down as chairman
7 in July and stepping off the Committee in
8 October. Thank you, Gary, for making a
9 difference.

10 [Applause.]

11 THE MODERATOR: Okay, the question will
12 come on the main motion to accept the reports.
13 All those in favor signify by saying aye.

14 [Aye.]

15 THE MODERATOR: All those opposed no.

16 [None opposed.]

17 THE MODERATOR: The ayes have it
18 unanimous.

19 Article 2. Article 2 is paying unpaid
20 bills from a prior fiscal year. Mr. Chairman of
21 the Finance Committee for the main motion Article
22 2.

23 CHAIRMAN RIPLEY: I move Article 2 as
24 recommended.

1 THE MODERATOR: Article 2 as
2 recommended. Who held Article 2?

3 MS. TOBEY: Me.

4 THE MODERATOR: Okay, yes, microphone.
5 Our microphone carrier this evening is
6 Thomas Moakley, from Falmouth High.

7 MS. TOBEY: Linda Tobey, Precinct 4.
8 My question on Article 2, though you, Mr.
9 Moderator, to head of the Finance Committee, I
10 noticed the expense under Finance Committee is
11 \$2,299.67 and it's for U Mass Boston Call-In
12 Center; could we have some details on that
13 expense, please?

14 THE MODERATOR: Mr. Chairman.

15 CHAIRMAN RIPLEY: We'll need to get
16 that for you.

17 MS. TOBEY: Okay. And can I just make
18 a comment on this Article 2: I've just noticed
19 over the years, I know this is for unpaid bills
20 that don't get turned in the week or two weeks
21 before Town Meeting and I understand that, and it
22 used to be for hundreds of dollars, and this time
23 it's for over \$10,000. I really think people
24 maybe need to look at when they turn in bills and

1 get them turned in in a timely fashion. I thank
2 you.

3 THE MODERATOR: Mr. Chairman.

4 CHAIRMAN RIPLEY: That line item
5 request is consulting services to the Finance
6 Committee.

7 THE MODERATOR: Any further discussion
8 on Article 2?

9 The question will come on the main
10 motion as recommended. This requires a four-
11 fifths vote. All those in favor signify by
12 saying aye.

13 [Aye.]

14 THE MODERATOR: All those opposed no.

15 [No.]

16 THE MODERATOR: The ayes have it by the
17 four-fifths and I so declare.

18 Article 3. Planning Board for the main
19 motion. Mr. Herbst.

20 MR. HERBST: Good evening, Mr.
21 Moderator. Ladies and gentlemen, Ralph Herbst,
22 Precinct 8, Chairman of the Planning Board. I
23 move Article 3 as printed.

24 THE MODERATOR: Article 3 as printed.

1 MR. HERBST: At this time we have a
2 presentation that will be made by our Vice-
3 Chairman Pat Kerfoot. But before I do that, I
4 would like to recognize the Planning Board
5 members and our staff for almost two years of
6 work on this article.

7 If you'd turn to the first page in your
8 warrant booklet.

9 Pat Kerfoot, she has - if these members
10 would please stand while I introduce you. Pat
11 Kerfoot has an environmental background. Jim Fox
12 has a real estate development and a management
13 background. Doug Brown has a - is a local
14 builder and developer. Paul Dreyer has an
15 engineering background and management. Richard
16 Latimer has a legal background and Robert Leary
17 is a retired teacher with expertise in
18 construction and computers. Myself, I have a
19 background in engineering and business, but thank
20 God Orville and Wilbur Wright invented the
21 airplanes and that's what I did.

22 I'd also like to recognize our staff
23 members Brian Curry, who brings many, many years
24 of expertise in planning and this types of

1 issues. Brian. You all know Brian. And his
2 assistant Marlene McCollem. Marlene has recently
3 been the recipient of being a mom.

4 [Laughter.]

5 MR. HERBST: And she's not here tonight.
6 She had the option to stay home and change
7 diapers or come to Town Meeting. She chose to
8 stay home. So, is there a message there? I'm
9 not sure.

10 THE MODERATOR: My wife gave me the
11 same choice, but I decided to come to the
12 meeting. So.

13 [Laughter.]

14 MR. HERBST: Okay, at this time I'd
15 like to introduce Pat Kerfoot who's our vice-
16 chairman and she will make our presentation on
17 Article 3.

18 MS. KERFOOT: Thank you, Ralph. I'm
19 speaking on Article 3 tonight, the Wind Turbine
20 Bylaw.

21 Next slide. There may be a question as
22 to why we are doing this. There are two very
23 important reasons. All you have to do is look
24 at that picture. They say a picture is worth a

1 thousand words. Simply the current wind bylaw,
2 windmill bylaw, is way out of date. It's 31
3 years old and counting. It does not meet
4 Falmouth's current needs and is wholly inadequate
5 for today's wind energy systems. Today's
6 turbines can have rated capacities measured in
7 millions of watts.

8 The inadequacy became obvious when the
9 Zoning Board of Appeals was presented with a
10 permitting request for the web engineering
11 turbine. The issues went far beyond what the
12 current bylaw can require in a decision, so they
13 struggle, without bylaw guidance, in regard to
14 performance requirements and setbacks, for
15 example. They did an admirable job, considering
16 the lack of necessary guidance. That alone
17 argues for modernization of the bylaw.

18 A second argument for a modern bylaw was
19 the management issues surrounding operations of
20 the existing larger turbines at Technology Park,
21 the Wastewater Treatment Facility and Woods Hole
22 Research, including the public's complaints about
23 noise and the alleged health effects. Some of
24 these issues could perhaps be managed through a

1 new zoning bylaw.

2 Next slide, please. We followed the
3 development process. We asked Town Meeting to
4 vote a moratorium for one year. We asked them to
5 renew it for a second year. This gave us time to
6 have some breathing room for a new bylaw
7 development and also to allow time for
8 anticipated state and county guidance. And we
9 want to thank you for that vote allowing us the
10 development time.

11 We then started collecting information,
12 technical turbine information regarding function,
13 noise, setbacks and any information that could
14 help the Board with development of a new zoning
15 bylaw. We collected example bylaws. We
16 collected and utilized studies commissioned by
17 various states and looked to countries more
18 experienced in wind energy systems than we are.
19 We also collected bylaws from many sources, not
20 only towns in Massachusetts.

21 We discovered that there is no
22 uniformity of experience or knowledge that is
23 accepted for guidance. Wind energy is a science
24 still very much in development when dealing with

1 turbines instead of windmills. We have a stack
2 of information, I don't know, maybe that high
3 [indicating] that any of you are welcome to go
4 and look into if you like.

5 We discovered that each government
6 entity, lacking the guidance of the experience
7 and knowledge we were seeking, created their own
8 regulations perceived to best fit their needs.

9 The Board discussed potential bylaw
10 provisions at 18 meetings - one of those meetings
11 with the Board of Health - to understand each
12 board's role and jurisdictions or limitations.
13 We conducted three public hearings -- I don't
14 ever remember that happening before - to develop
15 - during the course of developing the new bylaw
16 that would take into account today's technology
17 and the impacts of larger turbines can have or
18 may have.

19 The public, all of you who attended
20 those meetings, generously shared with the Board.
21 We learned much from that input, but personal
22 experience and you generously gave us access to
23 more collected scientific information than we had
24 even collected and that we appreciate.

1 May I have the next slide, please. The
2 Planning Board's guidance in writing the new
3 bylaw was the precautionary principle, which is
4 also known as prudent avoidance. When there are
5 unknowns - and I just told you how our research
6 indicated multiple unknowns - the precautionary
7 principle dictates that you err on the side of
8 caution and form your decision accordingly. For
9 example, because noise impacts from large wind
10 energy systems are in dispute, the Planning Board
11 erred on the side of caution and limited the size
12 of wind energy systems in the new bylaw to a
13 rated capacity of 250 kilowatts.

14 Based on what we, as your Planning
15 Board, know today from our study of numerous
16 documents that the Board members have read, and
17 listening to public input, the current draft of
18 the new bylaw before you today was created.

19 The next slide, please. I want you to
20 look carefully at this, because it compares the
21 old bylaw for windmills, 31 years old, compared
22 to what we are presenting to you for a potential
23 new bylaw. The town's current bylaw has a
24 significant lack of definition, as can be seen

1 from the comparison slide. We have run into
2 trouble because of lack of size limitations, lack
3 of appropriate definition of "accessory", lack of
4 - both of these are defining these accessory
5 usages, but it wasn't defined what accessory
6 should be in this instance. Lack of zoning
7 district requirements, and a huge lack of any
8 technology standards.

9 The new bylaw carefully spells out
10 requirements for the perceived trouble areas.
11 Turbines can be built in only certain zoning
12 areas, and not all sizes of turbines can be built
13 in the allowed zoning districts. The technology
14 standard requirements in the new bylaw cover that
15 which is required to be presented in the
16 application process, which include details for
17 site plan, engineering, operation, as well as a
18 sound impact analysis and a flicker analysis. It
19 spells out the criteria for review, including
20 system height, physical setback and sound
21 setback.

22 To obtain a special permit, the
23 applicant must demonstrate compliance with both
24 sound and safety setbacks. The Board's goal is

1 to protect the residents from annoyance, while
2 setting standards for responsible wind energy
3 development.

4 May I have the next slide. What I'm
5 going to do in the next few slides is to
6 anticipate questions that you may have. The
7 first one is: what does zoning do? Basically,
8 zoning is all about competing land use. In
9 Falmouth, we have many different zoning
10 districts, such as Business, Agriculture and
11 Residential. Zoning exists to protect neighbors
12 against incompatible uses next door.

13 To further enhance protection within and
14 between zoning districts, we have setback, such
15 as front and side yard setbacks from streets and
16 other structures. They can be, and are,
17 different district to district.

18 Next slide, please. Do zoning bylaws
19 regulate health impacts? It's not a yes or no
20 answer; it's both. By separating land uses
21 through zoning districts and setbacks from others
22 that may have perceived health impacts, such as
23 landfills and airports, for example, the zoning
24 bylaws can have indirect health impacts.

1 However, the Planning Board cannot directly write
2 bylaws that would serve as human health
3 regulations, such as the proper handling of food
4 or the treatment of sewage. Only the Board of
5 Health can do that.

6 In this case, when we are talking of
7 regulating wind energy systems, the Planning
8 Board can only regulate districts, setbacks and
9 audible noise. We can regulate what happens on
10 the property itself in regard to safety,
11 construction standards and site plan. In that
12 manner, zoning can have an indirect impact on
13 health.

14 Next slide, please. Why did we require
15 51 percent of generated power be used on site?
16 This resulted in quite a bit of debate by the
17 Board. The 51 percent use requirement is from
18 the Massachusetts Department of Energy Resources
19 Model Zoning Bylaw of January, 2009 for an on
20 site wind turbine. In our case, wind energy
21 systems are accessory uses, not principal uses,
22 of the land in the model - like in the land in
23 the model bylaw. It is not intended that a wind
24 energy system act as a stand alone power plant.

1 We didn't have that in our prior bylaw; we don't
2 want to include that in our present proposed
3 bylaw. The purpose section spells this out.
4 It's the first and guiding principal in the
5 development of our bylaw, that it will be an
6 accessory use.

7 Therefore, a metric was needed to define
8 "accessory". Fifty-one percent is the number
9 used in the Commonwealth's model bylaw.

10 Next slide, please. Why did we choose
11 a limit of 250 kilowatts rated capacity? Well,
12 the Planning Board visited several turbines,
13 including the one located on Woods Hole Road,
14 owned by Woods Hole Research Center. This
15 turbine is 100 kilowatts and is located in a
16 residential neighborhood. Based on the
17 experiences operating this turbine and others,
18 the Planning Board initially decided that 200
19 kilowatts would be the maximum, given the power
20 needs of a typical business. The Board later
21 revised this thinking based on the permitting of
22 the J.K. Scanlon turbine in the Tech Park, which
23 is rate at 250 kilowatts for that office
24 building.

