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COMMONWEALTH OF MASSACHUSETTS

TOWN OF FALMOUTH

NOVEMBER ANNUAL TOWN MEETING

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

MODERATOR: David T. Vieira

TOWN CLERK: Michael Palmer

Monday, November 15, 2010

7:00 p.m.

**Tinkham Reporting
321 Head of the Bay Road
Buzzards Bay, MA 02532
(508) 246-5818
caroltinkham@gmail.com**

ANNUAL TOWN MEETING
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PROCEEDINGS

THE MODERATOR: Okay, would all Town Meeting Members present please come forward and take your seats.

[Pause.]

THE MODERATOR: All Town Meeting Members present please come forward and take your seats. Don't forget to sign in with our volunteers from the League of Women Voters.

I want to remind you that attendance will be published in the Falmouth Enterprise. I want to remind all Town Meeting Members to please identify yourself by name and precinct each time you speak.

I thank our transcriber and our sign language interpreters for being here tonight. I want to remind everyone that our proceedings are live on FCTV-13.

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

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

[Pause.]

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

MRS. TASHIRO: 46.

THE MODERATOR: 46.

In the third division, Mr. Hampson?

MR. HAMPSON: 69.

THE MODERATOR: 69.

And in the second division, Mr. Dufresne.

MR. DUFRESNE: 84.

THE MODERATOR: 84.

By a counted vote of 199, we have a quorum and I call the Annual Meeting into session.

All present please rise for the presentation of the colors from the Weeblos of Pack 41, followed by the Brian Baru Pipe Band.

[Song by Brian Baru Pipe Band.]

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

[Pledge of Allegiance taken.]

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

[National Anthem played.]

THE MODERATOR: I'd like to call forward our Personnel Director, John Martis, for the invocation.

MR. MARTIS: Good evening, everyone. Heavenly Father, may our meeting this evening be not only an exercise in care and concern for our community and its residents, but also an example of how a community can agree and disagree and still be a community. We ask you

to watch over and protect our family, our community, our nation and our world. May your gift of peace become a reality for all. Amen.

THE MODERATOR: At this time the Brian Baru Pipe Band will play Amazing Grace in honor of those members who have passed since our last meeting, and calling to mind Diane Thompson.

[Amazing Grace played.]

THE MODERATOR: Colors post.

[Pause.]

THE MODERATOR: Brian Baru Pipe Band, the Falmouth Town Band Brass Choir and the Weeblos, Boy Scout Pack 41.

[Applause.]

THE MODERATOR: We have a number of new Town Meeting Members. We just completed this past week our orientation. In a few moments, we'll be swearing in our new Town Meeting Members. But at this time the Chair would recognize the Chairman of the Board of Selectmen for a presentation. And I'd like to call forward our State Representative of the Third Barnstable District, Matt Patrick. Please come forward.

[Applause.]

CHAIRMAN PUTNAM: Matt, on behalf of the Board of Selectmen, we would like to present to you this Certificate of Appreciation in recognition of your 14 years of service to the Town of Falmouth as a

member of the Board of Selectmen and as a State Representative. Thank you very much.

MR. PATRICK: Thank you, Brent.

[Standing ovation.]

MR. PATRICK: Surprise, surprise. I did think I'd get a chance to speak tonight, although this is a surprise. I've given out so many of these in the past ten years, that it's a surprise to be on the receiving end of one.

But it has been 16 years, folks. Six years on the Board of Selectmen. Ten years as a State Representative.

In the words of baseball great Stan Musiol, "I'm the luckiest guy alive." Why? Because you empowered me to help people, which is what public service is, for the past 16 years. For me, every day was a day that I could do some good with your authority. Thank you. It was an honor and a privilege to serve you. And please join me in wishing David Vieira good luck in his new career.

[Standing ovation.]

THE MODERATOR: I want to personally thank Matt. When I called the Selectmen last week and said, "You know, during this transition, the first thing Matt said was, 'Anything I can do to help, anything my office can do to help.'" We're having a nice, clean transition as we had a clean race, and I learned a lot over the years watching Matt on the Board of

Selectmen and as a state representative.

So Matt, from me to you, thank you very much. Appreciate it.

At this time, the Chair would recognize the Town Clerk for the swearing in of our new Town Meeting Members.

CLERK PALMER: Would the following Town Meeting Members please stand as I read your name: John Flanagan, Judith Fenwick, Lindsay Hopewood, Carol Kenney, Susan Kingwill, Kathleen Murray, Mary Anne Peri, Susan Shephard, Eric Turkington, Peter Waasdorp, Brian Nickerson, Arthur Robichaud, Elizabeth Bothner, Ken Buesseler, Harriet Dugan, Lois Girard, Douglas Jones, Richard Latimer, Susan Smith, Robert Volosevich, Benjamin Van Mooy, Bernard Stecher, Diane Rieger, Janet Vacon, Robert McCormick, Maura McCormick, John Alves, Douglas Brown, Milton Kelley, Betty Lynch, Rebecca Moffitt, Harold O'Connell, Kathleen Palmer, Fred Ravens, Richard Sacchetti, Todd Bidwell, Paul Brodeur, Linda Davis, Donald Hoffer, Maureen O'Connell, Christopher Palmer, Barbara Schneider, Charlotte Tashiro, Scott Thrasher, Michael Anastasia, Ruth Brazier, Russell Ferreira, Lynn Majors, Michael Kasparian, Nicholas Lowell, Heidi Marotta, Kevin Murphy, Debra Rogers, Robert Young, Anne Dewees, Charles Eastman, Alan Fler, Daniel Frawley, David Moriarty, Jeffrey Oppenheim, Samuel Patterson, Julia Taylor, James Vieira, Gary Anderson, Margaret Borden, William Borden, David Braga, Kathleen Driscoll, Allan Fler, Herbert Luther, Carey Murphy,

Richard Swain, Henry Dick, Patricia Favulli, Louise Houle, Peter Johnson, Jane Perry, Camille Romano, Ronald Schlitz, Edward Schmitt, Robert Dion, Phyllis Day, Todd Duffany, Ernest Holcomb, Michael Holcomb, Clayton Jones, Michael Mueller, Andrew Putnam, Brent Putnam and Veronica Zylinski.

Please stand, raise your right hand, and repeat after me: “I – state your name – do solemnly swear and affirm, that I will faithfully perform the duties of a Town Meeting Member, according to the best of my ability and agreeable to the Constitution and the Laws of the Commonwealth of Massachusetts and the by-laws of the Town of Falmouth, So Help Me God. Thank you very much and congratulations.

[Applause.]

THE MODERATOR: At this time, I’ll read the officer’s return of the warrant. By virtue of this warrant I have this day notified and summoned the inhabitants of the Town of Falmouth qualified to vote on Town affairs, as said warrant directs, by posting an attested copy thereof in Town Hall and every precinct in the Town. Signed Constable Paul Burne.

At this time, the Chair would entertain a motion from the Chairman of the Board of Selectmen to dispense with the reading of the warrant.

CHAIRMAN PUTNAM: Mr. Moderator, I move to dispense with the reading of the warrant except for the Officer’s Return.

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

[Aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous. Mr. Clerk, I ask that the warrant become an official part of the record.

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

[Aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]

THE MODERATOR: The Ayes have it.

At this time, the Chair would entertain a motion for all Town employees who are not residents of the Town of Falmouth to have the right to speak on all issues before the Town Meeting. So moved. All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

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

MR. VOLOSEVICH: Robert Volosevich, Clerk/Secretary. In accordance with Chapter 40A, Section 5, Massachusetts General Law, and Article 43 of the Falmouth Zoning Bylaw, public hearings were held on October 5th on Articles 3 and 4 for the November 15th, 2010 Annual Fall Town Meeting and all those who wished to speak were heard.

THE MODERATOR: Okay. A couple of announcements. At the back of the auditorium we have our Town Reports; they're available on hard copy and on CD. We encourage folks to take the CD's; they're more economical for us and they're better on the environment. So, we've got copies there and we'll have some more tomorrow night if necessary.

And also, the request from the Falmouth Service Center. We know we're going to at least be here tomorrow night, so let's bring in some items for the Service Center. And I have a note that says "toilet paper; after all, we are talking about wastewater". So, but we do need some toilet paper, as well as other items, non-perishables.

And then, on Sunday, November 21st, they will be taking frozen turkeys and fixings between 1:00 and 4:00 at the Service Center out on Gifford Street. Again, November 21st, Sunday, from 1:00 to 4:00.

If all Town Meeting Members will go to the back cover of your

warrant book, we'll review the simplified Rules of Town Meeting.

Speaking and Voting. Registered voters, residents and taxpayers of the town may speak on any article in the warrant. Persons who are not voters, residents or taxpayers of the town may address the meeting only with the consent of a majority of those present. Only Town Meeting members may vote.

Motion and Amendments. Motions and Amendments may be made only by Town Meeting members. Two amendments will be accepted on any article. Long or complicated motions, and other motions which he shall so request, shall be presented to the Moderator in writing.

Reconsideration. Reconsideration will be allowed at any time during the meeting if the article does not involve the appropriation of money. If the article involves the appropriation of money, notice of reconsideration must be given within 30 minutes of the vote on the article. Reconsideration may then be allowed at any future time. The Moderator shall determine if the motion to reconsider is in order. Motions for reconsideration must be based on substantially new information not available to the Meeting at the time of the original debate. The motion to reconsider is not debatable.

Our hours of operation will be 7:00 on the first night; all subsequent nights at 7:00; and we'll close at 11:00 o'clock unless Mr. Hampson makes a motion to continue and we approve it by a 2/3rds vote.

We are going to begin tonight using the blanket vote. On the blanket vote, I will go through each of the articles on the Warrant, call your attention to the recommendation. If you'd like to debate the article or you want to see a different motion other than what the recommendation is, just stand up and yell, "Hold". The clerk will make a note of it. We'll go through the entire warrant once, I'll give you a brief description on the first round. On the second round, we'll just run through by the numbers and then we'll entertain a motion from the Finance Committee to pass all of the articles that were not held as recommended as the official business of this Town Meeting.

Article 1 to hear reports is a hold. Article 2, unpaid bills, is a hold by the Finance Committee. Article 3 –

MR. FLEER: Hold.

THE MODERATOR: Hold. Mr. Fleer.

Article 4.

MR. MURPHY: Hold.

THE MODERATOR: Hold, Mr. Murphy.

Article 5 will be a hold by the Finance Committee. Article 6, to vote to transfer \$15,000 from the Overlay Surplus Account for funding the ongoing state mandated property re-valuations of the town.

Article 7, to –

MS. FENWICK: Hold.

THE MODERATOR: Ms. Fenwick.

Article 8, to appropriate the sum of \$1,008,744 for the Town's share of Chapter 90 work on the highways.

Article 9 –

FROM THE FLOOR: Hold.

THE MODERATOR: Is a hold.

Article 10, to accept the provisions of General Law 59, section 57C for the purpose of adopting and establishing a quarterly tax payment system.

Article 11, the recommendation is indefinite postponement. This is to amend the local room occupancy tax.

Article 12 –

FROM THE FLOOR: Hold.

THE MODERATOR: Article 13, to authorize the board of Selectmen to petition the General Court for special legislation authorizing the Town to impose a room occupancy tax on vacation rentals.

FROM THE FLOOR: Hold.

THE MODERATOR: Article 14, to authorize the Board of Selectmen to petition the General Court for special legislation authorizing the Town to impose a room occupancy tax on time share interval ownership properties not currently subject to tax.

Article 15, the recommendation is indefinite postponement; it's

a hold by the Board of Selectmen.

Article 16, to appropriate \$30,000 from Certified Free Cash to fund the hospital, medical, and related expenses incurred by employees of the Fire, Rescue and Police departments.

Article 17, to vote to appropriate \$100,000 from the Reserve Waterways Fund for engineering, permitting, and minor construction and dredging of various projects.

Article 18, the recommendation is indefinite postponement. This is to appropriate a sum of money for the Superior Officer's Association.

CHAIRMAN ANDERSON: Hold.

THE MODERATOR: Hold by the Finance Committee.

Article 19, the recommendation is indefinite postponement for the Police Federation Contract.

Article 20, the recommendation is indefinite postponement for the International Association of Firefighters' contract.

FROM THE FLOOR: Hold.

THE MODERATOR: Who's holding this one?

Article 21, the recommendation is indefinite postponement for the American Federation of State, County, and Municipal Employees' contract.

Article 22, the recommendation is indefinite postponement for

the Laborer's International Union, AFL-CIO, Local 1249.

Article 23, the recommendation is indefinite postponement for the Falmouth Public Library Association Contract.

Article 24, the recommendation is indefinite postponement to appropriate a sum for the technical, administrative, management and permanent employees' contract.

Article 25, to authorize the Board of Selectmen –

FROM THE FLOOR: Hold.

THE MODERATOR: Okay.

Article 26, the recommendation is to change "proclamation" to "resolution".

FROM THE FLOOR: Hold.

THE MODERATOR: Hold.

Article 27, the recommendation is indefinite postponement to amend the Town's Classification Plan for police captains.

FROM THE FLOOR: Hold.

THE MODERATOR: Hold.

Article 28, to appropriate \$3,000 from Certified Free Cash to fund Menauhant Beach Nourishment Conservation Compliance expenses.

Article 29, to appropriate a sum for administrative expenses for the town Energy Coordinator; the recommendation is indefinite postponement.

Article 30, to appropriate \$35,000 from the Reserve Energy Fund to fund the implementation of energy conservation and renewable energy projects, including consulting, engineering, design and construction and other costs.

Article 31, authorize the Board of Selectmen to petition the General Court to establish a special act, a Falmouth Affordable Housing Fund.

Article 32, to authorize the Board of Selectmen to transfer the care and control of property from the Conservation Commission to the 300 Committee; this is land on Spring Bars Road.

Article 33, to appropriate the sum of \$142,985 from the Community Preservation Fund undesignated fund balance for the purpose of evaluating Megansett Harbor, Wild Harbor, Fiddler's Cove, Rands Canal, to establish nitrogen thresholds and nitrogen load limits.