1 The next slide, please. How did we
2 determine the limits on flicker annoyance? The
3 Massachusetts Department of Environmental
4 Protection and the Massachusetts Department of
5 Public Health Impact Study dated January, 2012,
6 recommended no more than 30 minutes per day and
7 no more than 30 hours per year at the point of
8 concern. The Planning Board recommends a very
9 conservative 30 minutes per day and no more than
10 ten hours per year in the proposed bylaw.

11 Next slide. Will the setback
12 requirements in the new bylaw be protective of
13 nearby residences? Yes, we believe it will be
14 protective. Given the 250 kilowatt limit on the
15 size of the turbine, the safety setback of 110
16 percent of the total height, and the sound
17 setback of no more than eight decibels over
18 ambient background sound from the property line -
19 all of these measures are from the property line
20 - we believe that it will be protective of safety
21 issues such as ice throw and nuisance noise
22 level.

23 Next slide. Except for certain exempt
24 uses, does this new bylaw apply to all new

1 turbines, municipal or otherwise? Yes. In
2 fact, it does apply to all turbines. Now,
3 there's a however in here. Certain exempt uses,
4 such as a farm, may not need a special permit if
5 the power is used to run its irrigation system,
6 thereby furthering its agricultural objectives.
7 There are some others that are covered by law.

8 The next slide, please. Oh, so why
9 didn't the Planning Board simply follow the state
10 law? Well, we extensively used the state model
11 bylaw in drafting the new bylaw. However, where
12 changes were warranted, for instance setback
13 standards, the Planning Board chose what it
14 believes to be in the best interests of this
15 community. The state guideline was simply that:
16 a guideline. Each community - and there are,
17 what, 351 in Massachusetts - is free to put its
18 own versions in there based upon what they
19 believe is best for their own community.

20 Next slide, please. So these are the
21 critical points that I'm going to ask you to
22 think about tonight. We cannot renew the
23 moratoria for an additional year. As of May 1st,
24 2013, when the current moratoria expire, we will

1 have had two years to gather information and
2 create a new bylaw. That's it. That's what
3 you're allowed.

4 The bylaw before you for your approval
5 tonight is far better than what we currently
6 have. If we cannot agree on a replacement bylaw
7 before the expiration of the moratoria, we will
8 return to the current inadequate bylaw. And the
9 bylaw before you tonight is always subject to
10 review and amendment as better information
11 becomes available, including when I hope you pass
12 it tonight, if there are certain things that
13 should go in as amendments, we can certainly put
14 those in as amendments in the spring town
15 meeting.

16 The Planning Board asks you for a two-
17 thirds majority positive vote tonight.

18 I wish to thank the Planning staff and
19 the Planning Board for the extraordinary effort
20 expended to produce the detailed bylaw that you
21 have before you tonight. In my 12 years on the
22 Planning Board, I have never seen such a
23 concerted effort to produce something.

24 Also, I want to express thanks to Brian

1 Curry for development of this presentation and
2 especially Bob Leary for adding the color and the
3 swirls and so on to the PowerPoint presentation.
4 Thank you.

5 THE MODERATOR: Okay. Article 3. Mr.
6 Latimer.

7 MR. LATIMER: I'm Rich Latimer, I'm
8 speaking here not as a member of the Planning
9 Board --

10 THE MODERATOR: Can you speak into the
11 mic?

12 MR. LATIMER: - but as a Town Meeting
13 Member. And I am proposing an amendment to this
14 article. And I'll state the purpose of this
15 amendment is not because I think the article is
16 bad as it's written. I think it's good and I
17 want everybody to vote for it. But because the
18 Selectmen have said they're going to oppose it
19 for one reason. And the one reason that they
20 have given us is that, as written, it would tie
21 their hands if it applied to the Town because
22 they would not be able to move the turbines.

23 Now, I'm expressing no opinion on
24 whether the turbines should or should not be

1 moved. If that's an option the Selectmen feel is
2 important despite the recommendation of the
3 Advisory Committee, I would respect that concern.
4 So I therefore propose an amendment and it would
5 read as follows.

6 It would be an amendment that would come
7 in at Section E of the bylaw, Applicability and
8 Exceptions, and it would simply be the third
9 exception, and it would read very simply:
10 "Properties owned and/or to be acquired by the
11 Town of Falmouth for municipal use shall be
12 exempt from the provisions of this bylaw. This
13 exemption shall be reviewed semiannually for
14 further amendment as may be deemed appropriate by
15 Town Meeting."

16 Now, as a practical matter, the
17 Selectmen cannot do anything with the existing
18 turbines and certainly can do nothing with new
19 turbines without coming before this Board. So
20 that amendment does nothing to impair the
21 purposes of the bylaw. It simply would give the
22 Selectmen what they say they need in order to
23 have the flexibility they need in resolving the
24 existing problem we have.

1 So I would call upon the Selectmen to
2 agree that this amendment satisfies their
3 concerns and to support the amendment and then
4 the amended bylaw. If the Selectmen will not do
5 that, then I would suggest that we just go
6 forward and pass the bylaw as it is by two-thirds
7 majority.

8 So, before - I would call on the
9 Chairman of the Board of Selectmen to say whether
10 or not he will support this amendment and then
11 the bylaw as amended, and if not, to explain why.
12 Thank you.

13 THE MODERATOR: Okay, so the amendment
14 is if you go to Section E, adding a new number 3:
15 Properties owned and/or to be acquired by the
16 Town of Falmouth for municipal use shall be
17 exempt from the provisions of this bylaw. This
18 exemption shall be reviewed semiannually for
19 further amendment as may be deemed appropriate by
20 Town Meeting.

21 Any discussion on the amendment? Mr.
22 Chairman.

23 CHAIRMAN MURPHY: Mr. Moderator, if I
24 could read into the record, please. During it's

1 meeting on November the 5th, 2012, the Board of
2 Selectmen unanimously agreed that it was not
3 prepared to support the Wind Turbine bylaw at
4 Town Meeting. The Board requests that Town
5 Meeting allow the Wind Turbine Options Process be
6 continued in its discussions and allow the
7 process to move forward.

8 The Board requests that the Town wait
9 until the Spring Town Meeting to pass this bylaw
10 when the Wind Turbine Option Process has come to
11 a conclusion.

12 And if I may elaborate. As we all
13 know, the Wind Turbine Options Process got off to
14 a rocky start. To be able to have it to be
15 successful, we needed everybody at the table. We
16 were unable to convince the neighbors, who were
17 being severely impacted by the wind turbines, to
18 come to the table. The Board voted to ask me to
19 intervene and speak with the neighbors. I did so
20 on behalf of the Board, and the commitment that
21 we gave the neighbors was in fact that all
22 options would be on the table.

23 I commend the Planning Board for working
24 diligently over the last two years. I think Ms.

1 Kerfoot did an excellent job presenting this
2 article tonight. However, Mr. Latimer is
3 proposing an amendment that the Board believes
4 would provide the same mistrust that is currently
5 out there in this community in regard to wind
6 turbines.

7 The Board had considered an amendment to
8 this motion and decided that the best process was
9 the process to allow the debate to move forward
10 this evening, provide the impetus and the
11 opportunity to be able to make sure that this
12 bylaw is in fact palatable to Town Meeting, and
13 then wait until April Town Meeting to pass it.

14 This provides faith in the community and
15 faith in the process. We heard earlier with the
16 presentation in regard to the Wind Turbine
17 Options Group has put this aside. But this
18 option is still not off the table. This option
19 is on the table. It is our belief that if you
20 take off one option, it will lead to the ability
21 to take other options off the table.

22 I think it's important that we build
23 trust and faith within the community, build trust
24 and faith with those neighbors that are affected.

1 By pulling this option off at this time would be
2 incompatible with that option.

3 So we ask that you have a full debate on
4 this issue this evening, that we flush out any
5 concerns that the community might have, and that
6 we have the ability to pass this bylaw at the
7 Spring Town Meeting when and if we have another
8 option come before this article in the April Town
9 Meeting that would provide for the Town to
10 relocate the turbines. That may or may not
11 happen, but we still have the opportunity to wait
12 until the Spring to pass this bylaw. Thank you.

13 THE MODERATOR: Mr. Fleer.

14 MR. FLEER: Allan Fleer, Precinct 6,
15 and I think the comment I'm going to make is
16 applicable both to the amendment and to the
17 article in general. And I just want to point out
18 some existing bylaws in the bylaws, and for a
19 Public Use district, that's 240, 30; for the
20 Business districts that's 240, 47; for Light
21 Industrial A that's 240, 53; and for Light
22 Industrial B that's 240, 59. And for all those
23 sections, those zoning sections, those sections
24 are called Permitted Community Service Uses. And

1 under B in all those four districts, it states,
2 "All municipal purposes, including the
3 administration of government, parks, playgrounds,
4 recreation buildings, town forest, watersheds,
5 water towers, reservoirs, beaches, fire and
6 police stations and armories, does not exclude
7 turbines or wind energy systems."

8 So the way I would interpret that is
9 that municipal wind energy systems in any of
10 those four business - four districts, Public Use,
11 Business, Light Industrial A and B, would be
12 exempted from the provisions of this bylaw.
13 That's my statement.

14 THE MODERATOR: Ms. Lichtenstein.

15 MS. LICHTENSTEIN: Lesley Lichtenstein,
16 Precinct 8. I just would like some clarification
17 on the wording of this amendment. It says, "This
18 exemption shall be reviewed semi-annually for
19 further amendment as may be determined
20 appropriate by Town Meeting." Exactly what does
21 this entail? Does this mean that every time we
22 have a Town Meeting we're going to go through it
23 again? We're just kicking it down the road?
24 Instead of doing it all once and doing it

1 correctly, we're just going to, well, we'll argue
2 a little tonight and then we'll do it some more
3 in April and then we'll do it again next fall.

4 I guess I want to know exactly how and
5 what this "reviewed semi-annually" is going to
6 entail. Thank you.

7 THE MODERATOR: Yeah, Mr. Latimer, I'll
8 let you address that, but in order for us to do
9 anything at Town Meeting, there has to be an
10 article on the warrant. So, if we were going to
11 do this at future town meetings, someone would
12 have to put an article on the warrant to do that.

13 Mr. Latimer, if you want to address it
14 as well.

15 MR. LATIMER: Thank you, Mr. Moderator.
16 Yes, that would be up to somebody to put an
17 article on; that would be the Planning Board.
18 And that would be occurring on a semi-annual
19 basis to review for the semi-annual town
20 meetings. And that would kick in - what the
21 amendment would be simply when the issue with the
22 present wind turbines out in Thomas Landers Road
23 is resolved, we'd come back with an amendment
24 that would put the town back in, that's all.

1 Now, I believe that this, despite Mr.
2 Fleer's comments, I believe that this bylaw as
3 drafted will bind the Town, because it applies to
4 everything - any wind turbines, any other
5 provisions of the bylaws notwithstanding. And I
6 would ask Mr. Curry to comment, is that correct?

7 MR. CURRY: [No mic. Inaudible.]

8 THE MODERATOR: The question was about
9 whether or not there's the exemption.

10 MR. CURRY: [No mic. Inaudible.]

11 MR. LATIMER: Okay. I would ask
12 later, at an appropriate time - they're
13 discussing something else - that Mr. Curry
14 comment on that concern that the Town would be in
15 any event exempt from the bylaw because I don't
16 believe that's so. Thank you.

17 THE MODERATOR: Okay, we'll come back
18 to that question, then, when we get back to the
19 main motion.

20 Microphone to the right, please. Ms.
21 Elder.

22 MS. ELDER: Thank you. Katherine
23 Elder, Precinct 6. I would just like to comment
24 on something Mr. Murphy said that the neighbors

1 were expecting all of these options to be on the
2 table. And, speaking as a neighbor, I would
3 like to say that I believe that all of the
4 options are on the table. And that the vote
5 from Town Meeting on this bylaw should be
6 independent of that.

7 This bylaw is a well-considered bylaw
8 that protects the whole community, and I think we
9 should vote it in as is with no amendments. No
10 one thus far has given one perfectly good reason
11 or any good reason why the Town should be exempt
12 from a permitting process. And if someone
13 could give me any good reason why the Town should
14 not go through the due process of vetting by the
15 Planning Board when putting up any wind energy
16 system, I would like to hear what that reason is.
17 Thank you.

18 THE MODERATOR: Ms. Hayward, right
19 behind there. Ms. Hayward.

20 MS. HAYWARD: At a meeting - oh.
21 Nancy Hayward, Precinct 5. There was a meeting
22 relating to the addition at the Falmouth
23 Historical Commission, which I complimented Mr.
24 Ahmed for having a public hearing on this, and he

1 made the comment to me about the Town and its
2 exemption from bylaws because I'm concerned about
3 the Town being exempt. I was - my understanding
4 of Mr. Ahmed's statement was that there would
5 have to be a change in the state regulations for
6 a Town to be exempt from zoning bylaws.

7 Mr. Moderator, can Mr. Duffy shed any
8 light on that? Are towns always exempt? Or do
9 they always have to abide by the Town bylaws?
10 Thank you.

11 THE MODERATOR: Mr. Duffy.

12 MR. DUFFY: Hello. Towns are not
13 automatically exempt from their zoning bylaws.
14 In the particular situation we're talking about
15 the zoning bylaw provides that wind turbines are
16 allowed in certain districts as a municipal
17 purpose, because all municipal purposes are
18 allowed. So it's not an exemption; it allows
19 all municipal purposes.

20 THE MODERATOR: On the amendment, Mr.
21 Zweig.

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

23 THE MODERATOR: On the amendment.
24 Whether or not to allow the municipal exemption.

1 Do you want to speak on the amendment?

2 MR. ZWEIG: No.

3 THE MODERATOR: No. On the main
4 motion, okay.

5 Any further discussion on the amendment?

6 Yes, Mrs. Shephard.

7 MS. SHEPHARD: Susan Shephard, Precinct
8 1. So I'd like some clarification on this. Is
9 Mr. Fleer right that the Town is exempt, in which
10 case we would not need this amendment? Or does
11 in fact this bylaw supercede the Town's
12 exemption?

13 THE MODERATOR: Yes, whoever want to.
14 Mr. Curry.

15 MR. CURRY: If the Town Meeting members
16 will take a look at paragraph B. Wind Energy
17 Systems Allowed with Limitations, and also look
18 at paragraph E, the Applicability and Exceptions.
19 There's language in there that's important. It
20 states, "Any provisions or requirements of this
21 Chapter to the contrary notwithstanding: No wind
22 energy system as defined shall be ... bla, bla,
23 bla.

24 Also on E, for Applicability and

1 Exceptions, you'll see again, that, "Any
2 provisions or requirements of the Chapter to the
3 contrary notwithstanding:" bla, bla, bla. And
4 it's there for a very specific purpose. It's
5 there to make sure that everyone understands that
6 this trumps all other sections of the zoning
7 bylaw, whether it's the Applicability section or
8 the Exceptions, that you need a special permit
9 for a wind energy system from the Planning Board.

10 Now, as we know, we'll get any number of
11 legal interpretations, but my understanding, that
12 language is there for that purpose. This bylaw,
13 this section trumps all other sections of the
14 zoning bylaw.

15 THE MODERATOR: Okay, Mr. Latimer.

16 MR. LATIMER: Again, I had asked the
17 Selectmen to give a rational basis why they would
18 not support the bylaw if this amendment is in
19 place; we did not get that. We're given some
20 amorphous concern about trust. Again, anything
21 that would happen to those turbines in West
22 Falmouth or to any other new turbines comes from
23 this Town Meeting, and if we can't trust
24 ourselves, we're in a lot of trouble.

1 So, since I'm not going to get the
2 Selectmen's support on this amendment and then
3 the article as amended, I will withdraw the
4 amendment and I will therefore request that we
5 pass the article as printed by two-thirds
6 majority. Thank you.

7 THE MODERATOR: Okay, Mr. Putnam. Any
8 discussion on the amendment? We've got an
9 amendment on the floor, so we're going to have to
10 vote it down. We can't just withdraw it now that
11 we commenced debate.

12 MR. PUTNAM: Good evening, Ladies and
13 Gentlemen, Brent Putnam, vice chairman, Board of
14 Selectmen. To answer Mr. Latimer's question,
15 the Board of Selectmen don't have a duly posted
16 meeting at this time so we cannot as a Board vote
17 and make a decision on this amendment.

18 What I can say, from a personal
19 perspective - and you all will have this decision
20 to make. I'm no longer a Town Meeting Member. I
21 took Mr. Putnam's suggestion to heart and I act
22 as a member of the Executive Board, not as a
23 member of also the legislative body in this town.
24 But, I have a problem with exempting any

1 government or government entity from any bylaw
2 that applies to the general populace. From a
3 philosophical perspective, and Mr. Murphy touched
4 on this, it's sort of what got us into this
5 trouble in the first place. Exempting government
6 bodies or government entities from the very
7 bylaws that the citizens are expected to adhere
8 to, it makes me uncomfortable. Thank you.

9 THE MODERATOR: Okay, are we ready to
10 vote the amendment? Mr. Heath, on the
11 amendment.

12 MR. HEATH: [No mic. Inaudible.]

13 THE MODERATOR: No, just vote it?
14 Okay.

15 The question will come on Mr. Latimer's
16 amendment, which he wants to withdraw but in
17 order for us to do that we have to vote it down.
18 All those in favor signify by saying aye.

19 [Aye.]

20 THE MODERATOR: All those opposed no.

21 [No.]

22 THE MODERATOR: It is the opinion of
23 the chair that the no's have it and the amendment
24 does not pass.

1 Further discussion on the main motion.
2 Mr. Zweig.

3 MR. ZWEIG: Good evening. Ron Zweig,
4 Precinct 1. Thank you, Mr. Moderator, for the
5 opportunity to address the body tonight.

6 FROM THE FLOOR: Can't hear you.

7 MR. ZWEIG: Oh, I'm sorry. Thank you
8 for the opportunity to address the Town Meeting
9 this evening on Article 3.

10 Firstly, I'd like to praise the Planning
11 Board as you can see from the article that the
12 bylaw has been - there's been a tremendous amount
13 of work done on this bylaw with a number of
14 things that are I think significant flaws within
15 it. And the first one is that there's a direct
16 connection between this bylaw and Article 35, and
17 Mrs. Kerfoot mentioned that they had used a model
18 ordinance from the state from 2009. Well, that
19 model ordinance has been superceded in June,
20 2011. And in that model ordinance one of the
21 things that's missing is the 50 percent or 51
22 percent usage on site.

23 Next slide, please. So, the three
24 basic areas that I'd like to discuss are the

1 concerning different factors within it: legal,
2 technical and financial.

3 Next, please. On the legal, there are
4 two - a couple of things. One is that with the
5 Green Communities Act, the Green Communities Act
6 has a neighborhood net metering proponent that
7 allows ten households, ten of you could get
8 together and put up a turbine on a lot, a vacant
9 lot or a lot that is with an operation on it, a
10 home or a business. But you would be limited to
11 the 51 percent of usage within that lot. So if
12 it's a vacant lot, you couldn't do anything
13 there. If there was a house there, you could go
14 51 percent of the energy would have to be used by
15 that home. So the economics of it and the
16 rationale for this goes against the spirit of the
17 Green Communities Act in that way.

18 Next, please. Then if we look at the
19 Mass. zoning laws - law. Mass. General Law 40A,
20 section 3. Point 1, actually. In this, this
21 is - I've had a legal opinion from the state on
22 this, and they've indicated that and they've
23 looked at the bylaw, or at the article and found
24 that basically it goes against this law in that

1 there is no exemption for agriculture. I can't
2 find anywhere in this bylaw the mention of an
3 exemption for agriculture. And that is
4 something that is therefore inconsistent with
5 state law and needs to be resolved or possibly
6 made - they may be throwing this back to the
7 Town.

8 Next, please. There are a few
9 technical elements. One is, on the 250 kilowatt
10 limit. Basically there's no such limitation in
11 the state model bylaw, and why if the system
12 complies with all sound, flicker, setback,
13 etcetera factors, why would you have this
14 limitation?

15 Let's say in two months from now a 300
16 kilowatt machine comes on the market that has -
17 basically is quieter than any other turbine and,
18 and, and, therefore complies, it's even better
19 for a site and would actually fulfill the needs
20 of the investors, why not go with that one? Why
21 would you limit it to 250? We don't know what's
22 coming in the future. So that's another issue.

23 Then there's another requirement of
24 let's say someone wants to put up a small

1 turbine, and concerning the MET tower, the
2 Meteorological Tower requirement, you have to put
3 one up for a year. That's going to cost
4 thousands of dollars to do that. And the thing
5 is that the one year, I don't know if that's a
6 good indicator because between 2010 and 2011 on
7 Martha's Vineyard, they've got about a dozen
8 turbines over there and the energy production was
9 13 percent lower - rather, pardon me, 23 percent
10 lower overall in 2011. So, if you had a
11 turbine up, in one year or another there's a huge
12 variability that can occur; in that case it was
13 23 percent.

14 So, and another important element to
15 that is is that the Clean Energy Center has an
16 online tool, and that online tool you can put
17 your longitude, latitude, the terrain around it,
18 the height of the tower, the type of machine, you
19 can pick from about 30 different machines, put it
20 on top of that tower and it'll give you an
21 indicator of what kind of energy will be
22 produced. And this is from collecting data all
23 over the state, including Falmouth. The data is
24 coming from wind turbines across Falmouth, it's

1 being fed into this system, and that can help.

2 So, the need for a meteorological tower
3 -- if you're putting up a huge turbine - I mean,
4 not huge, but a megawatt or whatever turbine, you
5 may want to do that because of the investment,
6 but this tool is very good, particularly for
7 small wind systems.

8 Next, please. Then there's another
9 element in this, and that concerns the noise
10 factor that we're all very concerned about, in
11 town, here. It says you don't need a permit for
12 a turbine that's less than 300 watts or less.
13 Well, if you look at the data that's available on
14 line, you'll find that the noise that's emitted
15 from these within about 20 feet is about 60 to 70
16 decibels. The highest measurement at the Town's
17 industrial-scale turbines was about 50 decibels.
18 So we're above about a hundred to a thousand
19 times louder system at 300 watts. And there's no
20 permit needed. Someone could put one up on
21 their property line right outside your bedroom
22 and you'd have this whirring sound going on
23 because you don't need a permit, basically, and
24 that's - these are data from the manufacturers,

1 so I presume that they're conservative, at least.

2 Next, please. Then the financial
3 factor. If we limit it 51 percent, I've not
4 seen any models or any work done that shows that
5 if you put up a turbine with that limitation -
6 and the state has taken it out of its more recent
7 model bylaw -- but if you put one up, is it going
8 to be worth it, will it be financially of
9 interest to a homeowner or a business? It's
10 kind of like telling a business, "Well, if you
11 want to expand and develop another aspect to your
12 business and you comply with all the license
13 agreements and everything that's involved, you
14 still have to - your profit margin can only be 20
15 percent. Even if you comply with all the laws,
16 all the local ordinances and everything, your
17 limit is 20 percent profit and that's it. If you
18 go over that, sorry, you can't do it.