Article 34, to appropriate the sum of \$1,172 from the Community Preservation Fund Historic Resources Reserve for the purpose of Historic Preservation of Fire Department Film records.

Article 35, to appropriate the sum of \$4,950 from the Community Preservation Fund Historic Resources Reserve for the purpose of Historic Preservation of Falmouth Public Library records from the 18th century through 1960.

Article 36, to appropriate the sum of \$30,000 from the

Community Preservation Fund Historic Resources Reserve for the purpose of historically appropriate window restoration at the Bradley House located at 579 Woods Hole Road.

FROM THE FLOOR: Hold.

THE MODERATOR: Who's holding? Okay.

Article 37, to appropriate the sum of \$267,600 from the Community Preservation Fund Historic Resources Reserve for the purpose of appropriate rehabilitation of the historic Davis House located at 3 Water Street.

Article 38, vote to appropriate the sum of \$77,188 from the Community Preservation Fund Historic Resources Reserve for the purpose of historically appropriate gravesite restoration at the Woods Hole Village cemetery located on Church Street.

FROM THE FLOOR: Hold.

THE MODERATOR: Who's holding that one? Oh, way in the back, okay, Palmer.

Article 39, to appropriate the sum of \$28,093 from the Community Preservation Fund Historic Resources Reserve, for the purpose of historically appropriate monument restoration at the Oak Grove Cemetery located at 46 Jones Road.

Article 40 will be a hold by the Community Preservation Committee.

Article 41, to authorize the Board of Selectmen to grant an easement to the trustees of White Sands Association Trust and the trustees of Nantucket Sound Nominee Trust.

Article 42, the recommendation is indefinite postponement to adopt the Town of Falmouth mitigation plan.

Article 43, vote to accept the provisions of Massachusetts General Law Chapter 80, Section 13B, allowing the Board of Selectmen to enter into betterment deferral and recovery agreements.

Article 44, to –

MR. BIDWELL: Hold.

THE MODERATOR: Hold, Mr. Bidwell.

Article 45 –

MR. WATERBURY: Hold.

THE MODERATOR: Who's holding?

MR. WATERBURY: Waterbury –

THE MODERATOR: Okay, Mr. Waterbury.

Article 46 –

MR. WATERBURY: Same hold.

THE MODERATOR: Hold.

Article 47 –

FROM THE FLOOR: Hold.

THE MODERATOR: Article 48. This is to amend the

Falmouth Code under signs.

Article 49 –

MS. DEWEES: Hold.

THE MODERATOR: Where are we at on this one? Okay,
Ms. Dewees.

Article 50, authorize the Board –

FROM THE FLOOR: Hold.

THE MODERATOR: Article 51, to accept the doings of the
Board of Selectmen in laying out of the Seatucket Road from Davisville
Road; the recommendation is as printed.

And Article 52 is a hold by the Finance Committee.

Okay, we'll go through one more time.

Article 1 is a hold. Article 2 is a hold. Article 3 is a hold.

Article 4 is a hold. Article 5 is a hold.

Article 6.

Article 7 is a hold.

Article 8.

Article 9 is a hold.

Article 10. Article 11.

Article 12 is a hold. Article 13 is a hold.

Article 14.

Article 15 is a hold.

Article 16. Article 17.

Article 18 is a hold.

Article 19.

Article 20 is a hold.

Article 21. Article 22. Article 23. Article 24.

Article 25 is a hold. Article 26 is a hold. Article 27 is a hold.

Article 28. Article 29. Article 30. Article 31. Article 32.

Article 33. Article 34. Article 35.

Article 36 is a hold. Article 37 is a hold. Article 38 is a hold.

Article 39.

Article 40 is a hold. Article 41.

FROM THE FLOOR: Hold.

THE MODERATOR: Article 42.

FROM THE FLOOR: Hold.

THE MODERATOR: Article 43.

Article 44 was held. Article 45 was held. Article 46 was held.

Article 47 was held.

Article 48.

FROM THE FLOOR: Hold.

THE MODERATOR: Okay. Article 49 was held. Article 50

was held.

Article 51.

And Article 52 was held.

Mr. Chairman for the main motion.

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

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

[Aye.]

THE MODERATOR: All those opposed no.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

Mr. Chairman.

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

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

Article 1, to hear reports of town officers and committees. I have quite a list, this evening. We'll start with the Beach Committee.

Does the Chair have a main motion?

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 1 as printed.

THE MODERATOR: Okay, as printed, to hear reports.

Mr. Hoffer.

MR. HOFFER: Good evening, Ladies and Gentlemen. I'm Don Hoffer; I'm the superintendent of the beaches in Falmouth and have done that for the last ten years, believe it or not. I'm here to clear up a few misconceptions about the beaches and also to express my concern for the future of Falmouth's beaches and the necessity for maintaining them.

First of all, people get the Beach Committee and the Beach Department mixed up. And we have a Beach Committee made up of five volunteers who do their best to help us keep our beaches in good shape; they're a great help to us. Unpaid volunteers.

We do have a Beach Department, of which I'm the superintendent, and I'm assisted by Bruce Morgado, a very able assistant, I might say, a veteran of many years on the beaches.

Our department has, for a ten week period, 87 seasonal employees. And of that, 55 are Red Cross certified lifeguards and 25 are parking attendants. And 80 of those 87 people are young adults, 16 to 22 years old. So you see we're heavily weighted in that area.

It might interest you to know that this past year the Red Cross named three of our lifeguards as heroes for their lifesaving efforts on our beaches.

We're responsible for ten beaches, and it includes the Grews

Pond at Goodwill Park and the Woods Hole Stoney Beach, which is owned by the Marine Biological Lab. We have clerks and fiscal clerks who sell stickers and take care of the fiscal responsibility of the beaches. We have Red Cross certified instructors who give swim lessons to about 300 young children every year. There's a few of them there [indicating slide]. We start at age four. We also train 25 lifeguards every year.

You might be interested in knowing that we have a – we compete in lifesaving competitions throughout New England. And we do very well most of the time, but as you will see from this series of pictures, once in a while things don't go exactly as planned and I'd like to say that we're advertising Falmouth even when the board flips up in the air like that.

[Laughter.]

MR. HOFFER: It costs the town about 500 to 600 thousand dollars a year to keep this Beach Department. In return, we provide revenues to the General Fund. For the period ending June 30th, 2010, we grossed \$979,000. As you can see from the diagram above, in the last five years we've netted \$1.4 million, approximately, to the Town.

We have no maintenance funds but I must say that the DPW does an admirable job of maintaining all our beaches. They're so helpful, all of the departments.

The beaches, as you can see, are a valuable resource to the Town. The Chamber of Commerce had a survey a few years ago that said

that the reason people come to Falmouth, the tourists, is for the beaches, the number one reason.

Now, we in the Beach Department and the Beach Committee are constantly trying to improve our beach-going experience for our patrons and tourists. Despite our high rating on the town's strategic plan, a minimum of capital funds have been expended on our facilities. This is our main headquarters at Surf Drive Beach. And I've got to tell you that other towns on the Cape are not standing still.

The next few slides here will show you some of the wonderful facilities that are at some of our neighboring beaches, such as: Seagull Beach, West Dennis Beach, Bass River Beach, and you may have read that Sandy Neck is going to get a brand new facility here in the very near future.

Finally – I know you're happy at that – the beaches are disappearing at an alarming rate, due to erosion. And the erosion is caused by storms, sea level rise and sediment reductions caused by shoreline development and by armoring. You can see that, at Wood Neck Beach, we have nothing but rocks. At high tide at Chappy, there's very little beach left. The water comes right up to the wall. The water is encroaching on our headquarters there at Surf Drive Beach, as you can see. Menauhant has terrible, terrible erosion. And if it wasn't for a federal grant by the Fisheries department, which got us 20,000 cubic yards of

sand, the west parking lot at Menauhant beach would probably be under water as I speak.

Even Old Silver Beach, which is capable of bringing in \$300,000 a summer, is starting to show signs of erosion. You saw that first picture we had? That was Old Silver Beach, and you could see the crowd that was there and we'll show that to you in a few minutes.

And, just to make matters worse, there are no natural feeder sand for our beaches. What that means is you have to buy sand. And that can be mined sand, upland sand, at \$20 a cubic yard, or dredged sand at \$10 a cubic yard. Beach, to us – excuse me, sand to the beaches is like painting your house or dredging your waterways or plowing your streets: it's a necessity for the maintenance of our beaches.

Now, I know there's some of you who will say that nourishing our beaches are a waste of money, and that may be so, but I say to you: if you lose that valuable resource – and you are losing it right now — I don't think that's going to be very good for the revenues of the Town.

Mother Nature will continue to erode our beaches, but we can slow her down with some well-planned nourishment projects. I know that you folks have many issues on your plate, very serious issues, but I just hope that when conditions, economic and so on, improve, that we can get a renewed commitment to our beaches to enhance the sustainability of our beaches to storms and sea level rise, to improve the recreational value of

our beaches, and to enhance the appeal for tourists to spend time and money in Falmouth.

Thank you, and I want to thank Bob Shea and George Trudeau for their help in helping this novice put this thing together. Thank you.

[Applause.]

THE MODERATOR: Okay, thank you, Mr. Hoffer. Any questions for the Beach Committee?

Okay, we'll move on to the Town Meeting Rules and Procedures Committee. Mr. Oppenheim is going to present on behalf of the Town Meeting Rules and Procedures Committee.

MR. OPPENHEIM: Mr. Moderator, Members of Town Meeting, I'm Jeff Oppenheim, Precinct 6, a member of your Rules and Procedures Committee. We meet before and after every Town Meeting. Our meetings are chaired by our Moderator and we wish to give a short report this evening.

Prior to the actual report, I'd ask that the committee members of the Rules and Procedures Committee stand as I call their name so that the new town meeting members and maybe some of the old town meeting members will be able to identify you. It's important that we as a committee are available to you to take your comments to the full committee to discuss them as they affect any rules or procedures of this body.

So please speak with one of our members if you have any suggestions. We are really open to comments and they will be discussed at the meeting.

Now for our members: Megan Jones, from Precinct 1, if you'd stand. Sandy Cuny, Precinct 2. Andy Dufresne, Precinct 2. Kevin Lynch, Precinct 3. Charlotte Tashiro, Precinct 4. George Hampson from Precinct 5. Dan Shearer, Precinct 6. Joe Apicella from Precinct 7. David Vieira from Precinct 8. Joe Netto from Precinct 9. Those are our committee members. You can all sit down now.

For several years, the Rules and Procedures Committee has been discussing a limitation of the time of the initial presentation both for and against warrant articles. At the Committee's September 30th, 2010 meeting, we voted to request the Moderator establish a rule limiting presentations to 15 minutes for both proponents or opponents of any warrant article. By a two-thirds vote of Town Meeting, this rule can be suspended to request a specific increase in time to finish an argument.

This rule will be implemented at the April 2011 Town Meeting. Although we may want to practice at this Town Meeting.

[Laughter.]

MR. OPPENHEIM: It was noted by one of our committee members that the highest court of our state, the Supreme Judicial Court, limits each party to 15 minutes in their oral arguments. In conjunction with

the implementation of this rule, the committee and the Moderator will provide educational opportunities to interested Town Meeting Members on how to present a cogent and effective argument within these time limits.

Respectfully submitted by your Rules Committee. Thank you.

THE MODERATOR: Thank you, Mr. Oppenheim.

So, as Mr. Oppenheim said, we're going to start by a call of the chair and recommendation of the Rules Committee next April that the main proponents of an article, when you come in with your PowerPoint and you're starting off the debate pro and con, that you be limited to 15 minutes. And that, if Town Meeting feels that the issue is large enough and there is enough information that needs to be presented beyond the 15 minutes, then you will vote to suspend the rule, and that suspension will require a two-thirds vote and that suspension will be for a specific allotted time.

So you can request an additional five minutes, or an additional ten minutes, and that's what the vote would be at the end of the 15 minutes.

So, we're going to give that a try. We're going to be available for folks if you need some help putting your presentations together to try to keep within that time limit, but we want to give it a try and see how it works.

Any questions for the Rules Committee?

The next one I have here is the Falmouth High School

Building Committee.

MR. JOHNSON: Mr. Moderator, I'm Donald Johnson, Precinct 4, Chairman of the Falmouth High School Building Committee.

Ladies and Gentlemen, Town Meeting Members, I hope you were able perhaps to see some of the pictures of the almost completed Falmouth High School as you came into the meeting. Tonight, we have furnished you a brown-colored one sheet with two sides to it, front and back, that contains seven major bullets and their related sub-items.

On the back, you have the full financial statement as we issue it each month as a part of our regular Falmouth High School Building Committee meeting.

I will take just a minute to comment on a couple of the items in the Progress Report. The major goals of this project that were presented in 2001 and 2002 have been achieved, although they have been long and hard and time-consuming in coming. School opened on time.

The Building Committee held an open house this past Saturday. Building Committee members were on hand to answer questions and current high school students acted as tour guides. About 100 people attended and they seemed to all come away pleased with what they saw.

There are some items left to be completed, and they are listed under "Pending Schedule" and "Pending Issues". A couple of items of note

on the reverse, which is called the “Budget Status” page. There are some negative balances and the Committee will be making some transfers and at the very close of this project from the Contingency Account, which is \$1,887,000, to adjust the budget amounts of these accounts.

We have no reason to believe that there are not sufficient funds in the overall budget to address the final close-out of this project. Judging from the comments received from the students, staff and public who have visited the renovated building, the Town now has the use of a top-notch educational facility. And we thank you for your patience and support.

[Applause.]

THE MODERATOR: Okay, any questions for the Building Committee?

MR. YOUNG: Bob Young, Precinct 5, I have a question for the Committee. Back in April of 2008, when we appropriated another \$18.8 million for this project, one of the items I noted was furniture, equipment and technology, there was a roughly – I don’t know, it was close to 100 percent increase from 2.2 million to 4.3 million. Now when I look across on line 9 and 10 of the Financial Statement, it looks like there’s still 928,000 left from Furniture and 416,000 left from Technology, for a total of 1.345 million that hasn’t been spent yet. Is that still to be spent, or will that reduce the total overall cost of the project?