19 So, anyway, it's unclear why the
20 rationale is. And would this also apply to
21 photovoltaic systems, 51 percent used on site?
22 Would we have to - it's another renewable energy
23 source; would there be a similar limitation to
24 photovoltaic systems?

1 So these are all questions, and within
2 this document, and they - if they go into effect,
3 they're going to be major impediments to
4 renewable wind energy development.

5 Next. So, anyway, I just want to say
6 that based on this I'd recommend that this be
7 voted down for now and that the Planning Board
8 come back to Town Meeting in April and bring a
9 bylaw that has taken these factors into
10 consideration in a much more practical approach.

11 So, anyway, thank you very much.

12 THE MODERATOR: Mr. Netto. Microphone
13 for Mr. Netto, please.

14 MR. NETTO: Joe Netto, Precinct 9.
15 Some clarification from Mrs. Kerfoot, if I may,
16 please. Could you please explain to me the
17 implications of section C.3.?

18 MS. KERFOOT: Where the systems are
19 prohibited, is that correct, that you wanted to -

20 MR. NETTO: Yes.

21 MR. KERFOOT: Okay. We wanted to limit
22 the size of the turbines. We chose 250 kilowatts
23 to limit it. What we have now out are the web
24 turbine and the two Town turbines are 1.65

1 megawatts. I believe that's about seven times
2 the size of the 250 kilowatts, those two. We
3 felt large, large turbines were not appropriate
4 for a town the size of Falmouth with the density
5 of population; that there were not sufficient
6 distances from residences and the potentially --
7 residents in those residences from the potential
8 siting for larger turbines. So that's that one.

9 Okay, and we go to accessory. We
10 defined accessory in terms of the 51 percent used
11 on the site. We did not have an accessory
12 definition in our bylaws, in our zoning bylaws,
13 that pertained to power. We had it as pertaining
14 to buildings on lots. So we had to create a new
15 accessory definition here.

16 We - Mr. Zweig referred to the fact that
17 the 51 percent was removed in the 2011 bylaw form
18 that the state proposed. That is correct; we are
19 aware of that; it was removed. We are aware of
20 that form. We kept that 51 percent because we
21 felt we absolutely needed something to define
22 accessory.

23 The trouble that people had
24 understanding that is, well, okay, we were using

1 two years of power usage on the site as an
2 indication of what the power consumption would be
3 for that site to size the turbine and know that
4 51 percent would be used. Now the question we
5 kept getting is: well, okay, if the next year or
6 following years their usage dropped, so that they
7 were only using 25 percent, were we going to make
8 them shut the turbine down? No. We're not the
9 turbine police, we're not the bedroom police. If
10 you give that information based upon the
11 information that you have collected in the
12 application process, that will stand for use on
13 that site.

14 MR. NETTO: Thank you -

15 MS. KERFOOT: They wanted - that's it?
16 That's the one you were interested in, then,
17 principally?

18 MR. NETTO: Yes, and my comments would
19 be very similar to the previous speaker, Mr.
20 Zweig. And, taking them one at a time, I think -
21 I know you're looking for a definition and I have
22 a hard time and I cannot vote for the article
23 with the 51 percent because I am a current solar
24 hot water heater home from 1976. I drive a

1 hybrid car. I do feel that this bylaw limits the
2 energy policy of the national government, and to
3 reduce the use of the harmful fossil fuels that
4 we're using to produce electricity that's just
5 ruining the environment in which we live in. And
6 for me to vote for an article that says you can't
7 put a wind turbine up unless you use 51 percent
8 of the electricity is a violation of what I
9 believe in, that we should be reducing the fossil
10 fuels that we use to produce electricity,
11 whatever their means.

12 I realize, and the Planning Board, I
13 take my hats off to them, and I think maybe with
14 a few comments we could come back in the spring
15 with some of these addressed. I cannot agree
16 with the 51 percent. Not only has Mr. Zweig just
17 told us the Green Communities Act, I also mention
18 the National Energy Policy of reducing our
19 dependence on foreign fuels. And windmills are
20 not going to reduce the number of tankers that
21 deliver foreign oil to the United States, but
22 it's an attempt, it's a step in the right
23 direction and I think that the Town of
24 Falmouth's by laws, you know, should promote tha

1 t.

2 And lastly, we - and I know the problem
3 is size, and if size is a problem, we measure
4 size in feet, in the diameter of the turbine
5 blades. I want to hold up a cell phone. Just
6 think of the size and the technology, and that's
7 what this bylaw - and my second criticism is that
8 this bylaw puts a damper on the technology and
9 the creativity of the people who produce our
10 technology.

11 Go back 20 years to the bag phone.
12 Here, I can take your picture tonight, hit a
13 button and send it to anywhere around the world.
14 It not only talks, it texts, it's a camera. And
15 I think what the Planning Board has done -- give
16 us a definition, we can't build a turbine that's
17 X amount of feet, but don't say 250 kilowatts
18 because that's using antiquated technology, and I
19 think that's what Mr. Zweig - and he and I both -
20 have never talked about this, but I have to echo
21 his comments.

22 I was in the education business for 35
23 years. This bylaw puts a stop to the creativity
24 of technology. If you want it in feet, say feet.

1 I support the essence of the document. I would
2 like it reworked. I will not support the passage
3 of it tonight but I support the essence of it.
4 They had a very hard time. But let's address
5 size and let's not do anything to stop the
6 destruction of the environment through the fossil
7 fuels. Thank you very much for listening.
8 Thank you.

9 THE MODERATOR: Mr. Donahue. In the
10 center section.

11 MR. DONAHUE: Bob Donahue, Precinct 3.
12 I would like to sit with the Chairman on the side
13 of this measure. I feel that we have a committee
14 in action and they are working on this problem.
15 They have been working all summer and part of the
16 spring. Let's let them do the next four weeks
17 or six weeks, whatever it takes. Let them come
18 back and get a consensus of what they feel their
19 positions are and where the town sits.

20 I also want to say that, in establishing
21 a new bylaw, do we in any way weaken our position
22 if we go to court with anyone who feels that we
23 have done wrong by them? So, I feel the
24 Selectmen should have the time. We have another

1 meeting in May and we can vote on this issue at
2 that time. Thank you.

3 THE MODERATOR: Mr. Latimer.

4 MR. LATIMER: Let me confess that I was
5 the minority member in most of the debates in the
6 Planning Board. I was the one who was holding
7 out for a different standard for accessory use.
8 I was the one who was holding out for less
9 restrictions on this. But, you know, what we
10 were doing is we were hearing from people like
11 Mr. Zweig and we were hearing from people who
12 live up near the turbines in West Falmouth and
13 what we were doing was we were achieving a
14 balance. And, as Pat Kerfoot had said, it's a
15 balance that was designed to do the minimal
16 potential harm, and the harm that we'd be talking
17 about would be the very kind of harm the people
18 up in West Falmouth are dealing with now in
19 dealings with the Selectmen. And that's what we
20 are concerned about, is being cautious at this
21 point so that we don't make the mistake that's
22 going to hurt people.

23 The harm that Mr. Zweig is talking about
24 is that somebody might build a smaller turbine

1 than he otherwise would. That doesn't anywhere
2 near compare to the kind of harm that would occur
3 if there was some real basis to this wind turbine
4 syndrome, which I have an open mind on. If there
5 is, I mean, the harm that could be done by
6 allowing much larger turbines and much more
7 production town-wide could do a lot of harm to a
8 lot more people.

9 So, the Planning Board, in its
10 collective wisdom, despite me being the minority
11 member, decided, well, let's go to be cautious.
12 But, as Pat has said, we can tweak this. We can
13 amend this if the new technology comes out in the
14 next six months that Mr. Zweig has said about.
15 He can come to the Planning Board with a proposal
16 to amend this to accommodate that new kind of
17 technology and we can amend it. This meeting
18 here does that.

19 And I would correct Mr. Donahue. The
20 Selectmen are not working on this problem. The
21 Selectmen are working on a problem that was
22 created under the old bylaw. And it's an
23 intractable problem. And if we don't get
24 something done and don't get it done before April

1 30th, we'll be back to that old bylaw and that
2 will be a problem.

3 This problem that we have here is how to
4 get something done in time without waiting until
5 the last minute, because when you wait to the
6 last minute for anything, you generally get it
7 wrong, and so that's why this is the optimal time
8 to get this bylaw passed by a two-thirds
9 majority. If it needs to be tweaking, we can
10 tweak it over the next six months, and let's move
11 on. Thank you.

12 THE MODERATOR: Mr. Herbst.

13 MR. HERBST: Yeah, Ralph Herbst,
14 Precinct 8. Mr. Zweig's point about the more
15 recent revision of the state suggested example
16 bylaw is a perfect example of what we have had to
17 struggle with for the last two years. Changes
18 are happening all the time, and we cannot
19 continue to kick the can down the road. We have
20 to do this now and it can be modified as
21 technology changes, as the terrain changes, as
22 our population changes, as the build out in this
23 town changes. This can be modified. But we
24 didn't work for almost two years on this, going

1 over volumes of information from countries all
2 over the world, and we were absolutely convinced
3 beyond a shadow of a doubt that there is very
4 little consensus on how you go ahead with
5 something such as this bylaw.

6 We need to pass the bylaw. We need to
7 do it tonight and we can modify it if necessary
8 and that's where the Planning Board stands.
9 Thank you very much.

10 THE MODERATOR: Okay, new information.
11 Ms. Driscoll, something new? Ms. Driscoll was
12 next on my list.

13 I'll put you on the list, Mr. Heath.

14 MS. DRISCOLL: Kathy Driscoll, Precinct
15 7. In regard to the meteorological tower
16 requirement, it is a requirement, you need to
17 have one installed for at least a year, and the
18 cost to that for any owner or owner/investor is
19 going to be anywhere from \$3500 to upwards of
20 \$20,000. It is very limiting to any type of
21 installation that can be put in this town.

22 In many cases, it's going to be
23 prohibitive to someone who wants to be able to
24 put a wind turbine system, whether it's small or

1 up to the 250, in the town. It is in essence
2 saying that we may not be able to do it
3 economically. And you couple that with the 51
4 percent onsite consumption, and again you have an
5 additional economic restriction.

6 THE MODERATOR: Mr. Antonucci.

7 MR. ANTONUCCI: Yeah, Bob Antonucci,
8 Precinct 6. I think we should not vote this
9 article tonight. We have a history here of
10 rushing into things, and I don't like us to be
11 pushed into doing something tonight. My
12 constituents have asked me to vote against it for
13 one reason: we haven't straightened out the
14 problem with the current turbines, and until we
15 straighten out that problem, we should not
16 address any other issues dealing with turbines.

17 I urge you tonight to consider that. I
18 don't criticize the work of the Planning Board, I
19 think they've done a great job. But what is the
20 rush? There is no rush. Let the bylaw expire.

21 I also feel that this town should not
22 build any more turbines, anywhere, any street,
23 any neighborhood, until the problem that I live
24 with in West Falmouth is taken care of. Let's

1 take care of that problem first, let's use our
2 energy there, let's exert our influence, let's
3 exert our power and let's take care of our own
4 neighbors before we start putting more
5 restrictions and build more turbines.

6 I urge you tonight to vote this article
7 down.

8 THE MODERATOR: Mr. Heath.

9 Okay, let's do the new information
10 because I've got a growing list, here. And I
11 think all the issues are out; I'm not hearing
12 anything new.

13 Mr. Heath, new information?

14 MR. HEATH: I'm going to vote for the
15 proposal on the floor because we have to start
16 somewhere. We have to put some limitations on.
17 This will be amended in the future. There are
18 parts of it that are not perfect. Accessory
19 uses often have the permission of the abutters;
20 it's not called for.

21 The present problem with the turbines in
22 West Falmouth are going to come before this
23 meeting in May, and when they come before this
24 meeting in May, if there needs to be an exception

1 to this bylaw, I'm sure the Planning Board and
2 the Board of Selectmen can work together to pass
3 a one time exemption for any solution they come
4 up with.

5 I tend to think, from what has been said
6 before, that moving them into Falmouth will be
7 extremely difficult, particularly in the light of
8 more recent information where people are talking
9 of a 3,000 or 4,000 foot setback for turbines of
10 this size.

11 I also think that this gives the Town
12 more control. I don't believe in the public
13 purpose clause as a means of the town doing
14 anything they want to. Under that, they could
15 even withhold licenses, open bars, as a public
16 purpose, and that's exactly what the second
17 turbine is.

18 We don't save much fossil fuel with wind
19 energy because we are a suburban area. And
20 suburban areas want 24/7 electricity. That means
21 the big generating plants, whether they be
22 nuclear or coal or natural gas, which are the
23 three sources of our electricity, have to run
24 even when the turbines are running. You can't

1 turn them on and off like a lightbulb. They take
2 days to cool down for maintenance work. That's
3 why they're out for a month, often, reducing the
4 capacity that we have for all of us.

5 Wind turbines should be task-orientated.

6 They can be very valuable there. That's what
7 the wind turbines that used to pump irrigation
8 water did. If - they could fill a tank, and it
9 was used. Over a period of time. All they had
10 to hope for was that the wind would blow again
11 before the tank was empty. They're storing the
12 output. None of us can do that.

13 Washington and Boston are pursuing a
14 dream that won't work. Meanwhile, it is the
15 law, it is profitable, because of big subsidies,
16 most of which are passed onto the rate payers, so
17 we have to handle the problem. And this
18 proposed bylaw is a good start. I don't think
19 it's going to last forever, and I think it'll
20 need to be modified. But I encourage people here
21 to vote for it. At least it's a start. We can't
22 kick it down the road.

23 And we have to count on both the
24 Planning Board and the Board of Selectmen if

1 there is a way to move these turbines and it
2 won't cause the same problem it's causing now,
3 but they've got to work together and come before
4 this meeting in May with a solution.

5 Please vote for it.

6 THE MODERATOR: Ms. Kerfoot.

7 MS. KERFOOT: There have been a couple
8 of objections to the MET tower because of the
9 expense. We were aware of that in our
10 discussions. That came up a number of times.
11 We're also aware that there is data out there
12 that could be used. Therefore, within this
13 bylaw, the special permit granting authority,
14 which is the Planning Board, can waive that
15 requirement.

16 THE MODERATOR: Ms. Putnam.

17 MS. PUTNAM: Rebecca Putnam, precinct
18 9. I would like to ask Town Meeting to vote
19 this down. Being put under the gun, being told
20 that we have X number of days or months to pass
21 this before something happens again.

22 First of all, nobody knows of any large
23 wind turbine projects coming back into this town
24 right now. So there is no rush for this. And

1 second, everybody should go home and look at how
2 many kilowatts you use per month on your electric
3 bill, because limiting to 250, I know
4 denitrification septic systems with small
5 horsepower engines or motors that use 191 per
6 month. And we're trying to become a green
7 community.

8 We really need to go back, let's get it
9 right once and not have to go back and tweak and
10 tweak and tweak. It's just not the appropriate
11 way to do this. We have issues that have to be
12 addressed. I'm not for or against wind
13 turbines, but we have to address the issues and
14 let's get it right once. And I'd like to move
15 the vote.

16 THE MODERATOR: Mr. Moriarty.

17 MR. MORIARTY: Good evening, everyone.
18 Dave Moriarty, Precinct 6. I'd just like to
19 remind everyone that, you know, prior to the
20 installation of the wind turbines no family in
21 Falmouth has ever been driven out of their home,
22 no individual in Falmouth has had to see - seek
23 psychiatric treatment, take all kinds of - of
24 psychiatric drugs. No child has ever been kept

1 up all night and not been able to do their
2 homework. So I think the turbine bylaw prior to
3 is much better than the one they're proposing
4 tonight, so I am going to vote this down. Thank
5 you.

6 THE MODERATOR: Okay, this requires a
7 two-thirds vote. I'm going to call the question.
8 This requires a two-thirds vote. All those in
9 favor of Article 3 as recommended, signify by
10 standing and the tellers will return a count.
11 All those in favor of Article 3.

12 [Pause.]

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

15 MRS. TASHIRO: 17.

16 THE MODERATOR: 17.

17 In the third division, Mr. Hampson.

18 MR. HAMPSON: 35.

19 THE MODERATOR: 35.

20 In the second division, Mr. Dufresne.

21 MR. DUFRESNE: 35.

22 THE MODERATOR: 35.

23 All those opposed, signify by standing.

24 [Pause.]

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

3 MRS. TASHIRO: 24.

4 THE MODERATOR: 24.

5 In the third division, Mr. Hampson.

6 MR. HAMPSON: 33.

7 THE MODERATOR: 33.

8 The second division, Mr. Dufresne.

9 MR. DUFRESNE: 53.

10 THE MODERATOR: 53.

11 By a counted vote of 87 in favor and 110
12 opposed, the article does not pass and the
13 meeting will stand in recess for 15 minutes.

14 [Whereupon, a recess was taken.]

15 [Whereupon, the meeting resumed.]

16 THE MODERATOR: Okay, Town Meeting
17 Members please come forward so we can establish
18 the quorum.

19 Okay, here we go. All Town Meeting
20 Members please rise for the establishment of the
21 quorum and the tellers will return the count.

22 [Pause.]

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

1 MRS. TASHIRO: 39.

2 THE MODERATOR: 39.

3 In the third division, Mr. Hampson.

4 MR. HAMPSON: 62.

5 THE MODERATOR: 62.

6 In the second division, Mr Dufresne.

7 MR. DUFRESNE: 95.

8 THE MODERATOR: 95.

9 By a counted vote of 196, we have a
10 quorum and we're back in session.

11 The Chair will recognize Mr. Turkington.

12 MR. TURKINGTON: [Inaudible.]

13 THE MODERATOR: Oh, I think we're going
14 to push the button in on the bottom. Did we
15 lose our mic carrier?

16 MR. TURKINGTON: Mr. Moderator, I move
17 we reconsider Article 1 for the purpose of
18 hearing a brief report by the Town's Water
19 Quality Management Committee.

20 THE MODERATOR: Okay, Article 1 is
21 reports and the new information is I didn't put
22 them on my list. So, we went right through. So,
23 we need a vote to reconsider Article 1 so that we
24 can hear the report. The brief report, according

1 to the chairman.

2 So, all those in favor, signify by
3 saying aye.

4 [Aye.]

5 THE MODERATOR: All those opposed no.

6 [No.]

7 THE MODERATOR: The ayes have it, Mr.
8 Chairman.

9 CHAIRMAN TURKINGTON: Thank you, Mr.
10 Moderator.

11 I'll ask the committee members who are
12 present to join us down here. I promise it will
13 be briefer than the Planning Board Article was.
14 Okay.

15 All right, Eric Turkington, Precinct 1
16 and chairman of the Town Water Quality Management
17 Committee. And I've asked the members of the
18 committee who are here tonight to join me.

19 The Committee was appointed a little
20 more than a year and a half ago, and we're here
21 tonight to report on what we've been doing and
22 how we've been doing it.

23 Okay. At this point, there should be no
24 question about what this is all about. The value

1 of Falmouth's estuaries. Falmouth has more
2 estuaries than any other town in Massachusetts.
3 They're the home to all kinds of marine life;
4 they're a focal point of our communities; they're
5 recreation for fishing, for boating, for
6 beaching; everything from Waquoit all the way up
7 to Megansett, all these water bodies define our
8 lives and define our communities.

9 Our estuaries are in big trouble. And
10 you only have to look at the map of Little Pond
11 in 1950 and the map of Little Pond now. In 1950,
12 you see on Falmouth Heights side of Little Pond
13 was practically uninhabited. The Maravista side,
14 practically empty. And what there was mostly
15 were small cottages. Small cottages and lots of
16 empty space.

17 Up in the northern section, there, of
18 Little Pond in 1950, what you see there is now
19 Falmouth Mall. It used to be a cranberry bog.
20 That's what we've done to this town in the last
21 50 years.

22 The threats to the estuary and health
23 are well established at this point. Well
24 established at this point. Excess nitrogen is

1 the main cause of the decline of our estuaries,
2 and we know where it comes from. Septic
3 systems, our own backyard septic systems, are the
4 number one source. Fertilizer, which we'll be
5 talking about later tonight, is the number two
6 source. Road runoff, which goes right into the
7 street drains and right into the estuaries, is
8 the number three source. At least three-
9 quarters of the non-atmospheric nitrogen comes
10 from septic systems. So septic systems are
11 number one.

12 Go. Why do you want to remove the
13 nitrogen? Fish kills. This last summer we had
14 a fish kill in Little Pond; we've had them
15 elsewhere. Loss of habitat. Algae blooms.
16 You couldn't see the bottom of West Falmouth
17 Harbor this year because of the algae.

18 Loss of recreation. The shellfish
19 industry, which used to be huge in this town, is
20 diminished to one-tenth of what it used to be.

21 Odors. Try it sometime in August and a
22 good hot day in some of these estuaries.

23 In April, 2011, this Town Meeting
24 unanimously passed Article 17, which provided for

1 \$2.7 million to proceed on a two-track process.
2 Part of it, the one track was for sewer design;
3 the other track was alternative demonstration
4 projects to find ways of treating the nitrogen
5 without sewerage. This body passed it
6 unanimously. The voters passed it by a two to
7 one margin at the ballot box with every single
8 precinct in support. That never happens. That
9 happened last year.

10 This Town Meeting gave us a long list of
11 mandates for this town to do: to form a
12 committee, to draft a comprehensive wastewater
13 management plan, to pursue the aquaculture
14 demonstration project, to pursue the eco-toilet
15 demonstration project, to pursue the denitrifying
16 septic system, to pursue the permeable reactive
17 barrier demonstration project, road runoff,
18 fertilizer, pond opening for Bourne's Pond and
19 Little Pond, engineering for a design for a
20 sewer, Oyster Pond, collect baseline data and
21 fund studies of Quissett Harbor, Falmouth Harbor
22 and Salt Pond.

23 A huge undertaking, but this Town
24 Meeting said this town is going to do it. So

1 we're doing it.

2 The first thing the Selectmen appointed
3 was the Water Quality Management Committee; I
4 wanted to introduce to you - you know most of
5 them, but introduce to you the ones that are here
6 tonight: Matt Patrick, Ron Zweig - who is no
7 stranger to this meeting - Steve Rafferty, Win
8 Munro and Steve Leyton. Virginia Valiela has
9 missed her first Town Meeting in 40 years; she's
10 in Argentina, but she's a member of the
11 committee, as well.

12 So, the point of this committee and the
13 first thing we did was draft a Comprehensive
14 Wastewater Management Plan. It's taken this town
15 five years to put a plan together. We put a plan
16 together. The Selectmen unanimously adopted it.
17 It's up at the state now, being reviewed and
18 having comments made.

19 Next. So let me just run through some
20 of the demonstration projects that you assigned
21 us and tell you how we're doing.

22 Aquaculture. There's a sizable body of
23 opinion that says oysters and other shellfish
24 will take nitrogen out of the water effectively.

1 Thanks to you and the voters of this town, next
2 summer there's going to be up to two million
3 little oysters in Little Pond proving whether
4 that works or not.

5 Next. Eco-toilets. There's a sizable
6 body of opinion, well represented in this Town,
7 that says if you can get people to use a kind of
8 toilet that keeps the feces and the urine and
9 keeps it out of the pipeline to the sewer, you
10 don't have to have a pipeline to the sewer. This
11 town is going to be the first one in
12 Massachusetts to test that theory in a scientific
13 way and find out whether it's going to work
14 economically here and anywhere else. But we're
15 doing it first.