THE MODERATOR: Mr. Johnson.

MR. JOHNSON: There definitely are funds available in the Technology area and in the Furnishing and the fixture area. We have finished all our major capital purchases for equipping the building, but there is – we're in a whole year of shakedown and there may very well be some other expenditures, but there will be balances in those accounts.

THE MODERATOR: Okay. Further questions for the Building Committee?

Okay. The next I have is the DPW Director for a DPW report.

MR. JACK: Thank you, Mr. Moderator. Good evening, everyone, Raymond Jack, Precinct 9, Director of Public Works.

I just wanted to take a few minutes this evening to brief you on a new program that we're implementing this year with regard to our computer systems. It's known as a computerized maintenance management system. It's actually part of a strategic asset management program that is circulating throughout the U.S., which essentially means that you're taking the hard assets of a city and/or town and trying to evaluate them for replacement/repair in a cost effective manner as opposed to the general-type replacement that has been done in the past.

So, this is a very sophisticated and complex system and these components here are not the divisions of the Department of Public Works. These are actually the major components of a computerized maintenance

management system, and I'll be talking about each of them momentarily.

The most basic component is a work order, and I know that seems very, very simple, but in a system like this, and especially in a town the size of Falmouth, we need to be able to track all of the work that we do.

Everything from a simple pothole to a complete reconstruction of a road, in order to be able to analyze that data later and determine what our actual effectiveness and efficiencies are, what the costs are going to be, and it will assist us in budgeting and planning.

So, it seems simple, but every single work order that we do now is going to be linked to an asset. That asset could be a home, it could be a building, it could be a street or it could be a main. Along with it, other things that will be linked to it could be the entire history of that particular facility or that road. You can include photos, maps, time and material costs for every job that we do.

On the road system, rating versus analysis. We had a system before that was able to give the Town a PCI rating, which means that a road was evaluated based on its surface features and then the system would give it an evaluation rating between zero and a hundred, and that was our basis for – that was our only basis for determining which roads were going to be upgraded, which ones were going to be maintained. This one is going to be able to provide us with risk analysis; we can determine the costs of failure; the length of time before failure. Be able to analyze

varying methods of improving a road in order to try to get it the most cost effective for a given situation that would be very site-specific. And that also includes everything alongside the road, signs, sidewalks, as well as everything under the road which the other system did not do. So, water main, storm sewer and sewer mains are also going to be able to be analyzed the same way.

Facilities. Facilities could be anything. Could be a building, could be a property, could be a park. It includes structures and whatever is in that structure. So, if it's a building, it'll include all the information about the HVAC system, any pumps, motors, controls that it has. You can include all of the electrical diagrams for the building if you wanted to.

For the High School, you can include all of the original architectural drawings that would be linked to that facility so that all the information is in one place at one time.

As well for a Gaspe 34 reporting, we are required to have valuations for all of our facilities and all of the equipment that we own. And that, too, will be incorporated into the system.

Fleet, it allows a much improved system of scheduling our fleet maintenance and it can be automated so the system is telling us what needs to be done, and how. It'll include all repair costs, time and material costs. So that as we go to come before Town Meeting for additional fleet vehicles, it will not just be on a time increment, like every seven years

whether it needs it or not, or every 100,000 miles whether it needs it or not. What's going to be coming into play is the question: does the vehicle really need to be replaced, and is it at a point where it's cost effective to do so?

Water and wastewater. Pipe replacement analysis. And I know many of you do not know this, but on many sewer systems when we have problems in the sewer system, as we do down in the Woods Hole force main, we can send a weasel down there with a T.V. camera on it and it'll photograph the entire interior of the pipe. So it reads out like a movie where you can see where the problems are.

We're going to be doing that and this system is capable of taking those videos, attaching it to that pipe, so that whenever we look at a section of pipe on the system, we'll have all the data associated with it. And the videos and archive data will also be included.

This is the beginning of a road system. This would be on a computer out in the field which we have already acquired, so this is going to be starting up at the end of this month. But this is a pavement rating system; there are 19 rating conditions that are assigned to a road, as well as a number of other factors. So, literally, we will be evaluating each and every road of the 400 miles of road that we have in order to plug them into the system over time, and we're starting out with the three and five year capital roads that we're doing so that we can start analyzing them for the

next round.

Once that kind of information is input into the computer, these are the types of things that start coming up. You can see that you have three different color codes there. The rating is from zero to a hundred. And then, on the map on the right, it's a little hard to see the red, but all the roads start to become color-coded, so it's very clear to see, even on the map, which roads need what kind of rehab.

Then you see some information down in the left-hand corner, with a number of different tabs on it there, where you can do a value rating, you can do a risk analysis, and you can bring up any and all information about that road. So it's going to be a heck of lot more sophisticated in the future and much more cost effective.

This is part of a simple work order program. So, as you can see, it's not as simple as it appears. If you were to call in, this is the information that whoever's receiving the call would be looking at. So they're going to zero in on the location that you give them on the phone. And this is through our GIS system, which is fully integrated within the whole program.

Then there are number of different pop-up menus that will come up. On the one on the far right, it says the form view, and then they have assets located behind it. Up on the top, it says a service call form, and there's a number of different filters and reports that you can do on that

particular location and this could be a house, this could be a building. It could be just a road. And then all the attributes of that location are located along the left-hand side. So it's very, very sophisticated.

This is just to obtain a meter reading. And that's how much information is actually acquired in order to accomplish that.

This is just a highlight of that GIS map that you saw, there. And what it shows is that if a problem is developing in a geographic area, when you call up and say that you have rusty water or you have a problem with the trash or something like that, all other work orders in that geographic location are going to start coming up there, to let the person in the office know that we may have a systemic problem developing and it may not just be restricted to you.

This is coming soon to a theater near you. Hopefully we'll be able to implement this portion of it over the next several months, but this way you'll be able to access our work order system through service requests 24 hours a day, 365 days a year. You would just log in with a user name, you would create your own user name and I.D., you would log in. It's relatively simple, so you don't have to navigate too far.

You don't even have to know which department you need. We'll be able to figure that out once we've received the request. But you can do this 24 hours a day and then, first thing in the morning, we'll be able to evaluate these. You can come back and look at it and track the

condition of your work order or your service request to find out when it's being scheduled, has it been assigned, has it already been completed.

Where we are now? We've just completed a lot of Phase One. And this is a system that actually takes anywhere from months to years to fully developed, so there's number of people that played a very key role. IT was very closely engaged throughout the process in acquiring the software as well as the training, the management. And Bob Shea, our GIS coordinator. Tom Pucci of IT. Our Business System Manager Kathy Marks. All our division heads.

Thus far, we've gotten through Phase One, which is now we're developing the data; a lot of the training has already been completed.

Second Phase actually can take a very long time. These assets are very sophisticated and it's a lot of information. It's going to take a lot of time to put it in there. All the information about our roads, our mains, buildings, parks, everything is going to get loaded in there over time. The information will be valuable immediately, however, so we'll be able to start using it later on this year.

Establishing benchmarks. Once the data is put in, that's when we can start establishing benchmarks. Benchmarks are important. They are ratios of performance that are based on some kind of unit of measure. And it can also be against yourself. You establish a baseline today that you can lift 100 pounds of weight, and then you see where you go in the

future: are you lifting more or are you lifting less?

Phase three is going to be coming next year, and it's going to take a couple more years beyond that, but then we'll be able to actually perform data analysis on all of the information in order to determine what our efficiencies are, and we'll be able to develop much more improved budget forecasting and project management techniques.

What are the reasons why we're doing this? If you don't know where you are, you can't know where you're headed. If you don't know where you're headed, you won't know when you get there. And if you don't measure your results, you won't know if you succeeded. It's really that simple. And it may seem simple, but for all of the data and information that we have to manage as a Department of Public Works, it is massive and there's really no way to do that manually. So this is a tremendous program where we'll be able to measure our success through our efficiency and provide overall accountability.

If I stand up here before you asking for something, you will know why; exactly why, from a financial perspective and a management perspective.

The "so what?" question. Some may say, "Well, so what if we did and/or what if we didn't?" We're going to have improved efficiency and efficiency actually relates to the quantity of work that we perform.

Improved effectiveness. Effectiveness is more along the lines

of quality, and that's measured against our goals and our standards, because you can produce a lot work, but if it's sloppy, who cares?

Improved communication. Not just communication within divisions, but communication within the town and communication with you.

Improved coordination. It's already seen a dramatic improvement on coordination through multiple town departments, not just the Department of Public Works. We've come a long way in consolidating our resources to make the best use of what we have, but we're going a very long way in being able to work with the rest of the Town departments through systems like this.

And that was it. Any questions?

THE MODERATOR: Okay, questions for the DPW? Yes, Ms. Lichtenstein?

MS. LICHTENSTEIN: Leslie Lichtenstein, Precinct 8. I'd like to thank the DPW for being really great when I call up and ask them to come and get trash that unthinking people have left on our Falmouth town conservation lands.

But I would urge them to please put all of our conservation lands in, because when they call me up and say, "What are the coordinates?" it's like, "I can run out with my Magellan and say, 'Well'" – you know. But I don't always know it. Could that be one of the first things

you guys put in there?

MR. JACK: They actually already are.

MS. LICHTENSTEIN: Oh, they are. Okay, thanks.

MR. JACK: Yes.

MS. LICHTENSTEIN: Fantastic, thank you.

MR. JACK: Thanks to Bob.

THE MODERATOR: Good job, Bob.

Anything else for the DPW? Okay.

MR. JACK: Thank you.

THE MODERATOR: Thank you.

Our next report is the Comprehensive Wastewater Plan Review Committee.

MS. VALIELA: Thank you, Mr. Moderator. Virginia Valiela, Precinct 5 and Chair of the Comprehensive Wastewater Management Plan Review Committee. I'm waiting for my slides. There I go.

This is an overview and an update for the Town Meeting Members and for the viewers at home of what the committee has done in the last eight months, and it summarizes a report that we provided to the Selectmen on November 1st.

First slide. The Town has a nutrient problem with its coastal waters. The worst areas are the estuaries that have very small outlets. The largest contributor to the nutrients in these coastal waters is septic

systems. The state Department of Environmental Protection and the EPA have mandated that all coastal towns must address this issue, and they have provided some tools for us to work with. In particular, standards to meet for each estuary.

Each estuary is distinct. It has its own watershed and its own total maximum daily load limit, which is the target that we have to meet.

Next slide, please. This slide and the next slide are going to show you the five different recommendations that the Committee made changes from the 2009 draft comprehensive plan that was presented to the Selectmen.

To orient you, each of these blue lines is the watershed of the estuaries that are down below. These are the entire watersheds, some of which go outside the Town of Falmouth. Route 28 is right along in there, and then up to here.

The first recommendation that we have made to the Selectmen is that the sewer area, the area that would potentially have centralized sewers, is reduced. We find no reason to sewer Falmouth Heights outside of the Little Pond watershed, or North Scranton Avenue on the other side. Both of these areas discharge to Vineyard Sound.

We also find no reason to sewer this area, which is called Waquoit East, because the population density is too low. There are other ways to approach nutrient management in that area.

Our second recommendation is that construction on centralized sewerage should begin at the western end of the project area. The project area as a whole is what is in color there. Because we have documented high concentrations of nutrients in the groundwater and we have documented the problems with Long Pond – I'm sorry, Little Pond and Perch Pond.

At the same time that we would be focusing on the centralized sewerage in this first phase, we would be recommending demonstration projects on these peninsulas that are farther to the east, to see if it is possible to reduce the nutrient loading to these coastal ponds without actually having to sewer. And I will come back to that in a minute.

This is a phased approach, in terms of construction, and the demonstration projects would be proceeding on a parallel track with the first phase of the centralized sewerage in the Little Pond area.

Thirdly, we recommended that the existing wastewater treatment plant be the site for treatment, and not a new plant at the Massachusetts Military Reservation. We found that the existing plant is more than 50 percent underutilized; that there is plenty of land should there be a need for expansion; and that it is more economical to operate one plant than it is to operate two plants with two staffs and two backups for everything that would be required.

So, it is definitely more cost effective to use the West

Falmouth treatment plant.

Next slide, please. This is the watershed and sub-watersheds for the West Falmouth Harbor. This has an established regulatory limit, and currently discharge to West Falmouth does meet the TMDL now that the plant has been upgraded. These dark blue areas are zones of contribution to our wells and the sort – it's actually striped, those are the watershed areas. And then here you have Route 28 running north.

Because of the Committee's knowledge of the town, we were able to suggest to the engineers several additional sites where treated wastewater could be discharged, thereby spreading the discharge over a larger area. Those new sites are one just north of the wastewater treatment plant, site 7; on Sandwich Road under the parking lots; and possibly the playing fields at the Dupuis parcel, it's called, on Sandwich Road; the Allen parcel, which had 14 acres that were designated for municipal purposes.

In addition, the engineers were under the conception that the Falmouth Country Club could only have small use of this area. It actually is a much larger area that is available and there also is better use of these other two parcels there and there. So we increased the areas to be discharged.

You will notice that all of these discharge sites are outside of the Zone 2's and the watershed areas, so there is no conflict, present or

future, with wastewater discharge and our water supply.

Our fifth recommendation is that all of these sites be used because they are outside of the West Falmouth watershed. If more discharge were placed within the West Falmouth watershed, then it would be necessary to sewer West Falmouth. We believe there are enough discharge sites outside of the West Falmouth watershed so that the effluent can be discharged without triggering sewerage for the West Falmouth community along here.

Next slide, please. At our public meetings, there was strong support for demonstration projects for alternative methods to remove nutrients from the groundwater. You see here quite a list. All these need to be investigated carefully and we are proposing that they be funded. And, let me see, okay.