16 Onsite denitrification. They have
17 systems that you can put into the ground that -
18 on each individual homeowner's site; the question
19 is how expensive are they, how much maintenance
20 do they require, but they are a serious possible
21 alternative to sewers. We're going to find out
22 whether they're going to work here.

23 Permeable reactive barriers. I didn't
24 even know what it was two years ago. And it's

1 not that complicated. It's a ditch near the
2 water that you fill with wood chips, and the hope
3 is that as the plumes of contamination head for
4 the estuaries, it'll be intercepted by the wood
5 chips, react with the wood chips and the
6 pollutants won't reach the estuary. Everybody's
7 talked about these things for the last 12 years.
8 Falmouth is going to be the first place that puts
9 one into the ground and proves if it works.

10 Thanks to you and the voters of Falmouth.

11 Road runoff. Whenever it rains,
12 everything that's on the roads and everything
13 that's on the lawns goes into the water and it
14 goes into the drains and it goes right into the
15 estuaries. Falmouth is going to, at least on
16 Little Pond, address a way of making that not
17 happen.

18 Next. Nitrogen control bylaw is going
19 to come up later on tonight. If you pass the
20 bylaw that we're proposing for you tonight, we'll
21 be the first town on Cape Cod and probably the
22 first town in Massachusetts to have a nitrogen
23 control bylaw.

24 Inlet widening, that's a proven way of

1 dealing with nitrogen. If you open up the
2 inlets, the flushing action makes the nitrogen
3 come out and it increases the health of the water
4 body. We saw it happen 30 years ago in Bournes
5 Pond. We're now looking at opening Bournes Pond
6 even wider to make it even healthier, and if that
7 works we'll talk about Little Pond. Once again,
8 it's a proven way of doing it and we're going to
9 come back to you in January - or in April,
10 rather, with a specific proposal.

11 Finally, sewerage. You can't ignore
12 sewerage. Sewerage is going to be part of the
13 solution that this town adopts. It was
14 unanimously adopted back in 2011 by this body and
15 we're going to come back to you in the spring
16 with a specific proposal for the Little Pond
17 area.

18 Again, Little Pond is the most impacted
19 by nitrogen of all the water bodies in this town,
20 for obvious reasons: it's the most densely
21 developed area of the town and it's going to be
22 the one that we come in with a sewerage plan for.
23 It will be the least expensive plan we can find
24 and the way it's going to be paid for remains to

1 be seen, but we're going to try to do it with
2 zero percent loans or two percent loans from the
3 state, whatever it takes to make it as affordable
4 as possible for the Town and as affordable as
5 possible for the neighbors who have to contribute
6 to it. That will be what comes out of this
7 committee.

8 Next. Oyster Pond. This is an
9 interesting one. It's a small pond, it's only
10 got about 200 houses that contribute the
11 nitrogen. It'll sort of be a test case of how
12 do you deal with smaller water bodies that are
13 probably never going to be on any sewer system.
14 How do you deal with those? Because we have a
15 bunch of them, all up and down the western side
16 of this town.

17 The first one to be tried out will be
18 Oyster Pond and we're going to start with a study
19 of that, very soon.

20 Financing. How do we pay for all of
21 this? One thing that this committee and the
22 Selectmen have all insisted on is that we try to
23 pay for it with Mr. Boyer's windows of
24 opportunity.

1 [Laughter.]

2 MR. Turkington: The basic premise is:
3 when you had some debt that's getting paid off,
4 you can put on some new debt and it won't raise
5 your tax rate. That's been the principal that
6 Mr. Boyer successfully led this Town through for
7 many years. That's the principal that this
8 Committee and these Selectmen have adopted for
9 any of these improvements. We're going to be
10 coming to you with proposals that don't increase
11 the tax rate but they do leverage enough money to
12 get the job done.

13 The other half of that, of course, is to
14 go to the state and borrow money at either zero
15 percent or two percent, instead of four percent,
16 which the town would probably have to pay if we
17 used our own borrowing capacity.

18 And the third piece of that's going to
19 be betterments of some size, and at this point we
20 have no idea what the details of that will be,
21 but there will be details and we'll be back next
22 year with those.

23 So here's our next year's plan. April,
24 2013, Town Meeting, we're going to come and ask

1 this town to vote a bonding authorization for
2 design and permitting of that Little Pond lower
3 watershed and inlet widening at Bourne's Pond,
4 and there will also be included in that package
5 other town infrastructure needs that will be met.

6 In May, if you at the Town Meeting
7 approve that, it'll go to the voters. They will
8 have to approve it, as well. And in August, if
9 you approve it and they approve it, we'll submit
10 the list of these projects to the state for
11 funding with either, as I say, zero percent or
12 two percent loans.

13 This is an extraordinarily ambitious
14 undertaking that you authorized and in fact
15 ordered this Town to enter into, and you're doing
16 it for probably the most important thing we can
17 do for ourselves in the next 10, 20, 30 years,
18 which is to protect the water bodies that define
19 our town and our lives.

20 We appreciate all the support we've
21 gotten from you up to this point; we're going to
22 be back for a lot more. Thank you.

23 [Applause.]

24 THE MODERATOR: Thank you, Mr. Chairman

1 and the Committee.

2 Main motion to accept the report. All
3 those in favor say aye.

4 [Aye.]

5 THE MODERATOR: Opposed no. Ayes
6 have it. The report is accepted.

7 Article 5. Article 5, to see if the
8 Town will vote to authorize the Board of
9 Selectmen to grant an easement. Mr. Chairman of
10 the Board of Selectmen for the main motion.

11 CHAIRMAN MURPHY: Yes, Mr. Moderator, I
12 propose a new recommendation. I move to amend
13 Article 5 by adding the words, "combined power
14 and broadband" before the word "communication" in
15 the third line of said article so that the
16 article reads in it's entirety - and if I may: To
17 see if the Town will vote to authorize the Board
18 of Selectmen to grant an easement on, under,
19 through and across the Mill Road parking lot, a
20 portion of Surf Drive and a portion of Surf Drive
21 beach, for the installation and maintenance of a
22 combined power and broadband communication cable
23 to Martha's Vineyard, upon such terms and
24 conditions as the Board deems reasonable and

1 proper, or do or take any other action on this
2 matter.

3 The amendment, Mr. Moderator, and Town
4 Meeting, is to include both the cable and power.
5 Originally it was proposed by Comcast that they
6 would like to run an additional cable across to
7 the Vineyard and NStar has joined that, so it
8 would be a combined, redundant cable that would
9 move forward to the Vineyard.

10 THE MODERATOR: Okay, so this is the
11 main motion as printed, adding the combined power
12 and broadband language.

13 Mr. Latimer.

14 MR. LATIMER: Thank you. Just a
15 question for the chairman. What consideration
16 does the Town get for this?

17 THE MODERATOR: Mr. Chairman.

18 CHAIRMAN MURPHY: At this time, There
19 has been no negotiations on the consideration.
20 After this, we enter into this through Town
21 Meeting, the Town Manager will be authorized to
22 negotiate with both for some form of remuneration
23 for the community.

24 THE MODERATOR: Okay, Ms. Cool.

1 MS. COOL: Annie Hart Cool, precinct 6.
2 Just wondering if those families who own
3 property across the way have been notified of
4 this endeavor in the event that there's any
5 foreseeable view problem, vista problem, noise.
6 I'm just trying to head this off at the pass
7 before we have another wind turbine issue.

8 CHAIRMAN MURPHY: Mr. Moderator.

9 THE MODERATOR: Mr Chairman.

10 CHAIRMAN MURPHY: If I may, this
11 easement will be underground and we will have
12 public hearings in regard to the easement before
13 the Board of Selectmen and we will take input on
14 the plan from the neighbors.

15 THE MODERATOR: Mr. Duffany.

16 MR. DUFFANY: Michael Duffany, Precinct
17 6. Just a quick follow-up to Ms. Cool's
18 comments that, when you deal with utilities, we
19 do have to be a little careful because once they
20 get their foot in the door, they have a lot more
21 rights than a lot of us do, if you will.
22 Anybody who's experienced that will know that
23 they don't have to ask permission for a lot of
24 things.

1 And my concern is that what happened on
2 Elm Road about two years ago, when the utility
3 company decided it needed some more wires either
4 to its substation - or to the Vineyard, I'm not
5 honestly sure - and they raised the poles. They
6 put in new poles that are about 20 feet taller
7 than the other poles and didn't include anybody's
8 comment whatsoever.

9 And I just - I'm concerned, number one,
10 that this is a new site, and I heard you say,
11 Kevin, that - Mr. Murphy - that they wouldn't put
12 in a pole. And if they don't, that's great, but
13 if they do, I really think that you need to
14 involve the neighbors because there are other
15 poles that maybe they could piggyback on, you
16 know, on Elm Road that are monsters. And it's
17 just not the sort of thing that people would like
18 to see in your front yard if it happens. Thank
19 you.

20 THE MODERATOR: Mr. Shearer. Oh,
21 you're all set. Okay. Mr. Stecher.

22 MR. STECHER: At the precinct 3
23 meeting it was brought out that they might have
24 to put manholes in the parking lot, and that was

1 brought up as a problem because, for one thing,
2 you can't put any cars over it in case they need
3 access. And the other thing in my mind is
4 you're putting holes in the parking lot; I think
5 you're going to undermine it. But obviously
6 beach is fragile and I'm concerned about what's
7 going to happen then.

8 And, the other thing is they did say
9 something about a pole and I'm just concerned
10 about what kind of final arrangements we're going
11 to wind up with. I mean, we're giving the Town
12 Manager the right to actually enter into an
13 agreement for some kind of remuneration. But I'd
14 like to know what the final results are going to
15 be, excuse me, before I vote.

16 THE MODERATOR: Okay. Further
17 discussion on Article 5? Yes.

18 MR. FINNERAN: This is just a question.
19 Didn't we just pave that section of road? And
20 if it was done with state money, aren't we barred
21 from digging it up for five years, or is that
22 incorrect?

23 THE MODERATOR: Anybody have an answer
24 to that? Yeah, Peter, do you want to?

1 MR. MCCONARTY: Peter McConarty, Town
2 Engineer. All the plans that we've seen to this
3 point do not involve any construction with
4 utilities in the roadway. It's coming off a
5 utility pole into the parking lot into a manhole,
6 and then it'll be directionally drilled under the
7 parking lot.

8 THE MODERATOR: Okay, Ms. Shephard.

9 MS. SHEPHARD: Susan Shephard, precinct
10 1.

11 I'm not sure who will answer this
12 question, but is there already an existing cable
13 there, does it lie on the bottom of the ocean
14 there? You said it's coming from a pole; is that
15 on the power that's coming down Mill Road?

16 THE MODERATOR: Mr. Suso.

17 MR. SUSO: This is a redundant cable,
18 so there is an existing cable, but I am uncertain
19 as to its location.

20 MR. SWAIN: Mr. Moderator, I can answer
21 some of that.

22 THE MODERATOR: Mr. Swain.

23 MR. SWAIN: I'm Charlie Swain, precinct
24 1. I travel that road everyday. But there's no

1 pavement - there's new pavement there. The
2 pavement doesn't cover that area and when they
3 put in the upgrade at Elm Road, they did lay a
4 cable on the north side of the street that goes
5 over almost to the Herring River and then out
6 into the ocean from there.