Next slide, please. In order – the total cost, now, for Phases One and Two, beginning with the sewerage in the west part of the project area, Davis Straights, Maravista area, is now \$290 million. The original number that we started with was \$400 million. This number is still huge. However, we have looked at ways to fund this project, and tried to fit the funding to the Town's capability to bond. The first piece of the funding will come, starting next spring, in the Spring Town Meeting. As the Town retires debt in the next four years, \$15 million will be retired, we are recommending that that \$15 million be issued as new debt to fund the

demonstration projects and the sewer design.

The Town will apply for the state zero percent state revolving fund loan, and that will come as a vote of \$100 million in 2014, but contingent on the fact that we have been awarded this loan. If there's no award, then we do not proceed. The following year would be a hundred million dollar bond authorization to construct. The actual repayment of the bond would be a combination of taxes and betterments. The proposed betterments that we have tried to make as manageable as possible for property owners is \$705 a year, and that's per sewer unit for – and it's spread over a 50 year period.

Next slide, please. The next steps in this in the next few months we would believe this is where the Town should be focused. First is to pass Article 50, which will be discussed tomorrow night, for special legislation. This provides additional financial tools to help reduce the impact of the betterments on those households that are connected to the sewer.

Second, that the Selectmen review the action plan that we provided them on November 1st, that they discuss this in December and authorize the engineers to go forward and finalize the draft comprehensive wastewater management plan and send it to the state. So that we can move to the next step in this whole process.

Third, that the Selectmen appoint we've called it a Blue

Ribbon Committee. There are a lot of important ideas about how to charge the betterment. That needs a focused discussion. We believe a committee for about six months would be able to get its arms around this and come back to the Town Selectmen and ultimately to Town Meeting as to what the fairest way to establish the betterment.

The betterments has been the subject of a considerable amount of misunderstanding. A lot of people thought they would be paying the betterment even though they're not in the sewer district. So, there's both public education needed, but also a community discussion as to what will be the fairest way to assess that.

Ultimately Town Meeting has the vote.

Thirdly – fourth, I'm sorry, there will be an article in Town Meeting to create a standing committee. This wastewater issue is going to be with the Town for decades to come. You need a standing committee that can follow the issue and keep us focused and on track.

At the Spring Town Meeting and then subsequently at the May election, will be a debt exclusion vote for six million. Remember I mentioned that there is \$15 million of old debt that will be retired and we're proposing \$15 million of new debt. That has been broken into two pieces: six million to be voted next spring and then the nine million in 2013. The committee has made a proposal as to how this six million should be spent.

We have provided that to the Selectmen and it is also on our website and

there will be much more discussion between now and the spring. But it is basically the demonstration project, repairs needed to the sewer system, and 30 percent design of the first phase that needs to be constructed.

Next slide. That's our vision. We're looking for a healthy environment and a prosperous coastal community.

Thank you, Mr. Moderator.

THE MODERATOR: Okay, discussions for the Plan Review Committee? Microphone down here in the center, please. Okay, we'll start there and then down here. We'll get you next.

MR. NICKERSON: Brian Nickerson, Precinct 2. Virginia, you mentioned in your discussion the issue of nutrients, and – I'm going to stay over here so I can hand it back –

MS. VALIELA: Sure.

MR. NICKERSON: – and I usually translate that to mean nitrogen and other kinds of nutrients. And it does seem, even with a lot of people talking about alternative plans, that really the focus is the nutrients and the focus is nitrogen, and I'm just a little bit concerned that there are other potential contaminants that, in ten years' time, we may find are more important, such as pharmaceuticals, steroids and other non-nutrient chemicals, you know, cleaning compounds, et cetera, that go into our system and go into our drinking water and go into us again and have impacts on us, antibiotics, et cetera.

I guess two questions: one, did the committee take a look at that, number one; and if it didn't, do you think the recommendations might be crafted differently, if that was — if those other kinds of potential contaminants would get an equal weight to nitrogen?

MS. VALIELA: Yes. Potential contaminants was discussed. It came both out of public comment and also from the committee, itself. I want to emphasize again: all of the discharge sites that we recommended are all outside of the drinking water, both watersheds and certainly the zones of contribution. We did not want to run into that conflict.

THE MODERATOR: Okay, the gentleman in the center, here, with the sweater on. Yes. Right here. And then Ms. Siegel.

MR. DONAHUE: Robert Donahue, Precinct 3. Virginia, I am concerned with Falmouth Heights. I believe – I've heard rumors to the effect that if we include Falmouth Heights, which does discharge into the harbor, that that will throw your numbers totally out and in fact it will require that we enlarge the capacity of the treatment center to be able to take care of the overall plan; is that true?

MS. VALIELA: I would say generally no. If you want to put the map back up – one more back. Here we go. A portion of Falmouth Heights will have to be sewered because it's part of the Little Pond watershed and the Davis Straights area; it depends on where you draw the line for Falmouth Heights. So that – so some of Falmouth Heights has to

be sewerred. But there is a – this portion, you might say this triangle, that discharges either to Vineyard Sound or into the well-flushed harbor, Falmouth Harbor, that from a TMDL, from a regulatory point of view, we are not aware of any need to sewer that area.

You're saying, well, at some point in the future, would it have to be sewerred? We don't see that. We don't see that at this point, and in fact the line of thinking for the other estuaries is to open them up so there is greater flushing, so that you have the same sort of flushing that you have in Falmouth Heights.

THE MODERATOR: Ms. Siegel.

MS. SIEGEL: This committee has done an incredible amount of hard work and they've done it with an incredible amount of intelligence and sensitivity. And they deserve the Town's thanks. Thank you, Virginia.

MS. VALIELA: You're very welcome. The committee thanks you.

THE MODERATOR: Mr. Stetcher.

MR. STETCHER: Bernie Stetcher, Precinct 3. I just want to know the time frame is when the \$300 million is going to kick in? We've been talking 15, 16 million, and we're talking \$30,000 to pay for a home that's going to be actually sewerred. When is that betterment going to start?

MS. VALIELA: Okay, the construction is done in a phased

approach. In your packet that came with your Town Meeting warrant, there should have been a facts sheet and then there's also an addendum, and on the back of it is a time line. And the reason that I'm pointing this out is that the Town will have debt retiring at various times -- 2024, I think, is the next time -- and there's a piece in 2030 or 2036. As debt is retired, the Town will be able to do some of the actual -- the additional borrowing that finally gets up to the 300 million that you're talking about.

A key piece is the zero percent loan from the state; that is the key piece. In order to get that, we have to have an approved comprehensive wastewater management plan. And we have to have design of the first phase that we're intending to sewer.

THE MODERATOR: Okay. Thank you.

Board of Selectmen.

CHAIRMAN PUTNAM: Thank you, Mr. Moderator. Good evening, ladies and gentlemen. As Chairman of the Board of Selectmen, it is my honor and pleasure to present to you this report from the Board. We will review three major topics: actions the Board has taken since April Town Meeting, our budget policy statement, and the major courses of action the Board is recommending at this Town Meeting.

Next slide, please. Just six months ago, there were concerns throughout the town about the Board's ability to work together and to get things done. We recognized this and we addressed it. This is perhaps a

simplistic equation, but it highlights the major steps that we took. On the recommendation of then Chair Mary Pat Flynn, the Board, in June, attended a leadership conference sponsored by the Massachusetts Selectmen's Association. At our annual retreat, in July, we put our time and energy into the leadership and public trust section of the five year strategic plan. In August, we established the Board's first ever Code of Conduct.

We have actively worked to resolve our differences and to work together better. This is not to say that we agree on everything. We discuss and debate issues, sometimes vehemently. But the Board has moved past the strife that has marked prior years.

We may not always agree. Indeed, many of the things the Board is supporting at this Town Meeting were not unanimous decisions. But we now agree to disagree, and to support the decision of the Board, whatever that decision may be.

I would like to thank the members of the Board for their efforts. It has been a pleasure working with you this year.

Finally, as you all know, our now former Town Manager, Robert Whritenour, tendered his resignation this past week and the Board accepted it. We thank Mr. Whritenour for his years of service to the Town and wish him well in his future endeavors. As per Section C5 13(B) of the Town Charter, the Board has confirmed the appointment of Assistant Town

Manager Heather Harper as Acting Town Manager, and we thank her for stepping up into this role.

Next slide, please. The results of these changes has been most visible in the way the Board conducts its business. We no longer meet for the sake of meeting. We devote one meeting per month to a discussion, a workshop, of a major issue. The budget, waste, both wastewater and solid waste, and coastal resources have been addressed thus far. Joint meetings and policy discussions have become regular items on our agendas, and we have even gone so far as to review, update and, where needed, retire old policies. In short, we are putting our time and attention on the big picture items and moving away from the minutia.

At one of the recent precinct meetings, a town meeting representative asked, "What's the plan? How is the Town going to continue to provide services? Police and fire, snowplowing and water, inspections and education, in the face of a slow economy, continued cuts in state aid and rising expenses?" Well, there is no white knight. We will manage this by addressing the shortfalls, improving the financial stability of the Town and becoming more efficient in the delivery of services.

You will notice as we go through the next several slides that there are common, overlapping themes in our policy.

The state has reduced Chapter 70 school funding. They've slashed pilot payments for the 24 acres of state owned land in Falmouth.

They've eliminated regional library funding. As you can see from this graph, which shows our state revenues over the past six years, we can't count on the state. At the local level, receipts of local taxes, such as excise taxes, have also fallen. Although Falmouth has not suffered such drastic cuts as some communities in the Commonwealth, these cuts have, nevertheless, created budget shortfalls.

The budget policy addresses these shortfalls in three ways. The first is to limit growth. There is no plan to ask for a Proposition 2 ½ override. In fact, budget growth for Fiscal Year 2012 is limited to 1.5 percent over Fiscal Year 2011. Although this might seem like an increase, 1.5 percent is hardly enough to keep up with our expenses. For example: this year we must provide \$250,000 to meet the state-mandated contributions to the Town's Retirement Fund. And, if nothing changes, an additional \$800,000 for health insurance premium increases.

The second piece is to begin the costing of services. This policy requires program budgeting, which is the first step in that process. Program budgeting looks at the cost of individual programs, providing us with a yardstick by which we can determine if any program is receiving too much or too little funding.

Finally, we seek to add additional revenues. Very simply, the less dependent we are on the whims of the state, the better.

Earlier this year, our outside auditor presented the Board with

some rather sobering facts. In 2003, Falmouth had more Free Cash than 95 percent of the communities in Massachusetts. At the end of Fiscal Year 2010, we had just \$32,000. At around the same time, one of the major bond rating agencies reduced Falmouth's bond rating. It wasn't much, but it was enough to get our attention. A strong bond rating and an adequate safety net are not optional. We must maintain our ability to borrow at reasonable rates and have rainy day funds available for emergencies.

In order to improve Falmouth's fiscal stability, we recommend new local options taxes. However, our policy requires that any new revenues will not be immediately factored into the Operating Budget. A minimum of 25 percent of new revenues shall be allocated each to the Stabilization Fund and for capital expenses.

It is not enough to ask for new taxes. We must also develop more efficient ways of doing business, and our policy seeks to improve efficiency in a number of ways.

The first is health insurance. There are new, less expensive health insurance plans available to our employees, but these plans must be adopted by the unions. The Board encourages this. These plans would save Town employees hundreds of dollars in premiums annually and give them more control over how they spend their health care dollars.

If adopted by every union, the aforementioned \$800,000 increase in premiums would be unnecessary.

As previously noted, this policy requires program budgeting, so that we can fully understand the cost of Town services. Only when we know the cost can we determine if there is waste or a cheaper alternative.

Which brings us to the last bullet. The Board is encouraging the ongoing exploration of regionalization, consolidation, outsourcing and privatization. For example, the Town and the schools both have Human Resources, Finance, Library and janitorial services. Towns such as Plymouth and Barnstable have saved hundreds of thousands of dollars by merging these duplicate departments in their communities. Falmouth could, too.

Finally, I would like to draw your attention to the warrant. Each of the articles mentioned is recommended by the Board as part of a larger plan. For example, the Affordable Housing Fund dovetails into the Town's Housing Production Plan. It will help facilitate the production of affordable housing so that we may meet the state-mandated ten percent. There is direction here.

Next slide, please. Just a few weeks ago, one town meeting representative told me, "I feel like this Board is listening to us." It was a wonderful compliment. There is perhaps no better example of this than Articles 25 and 26. In years past, petitioner's articles were the red-headed stepchild of the warrant. Prior boards would place them at the end and recommend only indefinite postponement based on an unwritten policy.

This time, the Board specifically placed these articles in the middle, listened carefully to the petitioner's arguments, and made recommendations based on the facts, not unwritten policy.

In summary, we are working together on major issues and we are listening to you. We heard your concerns and we are making every effort to address them. That should give you something to smile about.

That concludes my presentation and I would be happy to take questions.

THE MODERATOR: Okay. Questions for the Board of Selectmen?

CHAIRMAN PUTNAM: Thank you.

THE MODERATOR: Okay, our final report of the evening, Finance Committee.

CHAIRMAN ANDERSON: Good evening. I'm Gary Anderson from the Finance Committee. I know in the past I've been accused of spreading gloom and doom, so I'm going to start tonight's presentation on a positive note, praising our Town Meeting Members and our Town leaders. You have performed admirably and courageously in making difficult but necessary financial decisions which have affected town services and town employees over these past couple of years.

You've cut budgets. You've held firm against increased spending, and you've supported efforts to encourage and require town

leaders to become more accountable for financial results. As a result, our town has experienced a modest financial success.

We faced the big problem with the revenue shortfalls in Fiscal Years '10 and '11, but we cut the Fiscal Year '10 Operating Budget by \$3 million, and we resisted any new spending in the Fiscal Year '11 Operating Budget. Now we've been rewarded with \$1.1 million of Certified Free Cash available this fiscal year.

The Finance Committee applauds your decisions and firm resolve to take a key step toward financial stability.

Unfortunately, here is where the however comes in, and it's a big however. We responded well to a crisis. However, in no way does this response mean we have achieved financial stability.