7 But there isn't a cable I'm sure they
8 know about if NStar's working with them. So
9 they'll have to deal with that.

10 THE MODERATOR: Okay, Mr. Latimer.

11 MR. LATIMER: Thank you. Richard
12 Latimer, precinct 5.

13 I have a question as to what compunction
14 there is for us to do this. Is this something
15 that we have to do? Does the utility have
16 eminent domain that supersedes the Town's eminent
17 domain so that we have to make this deal? And,
18 if we don't have to make this deal, what's the
19 rush? Why can't we wait until something's
20 negotiated; come back here?

21 Mr. Duffany has expressed some concerns
22 about the highhanded way that the utility company
23 works, and what guarantee would we have that the
24 utility company won't do that unless we have a

1 very strong negotiating position, such as Town
2 Meeting approval, that would require them, for
3 example, to keep it underground and not do
4 anything that would adversely affect the
5 neighborhood?

6 THE MODERATOR: Mr. Chairman.

7 CHAIRMAN MURPHY: Mr. Moderator, all of
8 your comments will be taken into account by the
9 Board of Selectmen. We just want to move this
10 forward on behalf of the folks on the Vineyard
11 who look forward to reliable service just like we
12 do here in this community.

13 The Board of Selectmen understands that
14 there would be some impact in the community, but
15 any plan would have to be approved by the Board
16 of Selectmen and, as we would move forward, we
17 would have, again, public hearings on those
18 plans, so we would have some comments.

19 We would authorize, the Board of
20 Selectmen would authorize at Town Meeting for the
21 Town Manager to enter into negotiations and all
22 of those things that you classify as heavy-handed
23 things would be laid out in the plan before it
24 would be approved by the Board of Selectmen.

1 THE MODERATOR: Thank you. Mr.
2 Latimer.

3 MR. LATIMER: Thank you again. I hate
4 to belabor a point, but our duty and the
5 Selectmen's duty is to the citizens of Falmouth,
6 including the citizens who live on Mill Road, and
7 not to the citizens of Martha's Vineyard. And
8 therefore we're being asked to buy a pig in a
9 poke, here.

10 I mean, what's the rush? You can
11 negotiate it, you can come back to Fall Town
12 Meeting with a deal, and if it's a good deal for
13 the town and it effectively protects our
14 citizens, we can vote it then.

15 THE MODERATOR: Okay, Mr. Stumcke.

16 MR. STUMCKE: Brad Stumcke, precinct 4.
17 There's already utility poles and power coming
18 down Elm Road on the other side, so why do we not
19 encourage them to use the same access to bring
20 whatever wires or communication devices They need
21 down where there's power lines right now?

22 THE MODERATOR: Mr. Finneran.

23 MR. FINNERAN: To take this thing in
24 kind of steps, might it be a good idea to amend

1 this to just grant the Board of Selection the
2 power to negotiate, and then they can bring back
3 to us what they have, rather than give them power
4 to grant the easement?

5 THE MODERATOR: Actually we don't need
6 that. They can negotiate currently, and then
7 they could come back for the approval to grant
8 after. So they already have the legal authority
9 to negotiate currently.

10 Okay, this requires a two-thirds vote.
11 All those in favor of Article 5, signify by
12 saying aye.

13 [Aye.]

14 THE MODERATOR: All those opposed no.
15 [No.]

16 THE MODERATOR: It is the opinion of
17 the chair that there was not a two-thirds
18 majority. Is there any challenge to the chair?
19 Hearing none, the article does not pass.

20 Article 7. Article 7 is the nitrogen
21 control bylaw. The Board of Selectmen for a new
22 main motion.

23 CHAIRMAN MURPHY: Yes, Mr. Moderator
24 and Town Meeting -

1 THE MODERATOR: Okay, folks, let's go.
2 Article 7. Listen to the new main motion.

3 CHAIRMAN MURPHY: If we have this
4 motion, it would be helpful if we could put this
5 up while I make this new motion.

6 I'd like to, on behalf of the Board of
7 Selectmen, would like to change all section
8 letters from A to H to numbers 1 through 8.
9 Change all subsection numbers in the new section
10 5 to letters a to e.

11 Change the new subsection 4 to read,
12 "The application of nitrogen is prohibited within
13 100 feet of the resource areas as defined in the
14 Falmouth Wetlands Regulation W - pardon me, FWR
15 10.02.

16 Change the new subsection 5 to read,
17 "Application of fertilizer to golf courses,
18 except that any application of nitrogen on greens
19 or fairways within the resource areas referenced
20 in section 4.d., shall comply with the
21 recommendations set forth in section 6 and shall
22 use 85% or higher slow release water insoluble
23 nitrogen in organic or inorganic form."

24 And then finally: change the enforcement

1 officer in the new section 7 to the Director of
2 Natural Resources or his designee.

3 Thank you, Mr. Moderator.

4 THE MODERATOR: Could we get one more
5 copy of that over here, please.

6 [Pause.]

7 THE MODERATOR: Okay, any question on
8 the new main motion? Let's do questions on the
9 main motion, the numbers to letters - or, excuse
10 me, letters to numbers and then numbers to
11 letters, and then the 100 foot resource setback
12 and then changing the golf course exemption and
13 the enforcement officer exemption.

14 Mr. Hampson.

15 MR. HAMPSON: George Hampson, precinct
16 5.

17 Mr. Moderator, I have a second amendment
18 that I'd like to offer, which would be beneficial
19 to this project, and that is my feeling is that
20 things are going to change in Falmouth as far as
21 growing seasons and so forth. It's happened
22 already starting last year. I was planting grass
23 seed in February and I had it growing in March.
24 And there was actually I used eel grass on top of

1 the seed to accomplish this.

2 So, what I'm suggesting under D - I
3 don't know if this has changed, Performance
4 Standards. I'm suggesting an amendment: the
5 application of nitrogen is prohibited between
6 October 16 and April 14.

7 What I'm suggesting is that the person
8 in charge of the Department of Natural Resources
9 has the ability to adjust this rate in the
10 future. It's only common sense. It'll only be
11 good business for the future. And I can tell you
12 what we're going to have on Cape Cod is going to
13 be a climate of North Carolina before we're done.

14 And so that's what I have. My amendment
15 says: no fertilizer application between October
16 16 and April, unless specifically designated by
17 the Town Department of Natural Resources of the
18 Board of Selectmen.

19 And I say this in a positive way. I'm
20 on the same team. I do a lot water quality in
21 Megansett and West Falmouth; it's part of my
22 life. So I'm going to give you the amendment,
23 sir.

24 THE MODERATOR: You've got that in

1 writing? Thank you.

2 Okay, so what used to be D, which is now
3 number 4, this is where Mr. Hampson wants to add
4 the Amendment: "No fertilizer application between
5 October 16th and April unless specifically
6 designated by the Town Department of Natural
7 Resources or the Board of Selectmen."

8 Discussion on the amendment.

9 So, the slide that's up there is the new
10 main motion, and Mr. Hampson's amendment is the
11 first amendment on the article. Okay.

12 So discussion on the amendment.

13 Mr. Turkington.

14 MR. TURKINGTON: Eric Turkington,
15 precinct 1, Water Quality Committee. We promised
16 to come back; I didn't think it would be quite
17 this soon, but we're back. Mr. Hampson's motion
18 - the Committee has not had the opportunity to
19 review that, but I don't think the Committee
20 would have any objection to adopting Mr.
21 Hampson's amendment. It seems to fall within the
22 intent of or what the bylaw's trying to do.

23 THE MODERATOR: Okay. Further
24 discussion on the amendment?

1 Hearing none, the question will come on
2 the amendment. All those in favor, signify by
3 saying aye.

4 [Aye.]

5 THE MODERATOR: All those opposed no.

6 [None opposed.]

7 THE MODERATOR: The ayes have it
8 unanimous.

9 Discussion on the main motion.

10 MR. TURKINGTON: Mr. Moderator, Sia
11 Karplus, who has worked closely with the
12 Committee on drafting this, is here and would be
13 able to and willing to go through a section by
14 section analysis of this, if the meeting wants
15 to, and also capable and willing to answer any
16 questions if the meeting so desires.

17 THE MODERATOR: Okay, any questions on
18 the main motion as amended? Yes, to my right.

19 MR. YOUNG: Bob Young, precinct 5. I
20 don't really have a question for Eric or his
21 associate, but I do want to speak in support of
22 this article. I'm your representative on the
23 Golf Commission and the chairman of the
24 Committee, and I'm in favor of this amended

1 article put forth by Selectmen and ask for your
2 support.

3 We will protect recharge areas while the
4 same area golf courses, including our own Town
5 course, can abide by this bylaw. Area course
6 superintendents are aware of the issues in the
7 recharge areas and they agree to follow the new
8 bylaw guidelines as shown in the amended article.

9 I've spoken to several and, even before
10 this came up, they've already taken steps to
11 protect the recharge areas and organic
12 fertilizers and things of that nature.

13 So I support this amendment and ask for
14 your vote.

15 THE MODERATOR: Further discussion on
16 Article 7: hearing none, then the question will
17 - oh, oh. Got a question?

18 MR. MARSHALL: Joe Marshall, precinct
19 9. My question comes to the recommendations, and
20 I was curious to know where .5 pounds per 1,000
21 square feet and one pound, you know, over the
22 course of a season, came from.

23 THE MODERATOR: Mr. Chairman.

24 MR. TURKINGTON: Mr. Moderator, I

1 defer to Sia Karplus.

2 MS. KARPLUS: There's a program called
3 Falmouth Friendly Lawns that was enacted two or
4 three years ago and ran for a number of years and
5 the one pound per thousand square feet per season
6 and a half a pound per single application came
7 from those guidelines.

8 FROM THE FLOOR: [Inaudible].

9 THE MODERATOR: Mr. Soares.

10 FROM THE FLOOR: [Inaudible.]

11 THE MODERATOR: No, no, no, I recognize
12 Mr. Soares.

13 MR. SOARES: Reginald Soares, precinct
14 9.

15 Going further with the recommendation of
16 the use of the nitrogen, I think most of the
17 recommendations are a good idea and I would like
18 to use, if I may, make an amendment, using this
19 recommendation in place of performance standard
20 4.d., because of the following reasons.

21 I think I understand our attempts to
22 regulate nitrogen, however no nitrogen at all is
23 detrimental only in that I'm concerned that it
24 would cause degradation of the lawns, which are

1 often used as play areas. I feel that this
2 could lead to soil runoff into the ponds that
3 we're trying to save. Healthy grass holds soil
4 and produces oxygen.

5 I think most of these measures are all
6 good and I agree with them. I think that we -
7 the recommendations saying that we use a half a
8 pound of nitrogen per thousand square feet is
9 good and I'd like to make the amendment that we
10 use this recommendation again in place of
11 performance standard 4.d.

12 I think responsible use of nitrogen may,
13 as I say, avoid degradation of lawn areas.

14 THE MODERATOR: So you want to strike
15 4.d. and insert the language from the
16 recommendation?

17 MR. SOARES: Yes, sir.

18 THE MODERATOR: Okay.

19 MS. KARPLUS: May I speak to that?

20 THE MODERATOR: Yes.

21 MS. KARPLUS: The requirements of 4.d.
22 are to prohibit any nitrogen application in a
23 very specific area, and that area is 100 feet
24 from a resource area.

1 Lawns that are located within 100 feet
2 of that resource area have a couple of options
3 for actually inputting nitrogen. One is
4 recycling of grass clippings. When you recycle
5 grass clippings, you actually add about a pound
6 of nitrogen per 1000 square feet per year.

7 The other thing you can do is use a
8 compost top dressing, and that will similarly
9 input nitrogen to lawns that are located in that
10 resource area, but will not require the
11 application of a separate fertilizer.

12 The grass clippings and the top dressing
13 of compost are a slow release, slow release way
14 to achieve any nitrogen input without having to
15 fertilize on top of it. And that's why the
16 regulation is written this way.