Let's look at our current reality. The federal government stimulus funds are essentially all gone. Statewide, \$700 million has been cut from local aid to towns in the past two years, with more reductions coming. The funding towns enjoyed before the financial collapse will not return any time soon. It's clear that towns like Falmouth need to become more self-sufficient and less dependent on the state and federal governments for revenue. This is the new normal.

The key issue I want to speak to tonight is the proposal in this warrant to adopt certain local options taxes. One to increase the hotel/motel tax by two percentage points and another to impose a new .75

percent meals tax. It's a good thing for Town Meeting to deliberate and debate these issues, but there are some groups in town already meeting and planning how to spend these potential windfalls.

Other groups see these funds as an opportunity to return to the spending levels of two years ago. The reality of it is we are still very deep in the financial woods. We must stay focused on containing costs.

Before we consider increasing any spending in any department's operating budget, we need to address a very serious set of issues which can no longer be ignored. Because of the enduring financial crisis, we have not given proper attention to our capital budget, nor have we addressed the dismal state of our financial reserves.

For several years, we've had no rational plan to fund repairs to our critical infrastructure and purchases of major equipment, or to put money into the Stabilization Fund. Well, we may have a wish list of capital projects, but we've had no visible plan of how to fund them. We've tried spending down Free Cash, the Stabilization Fund, the Overlay Surplus. We've tried overrides, we've tried debt exclusions and capital exclusions. But, as we've discovered, spending down our reserves has severe consequences, such as jeopardizing our bond rating and running the risk of having no rainy day funds for unforeseen emergencies or continued financial hard times. And expecting taxpayers to increase their own taxes is a risky, and flawed, strategy.

This risk is evidenced by the recent overwhelming rejection of three override questions in Barnstable and Sandwich. And, in Falmouth last May, our voters rejected two questions to fund capital projects and equipment. We need a sustainable source of revenue which can be dedicated to our capital projects and our financial reserves. Until we make this critical strategic change in direction, Falmouth will continue to live on the edge of financial instability and continue to see the deterioration of our town's infrastructure and physical assets. Ladies and gentlemen, this is not something conjured up in the Financial Committee's collective imagination. Just last week there was an article in the Boston Globe which spoke of the many towns and cities across the state diverting substantial revenues to their rainy day accounts. The Department of Revenue stated that the money placed in these funds represents a 50 percent increase since 2005. Many towns are putting money into savings, even while cutting services and experiencing layoffs. Their fear is that even worse financial times lie ahead.

The Town of Falmouth would be wise to follow the prudent practices of these other municipalities. As you can see from this chart, Falmouth's savings trend is exactly the opposite of the statewide trend. We're going in the wrong direction.

You have successfully begun to confront our fiscal problems. With good policy setting and planning and your firm resolve, we can

reverse this trend and be well on our way to financial stability within five years. Will it be easy? No. Is it doable? Very.

Here are four key steps for you to help our Town achieve financial success within five years. Number one, without fail, put \$1 million into the Stabilization Fund every year. We must put away savings first, and then fund spending for Town services.

Second, we should create a special Stabilization Fund for capital improvements at our Special Town Meeting next spring, and dedicate specific, ongoing revenues to this fund to provide funding for our capital budget each year.

And number three, we should prioritize these capital projects and equipment that our town needs and approve them judiciously.

And fourth, we should continue to be thoughtful but hesitant in approving any requests for increased spending in the operating budget until we have adequate reserves for capital expenditures and financial emergencies.

Articles 11, 12 and 15 are proposals for Town Meeting to adopt new local option taxes. The Finance Committee has recommended indefinite postponement on all three of these articles. Our concern is that, if passed now, these new revenues will be seen as an opportunity to expand our day to day operating budget and we'll just slip into the old habits of spending, which was a key contributor to our current financial

crisis.

We believe specific controls, policies and mechanisms must be put in place before that to direct these revenues to savings. Unless we do this, a great opportunity to secure Falmouth's long-term financial future will be lost.

In conclusion, we strongly urge that Town Meeting Members insist that any and all new revenue sources be dedicated to rebuilding our financial reserves first, and then to badly needed Capital Improvement Fund. Such investments will help Falmouth keep financially sound and to help our Town function safely, efficiently and effectively for the residents and visitors.

The Finance Committee is confident Town Meeting Members will carefully weigh the challenges and opportunities ahead and continue to make the hard decisions to insure Falmouth sustains its progress on the road to long-term financial stability. Thank you.

THE MODERATOR: Okay, questions for the Finance Committee.

Yes, Ms. Lowell. It'd be great if you could stand so we could get a mic down here.

MS. LOWELL: Thank you, I'm Vicky Lowell, precinct 1. I just wanted to know – I certainly understand your message and I agree very much about where you want to go. I'm just wondering why you feel we

couldn't go for some increase in revenue now and include those restrictions on how we would use the revenue. You feel we have to wait until spring?

Because a lot of these taxes I remember from – I mean, I know we're focusing on the meals and rooms tax as one of those sources of revenue, but when we discussed it at last – I think it was last spring's town meeting, there was a feeling that if even that there was understandably opposition from people that operate restaurants and bed and breakfasts and other accommodations, but they said it would be especially bad timing if we did it in the spring because they would have already promised certain rates to people and it wouldn't include the new taxes.

So I was just wondering why we're delaying considering going for establishing some of these revenue sources at this town meeting when we have the articles and you could have put forth an amendment to – or framed the article so that they would dedicate the revenues to the purposes that you are recommending. Thank you.

THE MODERATOR: Mr. Chairman.

CHAIRMAN ANDERSON: Thank you. The Finance Committee did discuss Articles 11, 12 and 15 quite considerably. Our sense was pretty much as I have stated in my comments, that without controls, without the proper mechanisms and without the policies in place

first, that it's just easy to have these revenues absorbed into the spending for operating plans. And so we differ a little bit in the recommendation of the Board of Selectmen in that they're suggesting 25 percent go to savings and 25 percent go to capital with the remainder for other kinds of spending. And that is one of the concerns that we have, that these funds, it's just too easy to allow these funds.

Sometimes hard decisions have to be made, as you have done over the course of the past couple of years. We would strongly suggest if Town Meeting decides that they want to impose these, that there be limits and that there be directions and controls as to really dedicating these funds to our Reserve and to Capital Fund.

THE MODERATOR: Okay, microphone down here, Ms. Peterson.

MS. PETERSON: Laura Peterson, Precinct 3. Through you, Mr. Moderator, for the Chairman of the Finance Committee. Is it really that we were spending wastefully and spending too much money or is it the federal and state cuts that have impacted us so dramatically here in Falmouth? Because I've only been a Town Meeting Member for about five years, so my history doesn't go back that far, but I really don't think of us as a wasteful community. So I was just wondering if you could address that.

And then, the follow-up would be, you know, I keep asking

what's the new revenue going to be? Even if we've only heard of a few things, the meals tax, the rooms tax, should we be thinking about – God forbid – raising taxes? It's just the question that seems to be floating around, and I wonder when we'll look at something like that. Thank you.

THE MODERATOR: Chairman.

CHAIRMAN ANDERSON: With respect to the question of have we been profligate spenders, I don't think that it is any one particular problem. Have we spent too much? Yes, I believe we have. Have we endured and have we been struggling through a fiscal crisis where revenues have come down, both from the state as well as our own local aid? Or, excuse me, our own local receipts? The answer to that is yes.

But, I think if you look back over the course of the last five years, if you look at the trend of our financial reserves, we've been spending them down, which is not a good thing to do. You want to have those reserves for the very – most difficult financial times, those rainy days.

Over the past three years, the Finance Committee has been talking about the concern that we have, of spending our Stabilization Fund, using Overlay Surplus for operating budgets. Those are one time revenues, and to be spending those on ongoing expenses is not a prudent thing to do.

With respect to the dollar amount of the revenues that might

be generated from the local options taxes, there are various projections out there. The warrants have, I believe, a comment from the Selectmen that one of those taxes might generate around \$330,000. There are various other projections of revenue of what it might be. Some might think it's more in the terms of a total of \$800,000. Nobody really knows until, you know, you actually would see those.

Nobody also really knows what the impact would be of increased revenues on the businesses. Would we see fewer tourists? I don't know. That's a hard question to answer.

THE MODERATOR: Mr. Latimer, or Mr. Herbst.

MR. LATIMER: With all due respect, Gary, you didn't answer Vicky's question. What is there to prevent this Town Meeting from adopting those increased spending articles that the Selectmen want and just simply saying that the money isn't going to be spent except to contribute to the Capital Fund until further action by Town Meeting? What is there legally to prevent us from doing that?

THE MODERATOR: Because there is no Capital Fund in Falmouth, yet. So you'd have to have an article at a future town meeting that creates a capital stabilization fund. We don't have one in Falmouth, and in order to create that, we'd have to have an article.

MR. LATIMER: Then simply to say that the monies will not be spent and will be kept in reserve, what is there to tie our hands that

way? And, by the way, we're the ones that would decide on any future spending increases, so you're saying to us that we can't be trusted to enact these increased revenues that we all need, because we might then decide later to spend them. We're not children. Thank you.

CHAIRMAN ANDERSON: Asked and answered, Mr. Latimer. Town Meeting does make the decisions. The Finance Committee is merely advisory and we make recommendations and that was all that my remarks were to cover.

THE MODERATOR: Chairman.

CHAIRMAN PUTNAM: Thank you, Mr. Moderator. I would like to clarify a couple of things. First of all, the policy that the Board has established states that a minimum of 25 percent will be allocated to capital, and a minimum of 25 percent will be allocated to the Stabilization Fund. We wanted to retain a little bit of flexibility while still providing a floor for the minimum amount of money that we might expect to go to those two issues, to those two items.

The question about property taxes is perhaps a little premature. Realistically, it's something that you do once, but you do it once with the full and complete understanding of what it costs to run the town. We're in the middle of that process right with the program budgeting as noted. We will, in the next year hopefully, go deeper and do full costing. At that point, we'll have a very clear idea of what it costs to put every

police officer on the street for one hour or for a week. Or what it costs to run the Water Department for 24 hours a day, whether it pumps water or whether it doesn't.

Once we understand the full costs of what it takes to run Town government, then we can look at our available revenues, compare it to the expenses that we know we have, and determine at that point if a tax increase, a property tax increase is warranted.

Doing it before that point would subject us to the whims of the public, because first of all we wouldn't have the answers. We need the answers. And, second of all, if it fails without having the answers, then coming back a second time or a third time is likely to fail as well. People are not very forgiving if we don't do the job right the first time.

THE MODERATOR: Okay, the Chair would entertain a motion to accept all reports. All in favor signify by saying aye.

[Aye.]

THE MODERATOR: Oh, you had something new?

MR HERBST: I wanted to be recognized.

THE MODERATOR: I thought you were trying to get me to recognize Mr. Latimer. Go ahead, Mr. Herbst.

MR. HERBST: I think you can recognize Mr. Latimer; you don't need me.

Thank you. Ralph Herbst, Precinct 8 for the Chairman of the

Finance Committee, Mr. Anderson. On your committee report, the third paragraph, the very last line, you indicate that we must identify new strategies to find sustainable sources of funding our capital budget. Could you give me an example of a strategy to do that?

MR. ANDERSON: One of those possibilities is in front of us tonight, in the form of Articles 12 and 15. Those are sustainable sources, but it should be and it is up to Town Meeting to consider all sides of the argument and then Town Meeting does make that decision. So, that was what I was referring to.

THE MODERATOR: Okay. Question? Yes, go ahead.

MS. FLYNN: Pat Flynn. Can you hear me? Is that on?
Okay.

With regard to these local option taxes, the estimates that you've heard and that are in the warrant come about because of a formula created by the state, and those formulas are very conservative. And if you talk to other towns that have adopted those local option taxes, you will find that their revenues have exceeded considerably what the state formula was.

The second piece that I wanted to mention is that if these local option taxes are adopted by Town Meeting, they would begin to be collected on January 1, and then, at the April Town Meeting, whatever funds would return to the Town, Town Meeting at the April Town Meeting

would then vote how those funds would be expended. So that, I don't doubt that the Board of Selectmen would have a plan hopefully working in conjunction with the Finance Committee, but it would be Town Meeting's decision as to how those funds are appropriated.

THE MODERATOR: Anything else?

Okay, the question will come on accepting reports. All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

All right, let's do just one more and then we're at break time.

Article 2. Article 2 was a hold by the Finance Committee.

This is to pay some unpaid bills from a previous year and we need to add one to this. Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 2 as recommended, with the following changes. The new total dollar amount is \$15,661.31. There is one new bill that is added from the Water Department. It is a bill from Water Line Services, LLC, in the amount of \$950.

THE MODERATOR: Okay, the motion is to pay the unpaid bills, adding the Water Line Services, LLC, to the list. Any discussion on

Article 2?

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

[Aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]

THE MODERATOR: The ayes have it unanimous.

I think we need to take a break, because we're not going to be able to get into a zoning bylaw article at this time. So let's stand in recess for 20 minutes and then we'll come back in on the planning article.

[Whereupon, a recess was taken.]

THE MODERATOR: We're coming back on Article 3, our first zoning article. All Town Meeting Members please rise for the re-establishment of the quorum.

Any members sitting behind the Town Meeting Members Only sign, please come forward so that the tellers will include you in the quorum and in each count thereafter. All Town Meeting Members should be on my side of the sign that says, "Town Meeting Members Only". And there's a row taped off.

[Pause.]

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

MRS. TASHIRO: 50.

THE MODERATOR: 50.

In the third division, Mr. Hampson.

MR. HAMPSON: 64.

THE MODERATOR: 64.

In the second division, Mr. Dufresne.

MR. DUFRESNE: 84.

THE MODERATOR: 84.

By a counted vote of 198, we have a quorum and we're back in session.

Article 3 was held by Mr. Fler. Madame Chairman for the main motion.

CHAIRMAN KERFOOT: Pat Kerfoot, Chairman, Planning Board. I move that the Town vote Article 3 as printed.

THE MODERATOR: Okay, Article 3 as printed. This is the Zoning Bylaw Article 46, the definition of the Business Redevelopment.

Mr. Fler.

MR. FLEER: Thank you, Mr. Moderator, Alan Fler, Precinct 6. And you may remember that this redevelopment bylaw basically grew out of the concern of the Planning Board and your Chamber of Commerce and others that redevelopment on Main Street was looking more like just big box stores with parking in the front yard, or drive through fast food restaurants, and so the Planning Board sought to improve on that by

developing a mixed use kind of district that allowed keeping most of the uses of B2 district intact, but also allowing increased residential density up to eight units per acre and waiving the parking requirements up to 50 percent and even more, and allowing as many 4,000 square foot businesses in this district as they could hold.

Now, the reason also is that this was kind of an extension of the Business 1 District in a contiguous district in downtown, there, would be pedestrian friendly, and so the bylaw does encourage – discourages parking in the front yard and encourages development of sidewalks. But it's really —

Now, the reason why we all thought this would work was because of the infrastructure that's there. You know, you have sidewalks. You have streetlights. You have crosswalks. You have a street that people aren't going 50 miles an hour. And you have the sewer to mitigate the increased density.

So, you know, when we consider using this bylaw in more application, you know, there's nothing in the bylaw to really give any guidelines as to the requirements of the infrastructure or the siting of this business development in an appropriate place. It just – we're just changing East Main Street to street frontage. It may seem an innocuous enough change. I mean, you don't really have the whole redevelopment article in front of you, so you really can't see it, but there's really no

guidelines as to where this can be used throughout town. And so, I don't think this is a bylaw of general applicability without those guidelines, and they're just simply lacking.

You know, it works on Main Street because it's a community that includes lots of pedestrians. You know, you gotta consider all these different aspects when you're going to rezone with the most permissive zoning allowed in this town.

I'd just like to mention briefly what we did in Woods Hole, where we redeveloped a residentially zoned properties but there was commercial accommodations on it and then a little restaurant. Those – we had before us a plan. You could see exactly what was going to be going in there. And we had agreements from Mr. Wise, restricting his use, that there would be no business uses on it. No service stations, no fast food restaurants, no nothing. Just assisted living.

We also have, on Woods Hole Road there, sidewalks. We also have street lights and we're close to the Business 1 District in Woods Hole, similarly as it is on Main Street.

You know, to just allow this to go anywhere without restrictions I think is just – just leads itself to misuse. Again, this is the most permissive zoning we have in the town. We have to make sure that if we're going to use this specific bylaw that it's a pedestrian-oriented area with the infrastructure that requires that. And there should be specific

guidelines, requirements, or mechanisms ensuring that infrastructure is there.

So, let's send this back to the Planning Board and put some of this stuff in there so that we can use this bylaw in a more proper manner throughout town. Thank you very much.

THE MODERATOR: Madame Chairman.

CHAIRMAN KERFOOT: I would like to respond. This is not the least restrictive in town. Actually B2 is the least restrictive. So that's number one.

But, secondly, and probably more importantly, when the Planning Board was putting the original bylaw in place, and proposing it to you for acceptance, we envisioned this as being used more widely throughout town. As it currently stands, that would be a difficult thing to do because it is limited to East Main Street. So we strongly recommend that you do pass this tonight so that we can apply it in other appropriate areas.

As Alan pointed out, it was applied in Woods Hole; there may be other places that it could be appropriately applied. Guess what? That's up to you, because you make the final decision whenever there is any zoning change on any piece of property. You always have, and I would suggest that you have the wisdom to be able to decide when this would be appropriately used should you pass that change tonight.

THE MODERATOR: Okay, Mr. Putnam. Oh, all set. Mr. Rowitz.

MR. ROWITZ: Thank you, Mr. Moderator. Ray Rowitz, Precinct 5. First thing I believe is a point of information. It states here Chapter 240, Section 204. I believe it should be Section 240.

And secondly, if I could have a clarification that it says, "The revision will require that mixed uses be present on the ground floor of any project if the structure is within 100' of any street." Does that mean that it has to be mixed used, and that mixed use does have to be on the first floor? Thank you.

THE MODERATOR: Madame Chairman.

CHAIRMAN KERFOOT: He's absolutely correct in that particular transposition of two numbers, it's 240 dash 240. So that will have to be corrected.

And yes, there must be mixed use on the ground floor. That is an integral part of this particular bylaw, because that is one of the important visions that we had, that it would add to a sense of community, the walking nature and the capacity for people to live and work in an area.

THE MODERATOR: Okay, the Chair's going to take a quick vote on fixing the number Section 240 dash 240. All in favor aye.

[Aye.]

THE MODERATOR: Opposed, no.

[None opposed.]

THE MODERATOR: The ayes have it unanimous.

Ms. Valiela.

MS. VALIELA: Through you, Mr. Moderator. The Planning Board, if this Article 3 does not pass, does that mean that the business redevelopment proposed in Article 4 could not proceed?

THE MODERATOR: Madame Chairman.

CHAIRMAN KERFOOT: No, it does not.

THE MODERATOR: Mr. Hampson.

MR. HAMPSON: Mr. Moderator, George Hampson, Precinct 5. I'm familiar somewhat with this area, and one of the things I'm concerned about is the access to Beaman Lane, particularly if you're heading –

THE MODERATOR: No, no, this is a general Article 3.

MR. HAMPSON: Pardon?

THE MODERATOR: It's Article 3, so it's just a general change of the zoning bylaw language.

MR. HAMPSON: Okay, thank you.

THE MODERATOR: Further discussion on Article 3? Yes, Ms. Lowell.

MS. LOWELL: Vicky Lowell. Through you, Mr. Moderator, I just – is there going to be a presentation about how this revised Business

Redevelopment could be applied to the – in the next article? Or is the Planning Board going to make a presentation in the next article about how this bylaw, if we change it, could be applied to that area so we – maybe I'm jumping ahead, but I just think that particular property is a very unique piece with the parking on one side of the street and the lane going through the middle on the south side, and I just wondered how this concept could possibly be applied to this site, if they have some ideas of what we – obviously the owner could decide what they wanted to do with it, but how would this concept work if the best of the Planning Board's intentions were carried out? I'd like to see that before I voted on it, but I might be – I'm just wondering if it's going to come up under the next article.

THE MODERATOR: Madame Chairman.

CHAIRMAN KERFOOT: We had not planned any sort of formal presentation, but we are certainly going to describe. You have your mappings in here.

THE MODERATOR: Okay, further discussion on Article 3?

Mr. Latimer.

MR. LATIMER: Richard Latimer, Precinct 2, also a Planning Board member. Let's just keep focus on this Article 3; it's just simply a one word change in an existing bylaw that will give the Planning Board some flexibility on some unknown at this time but potential future development opportunities. I would recommend that we vote this article no matter how

much opposition we may feel to Article 4. Thank you.

THE MODERATOR: Okay. Ms. Johnson.

MS. JOHNSON: I'd like the Chairman of the Planning Board to clarify the statement she made on 100 feet in the road, a mixed use development has to have commercial space on the first floor. Does that mean – that that does mean that somebody could – well, let me put it in the positive. Does it mean that someone who wants to build a three family unit or three condominiums, they do not have to have commercial space? Do they or don't they, with this change?

THE MODERATOR: Madame Chairman.

CHAIRMAN KERFOOT: That is a residential use; so they don't have to have the mixed use. We're talking about something like the affordable housing developments on East Main Street that Bob Murray put up, where the Associates of Cape Cod property was. It's a very large building and there is mixed commercial on the ground floor and residential.

MS. JOHNSON: But you could just have all residential?

CHAIRMAN KERFOOT: Yes, you could.

THE MODERATOR: Okay. Further discussion on Article 3? Seeing none, then the question will come on the main motion as amended by we fixed the sections there, 240 dash 240. All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[No.]

THE MODERATOR: The opinion of the Chair is that the ayes have it by a two-thirds majority and I so declare.

Article 4. Article 4 was held by Mr. Murphy. Madame Chairman for the main motion.

CHAIRMAN KERFOOT: Okay. I move that the Town vote to approve Article 4 as amended. And you'll notice that it's simply a street change that gives the outer limit.

THE MODERATOR: You're meaning as recommended.

CHAIRMAN KERFOOT: As recommended.

THE MODERATOR: As recommended, okay. So the recommendation, there was just a slight change from what was in the original article, there. So the second half of your warrant, under "Recommendation" is the main motion.

Mr. Murphy.

MR. MURPHY: Mr. Moderator, I'd like to propose an amendment to this motion, if I may. The amendment first off would be that I would like to delete the words in the first section "Map 05, Section 10, Parcel 0054, Lot 002, 7 Nathan Ellis Highway". And if I may speak on the amendment?

THE MODERATOR: That's the second one under section 1),

the second parcel. The amendment is to remove the second parcel.

Mr. Murphy.

MR. MURPHY: Ladies and gentlemen, my fellow Town Meeting members. Tonight I speak as Kevin Murphy from Precinct 5, but I speak on behalf of two other folks, as well as myself. Richard Davis, the current owner of the property of 7 Nathan Ellis Highway, which is the parcel as you see where it's being illuminated over there, where the Beach House Restaurant currently sits. Patrick Bonsani, my wife's former partner, the owner of the Beach House Restaurant, who currently leases the property from Mr. Davis, and myself, who presently has a purchase and sale on the property.

This issue in this article goes against all fairness. We know why we're here this evening, and we're here because Mr. Minassian brought forward at the last two or three town meetings a zoning change on the other side of the road for a property he owns. I'm not going to speak for or against that zoning change, but what I'm here to speak about and what I would like to ask for your help on, is to omit this one parcel. The current zoning of this property is B2. It has been B2 since the earliest recognitions that I can follow in zoning in this community.

Beaman Lane in fact was the main road when this property was originally built; 151 was not there. This current property, 7 Nathan Ellis Highway, it's now tied up in this whole zoning change. And what I

speaking to fairness to you is, what this zoning change will do will make a possible albatross of this property for the folks who have been a good steward and kept this property even after a fire and rebuilt it to the same footprint that it was currently.

The property is currently –the building there is 7200 square feet. The new B2 Redevelopment Zoning would require that if we ended up going out of the restaurant business, say because of the economics in this community, would require that I could not put just one tenant in that 7200 square foot building. It would require that I could only put one tenant in 4,000 square feet of that building.

Now, we're here to right something and help some abutters, but please don't take away the rights of this particular property that has sat on that side from the late '40's. No one has any intentions of changing anything at this time, and I ask that you don't change the zoning, as well.

Mr. Bonzani has just entered into a new lease on the property. The things that will change on this property and the ability to make sure that we can survive as owners of that property are the following:

Number one: remember we said there would have to be mixed use if we changed this use on the first floor. Who would possibly want to live on the first floor of the Beach House property with a business next to them? I ask you that. Number one.

Number two: again, you could not put any one tenant of 4,000 square feet. I was told by the Planning office well, you could use the rest for storage. There is a 6,000 square foot basement in that building with a 14 foot ceiling. I think that no one needs any more storage than is currently there.

It could not be used for personal or household services in anything more than 4,000 square feet. It could not be used as a scientific research facility or could not be used for science.

It could not be used as a private club. And there is no special permit available for a private club. We know what it was like for a private club in this town to be able to go into a neighborhood. This maybe some day could be a site for one of those clubs.

No one is changing anything. All's I'm saying is please, don't take away the rights in this particular property that have been there, has not changed, and continued to try to be a good steward on it.

I ask you to amend the motion to simply delete this part.

I want to remind you of one other issue. The Planning Board did not bring forward the rezoning of business development on the opposite corner where the Dean's happens to be. And probably the reason is because Dean's is more than 4,000 square feet. Because they would be rezoning a retail establishment that is already over the Business Redevelopment threshold. What's good for the goose is good for the

gander, here, folks. All's I ask is you to be fair.

I look around and you're my neighbors, you're my friends. Don't take away the rights that I've had, here. Don't take away the rights of this property. Thank you very much.

THE MODERATOR: Further discussion? Madame Chairman, then Mr. Latimer.

CHAIRMAN KERFOOT: There's a bit of surmising going on, that I would say simply is not true because there was no checking to see whether it was or not. We specifically did not consider anything across the street. We did that advisedly. We debated whether we should or not. And we decided to go with just this side of the street to begin with.

The properties there in the Business Redevelopment proposed area we considered might be ripe for renovation of one sort or another, for tear-down and rebuilding. And so we wanted to make the town capable of the sort of business and residential planning that is now taking place on Main Street.

We also wanted to provide a buffer, which you'll see this does. So we've got the corners as the area that can have the mixed development of commercial and of residential, and then you go into a change into General Residential. There's more control with this type of rezoning. The General Residential will give a buffer for the residences that

it will also allow for multi-family use, which we're trying to encourage here in town. That doesn't mean you have to, but it allows the possibility for that.

I would submit to you that if as Mr. Murphy wants, that that one lot be removed from the rezoning here, it undermines what we are trying to do on that corner. At some point in the future, we may take into account the other side of the street, as well, the other two corners as well. But right now, no, we didn't think that that was advisable or necessary.

THE MODERATOR: Okay, Mr. Latimer.

MR. LATIMER: Richard Latimer, Precinct 2, also speaking as a member of the Planning Board. Mr. Murphy referred to a Mr. Minassian, who had been before Town Meeting on a couple of occasions, and I would state unequivocally that the Planning Board has not been doing this to accommodate Mr. Minassian. In fact, this gives Mr. Minassian less than he was looking for.

But what we did do, because of his coming before Town Meeting, we did our job in terms of looking at what would be the best way to correct some existing anomalies on this corner, and in doing so, we want to do it in an even-handed way, without showing any favoritism to anybody, neither Mr. Minassian nor Mr. Murphy's clients.

The fact is, as the map shows, you have on the left side, there, of Route 28, you have some business development. There's some

business development on the right side as you get onto Route 151, but the plan, the rational plan is to create a transition area that will include Mr. Minassian's property, that will go from Business to Modified Mixed Use Business, to General Residence, which allows things like professional uses, before you get to the Residential area. Now, that is just simply logical and it's sound planning. It doesn't take account of anybody's special interests in the area and it is in the best interests of the community as a whole. Thank you.