17 THE MODERATOR: Mr. Soares.

18 MR. SOARES: Thank you. Again,
19 Reginald Soares.

20 I agree with the mulching with the lawn
21 clippings, but constantly top dressing a lawn -
22 and I had Falmouth Friendly people ask me this
23 years ago, to see was it practical. I thought
24 about it. I said, "No, unfortunately it's not

1 practical." You would raise the level of lawns
2 over years. Lawns already, with the thatch, get
3 higher. We see a lot of cottages that the lawns
4 are already higher in elevation than the base of
5 the house, themselves.

6 Top dressing, unfortunately, is not
7 practical. It's very hard to do. There are
8 machines they are making now to top dress lawns.
9 They're like old manure spreaders in lawnmowers.
10 \$3,000 for these machines. But ultimately my
11 point is that you raise the level of the lawns
12 and it's very hard to top dress a lawn without
13 smothering out some of the lawn, itself. You
14 have to be very careful.

15 But, again, I'd emphasize, my main
16 concern is you do raise the elevation of the lawn
17 by constantly top dressing it, and that is a big
18 concern on elevations towards the wood shingles
19 of a house. So, no, top dressing is not a great,
20 unfortunately, it's not a great option. Thank
21 you.

22 THE MODERATOR: Mr. Chairman.

23 MR. TURKINGTON: Mr. Moderator.

24 THE MODERATOR: Mr. Chairman.

1 MR. TURKINGTON: Mr. Soares' point is
2 well taken. I think that the language that we're
3 talking about here addresses only within a
4 hundred feet of a wetland or an estuary. It's
5 not the entire lawn.

6 And I will tell you how this piece got
7 in and why the committee feels so strongly about
8 it. When we were first created, we took a boat
9 ride with the Town Harbormaster through most of
10 the estuaries in the East Falmouth area, and
11 everyone of us was dumbstruck by the greenness of
12 the lawns of the large houses that have been
13 built along those water bodies.

14 I think so many of us live in this town
15 and we think, you know, there's small cottages
16 here and there, and that's not the way it is
17 along most of our estuaries now. They're large
18 houses with extremely green, extremely cultivated
19 lawns right down to the edge of the water. You
20 know, they've wiped out all the natural
21 vegetation and they clearly fertilize like crazy.

22 And the point of this bylaw is to say,
23 "In that hundred foot strip, right next to the
24 water, you can't do that."

1 THE MODERATOR: Mr. Donahue, did you
2 have something.

3 MR. DONAHUE: [No mic. Inaudible.]

4 THE MODERATOR: Let's get the
5 microphone, let's get the microphone, first.

6 MR. DONAHUE: Are we talking about the
7 amended motion?

8 THE MODERATOR: We're talking about Mr.
9 Soares' amendment right now, which is to strike
10 4.d. and insert the language from the
11 Recommendations section of a half a pound of
12 nitrogen per 1000 square feet.

13 MR. DONAHUE: What happened to Mr.
14 Murphy's?

15 THE MODERATOR: That's not an
16 amendment; that was the main motion, so you have
17 to deal with the -

18 MR. DONAHUE: I'm sorry. I thought
19 that was an amendment.

20 THE MODERATOR: So we'll go back to
21 that after Mr. Soares' amendment is dispensed
22 with. Yes, Mr. Patrick.

23 MR. PATRICK: Matt Patrick, precinct 7,
24 Water Quality Management Committee. I just

1 wanted to remind everyone here that we're going
2 to undergo a tremendous expense to remove
3 nitrogen, all forms of human nitrogen, from our
4 watershed to meet the total maximum daily loads.
5 It seems like a minor detail to ask our folks who
6 have green - who want to fertilize their lawns,
7 to limit that within 100 feet of a water body.

8 I know plenty of people, I'm one of 'em,
9 I've never fertilized my lawn; the grass is doing
10 fine. And I guess they call that a Cape Cod
11 lawn. So, let's move on. I say no on this
12 amendment.

13 THE MODERATOR: Okay, Mr. Hampson.

14 MR. HAMPSON: George Hampson, precinct
15 5. In order to make this work, folks, we have
16 to make some changes. We can't continue on the
17 same pattern that we've been doing in the past.
18 We should have a buffer zone between the house
19 and the water's edge. Why? Because it not only
20 is a way of having natural plants in that area,
21 but it protects the land in case of flooding.
22 And I've got news for you: we're going to have
23 more flooding in the future, also.

24 So we've got to make changes, and I

1 can't stress more than let this committee do what
2 they've proposed, because it's only going to help
3 us in the future. Thank you.

4 THE MODERATOR: Mr. Latimer.

5 MR. LATIMER: I'd just like to remind
6 everyone that the reason we have this bylaw
7 before us is because we have real problem with
8 nitrogen pollution. And we have to get an handle
9 on it.

10 Mr. Soares has offered a hypothetical
11 issue of well, maybe some people with kids want
12 to let their kids play on the grass, bla, bla,
13 bla. Well, that's not a good reason to exempt
14 anybody, on a hypothetical, when we're dealing
15 with a real problem as serious as the nitrogen
16 problem that we have. And it's getting worse.
17 Thank you.

18 THE MODERATOR: Mr. Netto.

19 MR. NETTO: Joe Netto, precinct 9.
20 Question for the chairman Mr. Turkington. Did I
21 miss something? There's no penalty. I support
22 the article, so I turn my neighbor in for putting
23 the nitrogen, where's the penalty?

24 THE MODERATOR: Mr. Turkington.

1 CHAIRMAN TURKINGTON: You're quite
2 right. There's no penalty. There is an
3 enforcement and there is a bylaw, and with your
4 help, Joe, we'll put a penalty on the next time.

5 MR. NETTO: Well, let's get the -

6 THE MODERATOR: There are penalties for
7 infractions of the general bylaw, so if this is
8 in the general bylaw, it should be subject to the
9 general penalty, is that correct, Mr. Duffy?
10 Okay.

11 So it would be subject to the general
12 penalty for violation of the bylaw.

13 Okay, so the question will come on the
14 amendment, Mr. Soares' amendment. All those in
15 favor of the amendment signify by saying aye.

16 [Aye.]

17 THE MODERATOR: All those opposed no.

18 [No.]

19 THE MODERATOR: The opinion of the
20 chair is that the no's have it by a majority and
21 we're back to the main motion. Any further
22 discussion on the main motion?

23 MS. BOTHNER: Mr. Moderator, Elizabeth
24 Bothner, precinct 2. My question has to do with

1 the enforcement. We often pass these kinds of
2 provisions and they sound very, very good, but
3 then there's always the problem of how they're
4 going to be enforced. Has that been carefully
5 codified so that - I can see there's a zoning
6 enforcement Director of Natural Resources who's
7 going to be the enforcement authority. But what
8 form is that going to take? Because, without
9 enforcement, we know well that people, many
10 people, will just ignore this bylaw. Thank you.

11 THE MODERATOR: Anyone want to address
12 enforcement?

13 CHAIRMAN TURKINGTON: Mr. Moderator.

14 THE MODERATOR: Mr. Chairman.

15 CHAIRMAN TURKINGTON: Like every other
16 bylaw we pass, I expect it's going to be
17 complaint driven and neighbors will see when
18 someone's violating the bylaw and will report it
19 and the Town enforcement agencies will come out
20 and - that's how every other bylaw in this Town
21 is enforced and I expect that's how this one will
22 be.

23 THE MODERATOR: Mr. Stecher.

24 MR. STECHER: FACES has been pushing

1 Falmouth Friendly Lawns for years. It's
2 basically the same things that's being proposed
3 now. It has worked for people who have complied
4 voluntarily with this thing and it could
5 certainly work for the rest of the town. I
6 don't think - and it's like, people who are told
7 not to water every other day or things like that.
8 Or not to water after seven o'clock. I think
9 there are enough - there's going to be exceptions
10 to everything. You're going to find people who
11 are going ignore it. But I think by far, the
12 vast majority will go along with it. Thank you.

13 THE MODERATOR: Mr. Shearer.

14 MR. SHEARER: Dan Shearer, precinct 6.
15 I want you to vote for this. I've been asking
16 for this. I've asked Friendly Lawns to bring
17 something like this up for years, and I really
18 think it's important. We have to prove to the
19 people we are really serious about this whole
20 situation. This is one step in doing it.

21 About enforcement, if anybody knows our
22 Director of Natural Resources, I think he will
23 get some respect. I have to look up to him, like
24 this.

1 The other thing, my question is how are
2 we going to notify the summer people of this?
3 Are we going to put it in a - if, and I hope it
4 is passed, are we going to put in their water
5 bill or how are we going to get a notice out to
6 everybody? Because I think that's the most
7 important thing, because what you're going to
8 hear is, "I never heard of this. I never saw
9 it." Thank you.

10 THE MODERATOR: Mr. Chairman.

11 CHAIRMAN TURKINGTON: For those of you
12 who've opened your water bill in the last couple
13 of weeks, you've seen we've already started
14 delivering messages through water bills. And in
15 fact this current water bill has a message in it
16 about eco toilets and about fertilizer use. So,
17 yes, that's a - it's a preferred vehicle by this
18 committee to get the word out and we send the
19 water bill out twice a year, so the next time
20 there's a water bill, we could certainly make
21 sure everybody knows there is a bylaw and here's
22 what it says and here's what you have to do.

23 THE MODERATOR: Let's not forget the
24 folks that are still on wells, as well. Because

1 there's a lot of well water around watersheds in
2 Falmouth.

3 Okay, any further discussion. Yes.

4 FROM THE FLOOR: Question.

5 THE MODERATOR: One more and then we'll
6 take a vote.

7 MR. MARSHALL: Joe Marshall, precinct
8 9. You know, I am an accredited organic land
9 care professional. I practice it professionally
10 and personally. I'm a firm believer in organics.

11 My biggest thing right now is obviously
12 is with the enforcement. Our DNR is a great
13 department; they do a lot of things for this
14 Town. I just don't think that there's enough
15 personnel to back this. I mean, the amount of
16 hats that the DNR wears nowadays is ridiculous,
17 and you want them to go around and chase people
18 after a heavy rain? That's pretty open-ended.
19 Who - what do you consider a heavy rain?

20 You want them to go out in between April
21 14th and October 16; that's when this town is at
22 the most hopping-ist. I mean, I've been
23 practicing landscaping, I've been landscaping for
24 18 years. I don't know every bag of fertilizer,

1 nor to I know the calibration settings on every
2 spreader that's going to tell me what is a half a
3 pound or a pound. You know, there's a lot of
4 training, with a limited amount of staff. I just
5 don't see how this is really going to be
6 enforced.

7 THE MODERATOR: Okay. All right.
8 This is a general bylaw, so it's a simple
9 majority. All those in favor of Article 7
10 signify by saying aye.

11 [Aye.]

12 THE MODERATOR: All those opposed no.

13 [No.]

14 THE MODERATOR: The ayes have it by a
15 majority.

16 CHAIRMAN TURKINGTON: Thank you very
17 much.

18 THE MODERATOR: Can we get one more in
19 under our belt before we go?

20 The Chair will take a vote whether or
21 not to do one more article before we leave. To
22 stay for one more article, signify by saying aye.

23 [Aye.]

24 THE MODERATOR: All those opposed no.

1
2
3
4
5
6
7
8

[No.]

THE MODERATOR: I'm not going to count
it. See you tomorrow night.
[10:55 p.m., whereupon this meeting adjourned.]

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF BARNSTABLE, SS

I, Carol P. Tinkham, a Professional Court
Reporter and Notary Public in and for the Commonwealth
of Massachusetts, do hereby certify that the foregoing
is a true and accurate record of Falmouth Annual Town
Meeting, taken by me on November 13, 2012. To the
best of my ability the within transcript is a
complete, true and accurate record of said Town
Meeting.

In witness whereof, I have hereunto set my
hand and Notary Seal this 2nd day of January, 2013.

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

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