THE MODERATOR: Ms. Kozens-Long.

MS. KOZENS-LONG: I would like Town Meeting to reconsider that amendment of Mr. Murphy's. There's one thing that Mr. Murphy didn't mention about changing the zoning to this property. That property is owned by someone that is counting on a market value. What exactly – and if the Planning Board through you to the Planning Board Chair – what is the difference in the market value of a B2 zoned property to this particular rezoning, and I'd beg to differ that B2 zoning, the least restrictive, has a market value much higher.

So a vote in this town to include this piece of property means that we're taking away a portion of this person's asset.

THE MODERATOR: Madame Chairman.

CHAIRMAN KERFOOT: I haven't any idea what the comparative market values would be. However, it would be taking away

some potential uses. You couldn't have a fast food restaurant if you change it, a drive-through of that nature. That's one of the things it is taking away. Let's see. You can pretty much have other things, except the private clubs, the scientific research. You can't have theaters and bowling alleys, motor vehicle sales and rentals. So, changing it to Business Redevelopment does in fact restrict certain usages.

It also restricts should that business usage change to a 4,000 square foot retail sort of establishment or a personal household service. So it restricts the amount of square footage that can be used in this zoning district. But how that would equate to actual monetary value, I'm afraid I am not qualified to answer that question.

THE MODERATOR: Okay, Mr. McManamon. Yes, microphone down here.

MR. MCMANAMON: Tom McManamon, Precinct 2. I'm standing to speak in behalf of Mr. Murphy. When that restaurant was the Wicker Tree, I worked there for Gorden Heald [sp?]. When it became the Willow Field, I worked there for John Halton [sp?]. I was side by side with John Halton pulling out burned and damaged equipment when that restaurant burned down. And John built it and I was there for his opening day working for him, back into a jewel of North Falmouth.

The Wicker Tree has always had a great reputation. Now it's the Willow Field – the Beach House. But what hasn't changed is that the

people who run it have assured quality products for the people in the area, first class food, a nice bar area and, you know, any amenities as you can possibly look for in a restaurant that I've seen.

So I stand with Kevin and say that this property needs to be saved as a restaurant. If it comes up before us again, then we'll talk about it.

THE MODERATOR: Ms. Lichtenstein.

MS. LICHTENSTEIN: Leslie Lichtenstein, Precinct 8. I believe that the Supreme Court has stated that if you take value, the Town or the municipal entity that takes it is responsible for paying that difference. I don't think we should do this until we find out if the Town of Falmouth would be liable to being sued for a change in value. I mean, if this lot is now going to be worth less money –

THE MODERATOR: No, we do this all the time with zoning. You only have to pay if you take it by eminent domain.

MS. LICHTENSTEIN: Okay.

THE MODERATOR: Mr. Latimer.

MR. LATIMER: Thank you, Mr. Moderator. Again, Richard Latimer, and I hate to keep popping up on this, but certain things get said and they have to be responded to.

First of all, the Planning Board, it's not our job and we do not take account of relative property values. Whenever we rezone, and in this

case it would be a clear example, we would be decreasing the value of one property and increasing the value of other properties down the road from it.

That's not our concern. Our concern is simply what is in the best interests of the community as a whole.

Somebody's investment expectations in real estate do not enter into our equation. And they shouldn't enter into the equation of this body, who are sworn to act in the best interests of the town as a whole, and not for Mr. Murphy's clients. Thank you.

THE MODERATOR: Okay, further discussion on the amendment? Yes, go ahead in the back, there.

MS. TOBEY: Linda Tobey, Precinct 4. I'd like to speak to the building on the northerly side of Route 151, the building that was built right next to the parking lot. It was built without the zoning to open it up as a professional building, and I think we're setting a dangerous precedent now where, if we change the zoning so that this building can now be opened as a medical center, I feel like it's the tail wagging the dog, and I hope that we won't have this type of thing happening again where buildings are built in a place where they are in incorrect zone and then we're asked to change the zoning so that the builder is able to use this structure. Thank you.

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

CHAIRMAN KERFOOT: First, I believe Mr. Latimer made it

quite clear that we were not doing this for anybody's particular benefit. It was brought to our attention by Mr. Minassian, but then we start looking in a more general way as to whether a change might be beneficial for more.

And secondly, that particular building would take a special permit to be able to be used as an office building. It is not a given under the General Residence zoning that it would, if you approve of this, that it would now be located in. Under the General Residence, the by-right usage as a single family house, church, school, library, something like that, parks, playgrounds, fire station –

MR. MURPHY [no mic]: Mr. Chairman, this is not part of the amendment.

CHAIRMAN KERFOOT: I was responding to the person who brought that up.

THE MODERATOR: Okay.

MR. MURPHY [no mic]: [Inaudible.]

THE MODERATOR: Why don't we take a vote on the amendment and then we'll go back and you can finish answering the question under the main motion. Okay, the question will come on just the amendment whether or not to remove the 7 Nathan Ellis Highway from the main motion. All those in favor of removing that property, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[No.]

THE MODERATOR: It's the opinion of the Chair that the ayes have it by a majority, and 7 Nathan Ellis Highway is removed from the main motion.

Madame Chairman, would you like to continue with the explanation on the main motion?

CHAIRMAN KERFOOT: There are not many more things that can be put in under the General Residence zoning that is there. As I said, you can have fire stations, day care centers, two family dwellings or three unit dwellings if one unit is affordable. So, what the General Residence does allow is multi-family units.

Under special permit, you can have commercial accommodations, hospitals, private, non-profit clubs, boat storage, professional office.

THE MODERATOR: Okay, Ms. Putnam is next on my list. And then Mr. Rowitz.

MS. PUTNAM: Rebecca Putnam, Precinct 9. I've been to multiple precinct meetings, and at several meetings we had heard that the residents of Beaman were not for this zoning change, so through you, Mr. Moderator, I'm not sure if someone is here from that neighborhood who wants to speak, and if not, is this – was the neighborhood ever approached

or asked how their feelings were, since we are discussing multiple private homes here being changed?

THE MODERATOR: Madame Chairman.

CHAIRMAN KERFOOT: We did have people from the area; they did express some opposition initially until they heard what it would entail. And so we had two meetings, we had the public hearings, so they had ample opportunity to express their feelings and we did get some written questions and comments, as well.

THE MODERATOR: Okay. Mr. Rowitz.

MR. ROWITZ: Ray Rowitz, Precinct 5. I just wanted a clarification – well, I have a couple things, but a clarification on the exceptions to the northerly sideline of Route 151, from Route 28A to Old County Road, which is recommended, that it would not include medical clinics or retail sales? Or it would?

THE MODERATOR: Madame Chairman.

CHAIRMAN KERFOOT: It would not.

MR. ROWITZ: My other comment was relating to the explanation. It says that, “Finally, the proposed changes will reduce the minimum front yard setback from 75' to the town standard 25' for the area between the traffic lights at the Rt-28A and Rt-151 intersection...”, but what it'll in fact do is change it to 20 feet if it's changed to – or if it's accepted under this recommendation, it'll change it to 20 feet.

The other thing is, is that there is no explanation or diagram relating to the other properties from Route 28 in our warrant. Is there a diagram that can be shown, which properties are affected, that the setbacks will be brought from 75 feet to 20 feet, or to 25 feet? Thank you.

CHAIRMAN KERFOOT: I'm – I'm trying a little bit to understand, but in any case, where the Business Redevelopment is, the setback would be 20 feet. Those are the areas in red and we've now taken away the one on that one corner, there, the one lot. In the General Residence district, it will be 25 feet, which is the Town standard.

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

MR. SHEARER: Dan Shearer, Precinct 6. I know this area pretty well, and I don't know how you're going to do anything on Beagle Lane if it's going to be a traffic issue. If you try and get out of that road and turn either right or left, there's going to be an accident. And I think leaving 05-10-0005-1001 in this, or the lot behind Mr. Murphy's, there, across the street Beagle Lane is very wrong. Thank you.

THE MODERATOR: Okay, Mr. Lowell, then Ms. Taylor.

MR. LOWELL: Yeah, Nick Lowell, Precinct 5. Now that we've removed the Business Redevelopment from the one corner, I feel like we've really got kind of a hodge-podge going here, and it makes sense to remove the entire Business Redevelopment section from this article.

So, my amendment is to remove Section 1), Rezoning from Business 2 and Single Residence B, all four map sections. So, we already removed one under Mr. Murphy's amendment; I'd like to remove the other three.

THE MODERATOR: Okay, we have an amendment to remove the rest of Section 1), the Redevelopment District. Discussion on the amendment to remove the rest of the district?

Mr. Murphy.

MR. MURPHY: I would not disagree with Mr. Lowell, but unfortunately then the parcel across the street would have no zoning, whatsoever. Because it would not be in the General Residence, now, and it would not be in the B2 Redevelopment Residence. What I would suggest is that we vote down this article, let the Planning Board work on it, come back. That would be what my suggestion would be, Mr. Lowell, and I agree with you. Thank you.

THE MODERATOR: Okay, Ms. Johnson and then Mr. Lowell.

MS. JOHNSON: I sort of have a technical problem with this article, but I also, as you know, I speak often and have been involved in a lot of zoning, you know, proposals in Falmouth in the last 25 years, almost 30 years. I do have a problem with the fact that there are two zoning proposals in one article, which is limiting and confusing. In other words, if you have limited the number of amendments on one article to two, it really

constricts the discussion, a full discussion on this proposal. So I would personally recommend turning the whole thing down.

THE MODERATOR: Okay, Mr. Lowell.

MR. LOWELL: Nick Lowell, precinct 5, just in response to Mr. Murphy, I do believe that the existing use of the parking lot would certainly be allowed to continue no matter how this is voted, up or down. First point.

Second point is that, on my way in this evening, I did speak with a Beagle Lane resident who – a Beaman Lane resident, who spoke in favor of the General Residence change. He in particular mentioned he's tired of looking at flapping Tyvek from that house. It has been under construction for a very long time.

So, the reason for the amendment is to allow the General Residence to proceed without the burden of the – and perhaps the confusion of the Business Redevelopment. So I encourage the amendment to be voted forward so that we get a chance to vote on the General Residence by itself. Thank you.

THE MODERATOR: Okay. Something new? And then we're going to vote on the amendment.

MR. LATIMER: Again, Richard Latimer, Precinct 2. The whole point of bringing these two zoning changes together in one article is to emphasize that what we were looking at as the Planning Board, charged with the task of rational planning for the town, it was to create a transitional

zone.

Now, if it is the will of this assembly that our analysis of the issues there doesn't fly with respect to the existing B2 properties and we were to simply go with Mr. Lowell's suggestion of rezoning the land to be – that's indicated to be as General Residence, that would accomplish that in some degree. I mean, it would create a transitional buffer zone between the existing Business zone and some existing and some potential Residential land. That would be rational. It wouldn't be as good a solution, in my opinion, but it would be rational. Thank you.

THE MODERATOR: Okay. The question will come on removing the rest of Section 1 from the main motion. All those in favor of the amendment, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[No.]

THE MODERATOR: All those in favor, signify by standing and the tellers will return a count. All those in favor of removing the rest of Section 1), stand and the tellers will return a count.

Division 1, Mrs. Tashiro.

MRS. TASHIRO: 16.

THE MODERATOR: 16.

In the third division, Mr. Hampson.

MR. HAMPSON: 34.

THE MODERATOR: 34.

In the second division, Mr. Dufresne.

MR. DUFRESNE: 44.

THE MODERATOR: 44.

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

In the third division, Mr. Hampson.

MR. HAMPSON: 27.

THE MODERATOR: In the second division.

MR. DUFRESNE: 36.

THE MODERATOR: 36.

And in the first division.

MRS. TASHIRO: 31.

THE MODERATOR: 31.

FROM THE FLOOR: [Inaudible].

THE MODERATOR: Oh, boy.

By a counted vote of 94 in favor, and 94 against –

[Laughter.]

THE MODERATOR: Yeah. Take a picture, because this is
going to go down in the history books.

[Laughter. Pause.]

THE MODERATOR: I've got two options, here. And they're not just yes and no. I've got an option of setting a precedent of how the Moderator will defer the decision to the body in general, which then defers my ability to break that precedent in the future by something that I maybe want a little bit more than I do or don't want this particular zoning article.

So I'm going to reserve the right to be able to vote, and in this particular article, on the amendment, I'm going to vote in favor of the amendment and, had I been able to vote on the main motion, which will require two-thirds, because I won't be able to do that, I would have probably voted against the article so that the Planning Board could come back with an entire motion that was comprehensive after making the decision to remove the first section.

So, by a counted vote of 95 in favor and 94 opposed, the amendment passes and we remove Section 1).

The question now goes back to the main motion. Ms. Taylor, you were on my list to speak; do you want to speak on the main motion as amended?

MS. TAYLOR: I did vote yes on the second amendment –

THE MODERATOR: Good choice.

MS. TAYLOR: – so I guess I'm ready to go forward and vote on the smaller question, which is the General Residence.

I think we could have benefitted, however, from a better

presentation by the Planning Board in the first place. The questions and the discussions seemed very vague and I had the feeling people couldn't really picture what some of the options were, and if we'd had some pictures that were more expressive, I think we could have avoided a lot of this.

THE MODERATOR: Mr. Putnam.

CHAIRMAN PUTNAM: Thank you, Mr. Moderator. I'm inclined to vote against this article. I was at two precinct meetings myself; no members of the Planning Board were there to address any questions about this article. And we've gone down the road, here, of spot zoning, whether we believe it or not. We've taken an article which is relatively well-thought-out, I think, that proposes various zoning changes, and we're hacking it and slashing it. At this point, it seems to me we should vote it down, send it back to the Planning Board for further discussion.

THE MODERATOR: Okay, further discussion, Mr. Swain?

MR. SWAIN: Charlie Swain, Precinct 7. Also member of the Planning Board. And what's been neglected here, this evening, is a General Residence District is what's on Locust Street and also on Palmer Avenue. So you have regular homes; some of them have a sign out front: real estate, doctor's office; other than that, they look like part of the neighborhood. So that's what a General Residence would look like.

Thank you.

THE MODERATOR: Okay, Mr. Duffany, did you have something?

MR. DUFFANY: thank you, Mr. Moderator, Michael Duffany, Precinct 6. Regardless of what we do on the corner, I feel personally that the General Residence is the right district for the remaining lots, irrespective of what happens to the red ones in the future. I still think that the best zoning for the residents and for, you know, for the neighbors, the people that everybody that's involved, is to have that be General Residence, because it gives folks that might be living there an opportunity to develop for multi-family, maybe rent, and provide us with some housing that we need, and I just think it makes it a – it's a much more attractive district and I can't think of another one that I personally would favor over that.

Now, again, having said that, the red ones are out of the picture, anyways, so I'm going to vote in favor of the General Residence for the remaining lots. Thank you.

THE MODERATOR: Okay, something new, and then we're going to – okay.

MR. LATIMER: Again, Richard Latimer, Precinct 2. Again, I apologize, but Mr. Putnam has raised the specter of spot zoning. That is a misused rubric whenever somebody decides they don't like a zoning article. What would have been spot zoning would have been to take just

that Section 2) out of this, and that would have been spot zoning. What would have been spot zoning would have been just to come back with Mr. Minassian's property and just that one property and rezone it. That's spot zoning. This isn't spot zoning.

Where we have decided as a matter of policy that we do not want to rezone that whole corner that's in red, fine. So now what we're left with is a good zoning plan, as Mike Duffany has just said, to create at least a transitional zone between the Business zone and the Residential zone by rezoning it to General Residence. That's still sensible. It's half a loaf, but half a loaf is better than none. And it ain't spot zoning, thank you.

THE MODERATOR: Okay, the question is going to come on the main motion as amended. That's taking out Section 1). All those in favor of the main motion, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[No.]

THE MODERATOR: It's the opinion of the Chair that the ayes have it by a two-thirds; is there a challenge to the Chair?

FROM THE FLOOR: No. Yes. Yes.

THE MODERATOR: Challenge to the Chair? All those in favor, signify by standing and the tellers will return a count. All those in favor of Article 4 as amended.

Mrs. Tashiro.

MRS. TASHIRO: 31.

THE MODERATOR: 41? 31? Three -one? Yes.

In the second division?

MR. DUFRESNE: 57.

THE MODERATOR: 57.

And in the third division?

MR. Hampson: 38.

THE MODERATOR: 38.

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

MRS. TASHIRO: 17.

THE MODERATOR: 17.

Second division?

MR. DUFRESNE: 29.

THE MODERATOR: 29.

Third division?

MR. HAMPSON: 28.

THE MODERATOR: 28.

[Pause.]

THE MODERATOR: By a counted vote of 126 in favor and
74 opposed, the article does not pass.

Article 5. Article 5, this was a hold by the Finance Committee.

CHAIRMAN ANDERSON: Mr. Moderator, I move that the Town vote to reduce the Fiscal Year 2011 Operating Budget from the previously approved total of \$107,905,894 to \$107,635,894 by amending the budget line items as follows:

Waste Management Facility, Org #01431, Other Expenses, from \$296,500 to \$206,500; DPW Wastewater Utilities, Org #01440, Other Expenses, from \$695,670 to \$515,670; and to reduce the amount voted by the Town to raise and appropriate at the April 5, 2010 Annual Town Meeting from \$103,979,843 to \$103,709,843; and further, to reduce the total amount budgeted by \$270,000, for amended Fiscal Year 2011 Operating Budget of \$107,635,894.

THE MODERATOR: Okay, there's your main motion on the overhead. Mr. Chairman.

CHAIRMAN ANDERSON: After Town Meeting Members approved our Fiscal Year '11 budget at the Spring Annual Town Meeting, we were informed by the state that local aid to Falmouth would be reduced by \$400,000. With the reductions of the line items recommended in this article and the fee increases recently approved by the Board of Selectmen, that \$400,000 shortfall has been covered.

The reductions in these line items are justified because

\$90,000 of savings is anticipated at the Waste Management Facility due to lower volumes and efficiencies. The \$180,000 savings in the Wastewater Budget is attributable to lower electricity costs because of the energy generated by the wind turbine.

THE MODERATOR: Okay, Mr. Boyer.

MR. BOYER: Mr. Moderator, Peter Boyer, Precinct 5. What I hope is a simple question: if we have already submitted the recap sheet to the state, is this change in the numbers sufficiently easy so that we don't face a future further delay of an approval of the tax rate and therefore sending out tax bills to the acting Town Manager or Director of Assessing, I guess.

THE MODERATOR: Yeah, we haven't submitted. Go ahead, Heather. Madame Manager.

MS. HARPER: Through you, Mr. Boyer, the recap sheet has not been submitted yet. The assessment valuations have not been approved yet by the Department of Revenue. So it will not delay the recap sheet.

THE MODERATOR: This will actually help us when we submit.

Further discussion on Article 5?

Hearing none, the question will come on the main motion as presented by the Chair of the Finance Committee. All those in favor,

signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[None opposed.]

THE MODERATOR: The ayes have it unanimous.

The next one I have here is Article 7. This was held by Ms. Fenwick. Mr. Chairman for the main motion.

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 7 as recommended.

THE MODERATOR: Article 7 as recommended. This is the Medicaid Medical Services Program. Ms. Fenwick. Microphone to my right, here.

MS. FENWICK: Thank you. Judy Fenwick, Precinct 1, also a member of the Falmouth School Committee. I just wanted to raise a little history with this article. No one attended our precinct meeting to answer a question about it.

In reading this, it doesn't refer back to what happened at three previous Town Meetings that reallocated funds that had originally come into the School Committee, and I'm going back here April, 2009, Town Meeting approved that the Medicaid Medical Services Program that had traditionally been allotted to the School Committee through a Town Meeting Article were now going to be put into the General Fund.

In November of 2009, Town Meeting voted that the \$270,000 that was appropriated into the School Department budget, that would – that came through in April, 2009, but in November, 2009, we were reduced to \$50,000. And again, it was going into the General Fund and no longer being directed to as a reimbursement to the schools for the services that we provided.

Then, in April, 2010, we got zip. And so I just wanted to remind folks that although Article 7 doesn't mention the Municipal Medicaid Reimbursement Program for the services that the school provides, that we're now being asked to appropriate the \$25,000 for the services that we are having to pay U Mass Medical for.

So, through you, Mr. Moderator, to the Chairman of the Finance Committee, how much came in this year for the reimbursements, versus the \$25,000 that we're paying for those services?

THE MODERATOR: Mr. Chairman?

CHAIRMAN ANDERSON: I do not have that number at my finger tips. I don't know if the Town Accountant is here and would have that number available?

But, by doing the math on this particular article, the service charge from the U Mass Medical School amounts to 4 1/4 percent, I believe is sort of the rate charged against the claims process. If you divide 4 1/4 percent into 25,000, you would get a number of \$588,235. But I do

believe the \$25,000 is an estimate, which would make – you'd have to have a little windage in that number.

THE MODERATOR: Okay, and further discussion on Article 7? Okay, hearing none, then the question will come on the main motion as recommended. All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[None opposed.]

THE MODERATOR: The ayes have it unanimous.

Article 9, Mr. Chairman. Nine, yes.

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 9 as recommended, with the following change: the new amount to be appropriated from Free Cash is \$119,823.

THE MODERATOR: Okay, Article 9. This is short term excluded interest. Discussion? Mr. Rowitz.

MR. ROWITZ: Ray Rowitz, Precinct 5. Article 9 asks us to appropriate a sum of money, almost 119 – almost \$120,000, and why weren't estimated tax bills sent out so as to eliminate this transference? If we could have an answer.

THE MODERATOR: Does the Town Manager want to answer that?

MS. HARPER: Our Director of Assessing may be able to

help with that answer.

MR. BAILEY: Dave Bailey, Director of Assessing. The decision was made back in September to commit to this borrowing. That was the decision of the former Town Manager; it wasn't my decision, so.

[Laughter.]

MR. BAILEY: I told him on his way –

THE MODERATOR: Let's go, Folks, come on.

MR. BAILEY: – out the door, I'd be blaming him for everything that came up in the next few months. But that's the facts, that the cash flow issue is an issue that's existed for some time, and the decision was made back in September to do this borrowing, so.

THE MODERATOR: Okay. Yes.

MS. HARPER: Just to add to that, I think we work at a continuing process of chasing the final assessments. There was a good hope that there would be a final recap sheet available earlier in the year, and not wanting to commit to a preliminary tax bill which does add another layer of process for our financial managers. We were hoping to delay that process and ultimately came to the conclusion early this fall, in taking a look at all of the budget issues, including the previous article, the decision was made not to issue the preliminary tax bills in the hopes that the actual recap sheet and the tax rate would be set earlier in the year.

That isn't the case. The borrowing needs to happen. And it

really is a structural issue that needs to be addressed, in terms of the cash flow of the town. It's unfortunate that it happened this way, but it really is a result of some prior practices related to cash flow management which are not appropriate practices which need to be addressed and would be addressed by the next article, which is establishing a quarterly tax billing system.

THE MODERATOR: Okay. All set? Okay, Mr. Donahue.

MR. DONAHUE: Robert Donahue, Precinct 3. My question is, through you, Moderator, is was the Board of Selectmen involved in this \$20 million loan, did they give their blessing to it and or was this the Town Manager went off on his own and decided, "Let's borrow 20 million and forget about putting –

THE MODERATOR: Mr. Chairman.

MR. DONAHUE: – you know –

CHAIRMAN PUTNAM: The Board was advised of the cash flow situation. What has happened and what was alluded to here is that in years past, there have been major capital projects, for example the high school where, when the Town reached this point in its fiscal year we had cash flow issues, and apparently were able to borrow against those projects and maintain cash flow until the tax receipts started to come in.

The recommendation that the Board received and accepted from the former Town Manager was that a revenue anticipation note, which

is what we're basically doing here, this \$120,000 is interest for what's known as a revenue anticipation note. It is simply borrowing against anticipated revenues, in this case the tax bills that are supposed to go out shortly.

Again, as noted, this is not acceptable practice. It is what the Board had to do in this situation or else the Town would have come up not being able to pay bills.

MR. DONAHUE: You know, a side question: \$119,823, how many salaries does that cover? You know, I mean, it seems to me that if the Selectmen had a question on this in their minds, and they all should have, they should have gone to the Finance Committee. And if the Finance Committee can't give you a question, and our accountant can't give you an answer, then I'd defer it. And you don't let somebody make a decision like that. This is costing us how many salaries? A lot of money, \$119,000. Times are tight.

CHAIRMAN PUTNAM: We agree. The money is – we don't like having to spend this money, either. But the alternative, the only alternative that we had was to not pay bills, and that realistically is not an alternative.

It should be noted, Article 10, which we did pass on the blanket, is anticipated to help resolve this sort of situation in the future by allowing us to issue quarterly tax bills instead of the semi-annual tax bills

and to maintain the cash flow in a better process.

THE MODERATOR: Mr. Netto.

MR. NETTO: Joe Netto, Precinct 9. I have two questions, Chairman of the Board of Selectmen, I guess, through you Mr. Moderator. Mr. Putnam, wouldn't it have been cheaper and easier -- you said there was no other alternatives. Wouldn't an alternative have been to send out an estimated tax bill?

I think people in the Town of Falmouth have all been wondering where their tax bills were. They would have gladly paid it and I don't think it would have cost us \$120,000. So if we could have an answer to the first question, I'd appreciate that.

THE MODERATOR: Okay, Ms. Harper.

MS. HARPER: That is exactly the issue that the Board of Selectmen confronted earlier this fall, was the process and the timing of addressing the budgetary issues which you just addressed in the last question, and the scheduling and timing of the preliminary tax bills.

Even issuing preliminary tax bills would have taken quite -- several months in order to get those approval processes through the Department of Revenue. It isn't something that's just done without an approval process. So, it looked at that time that the actual tax bills could be ready in a similar time frame as the preliminary tax bills.

That doesn't look like the case now. We're still working with

the Department of Revenue on their end of the work, which is establishing the values for the Town. That hasn't occurred yet. I see David walking down the hall and wanting to contribute to that, but that's exactly the issue that the Board of Selectmen confronted and was asked to address in an overall budget strategy for Fiscal 2011, which had both the cash flow issues as well as the budgetary reductions. We were able to address both the recap sheet issues in the last item, and this was the cash flow solution.

So it was part of a strategy to get us through Fiscal '11.

These were all approved by the Board of Selectmen and there are no surprises.

THE MODERATOR: Mr. Bailey, did you want to add to that?

MR. BAILEY: Well, I might just add that, at tonight's meeting, just a few moments ago, we balanced the budget. The budget was unbalanced. We could not have sent preliminary tax bills in August, September, October or until a few minutes ago. So, that option simply wasn't available to us, in that respect. You've got to have a balanced budget before you send out preliminary tax bills.

Again, the article that we passed on the blanket, the quarterly tax bills, will resolve this issue going into the future. It's unfortunate that it happened now, but it was a confluence of issues; one with the budget, two with the revaluation that has been sitting up at the state for the last several

weeks waiting for somebody to look at it. So, we've, yeah, I think we've resolved any outstanding issues that would cause a repeat of this, but it is unfortunate that it happened.

THE MODERATOR: Mr. Bailey, for the benefit of Town Meeting Members, either you or the Chairman of the Board of Selectmen, could you briefly discuss the vote that the Board of Selectmen took earlier this evening so that folks understand that they may or may not get an estimated tax bill even after this discussion?

MR. BAILEY: The Board of Selectmen did vote to authorize preliminary tax bills. The Board of Assessors voted earlier, and in fact the Board of Assessors voted in August to authorize preliminary tax bills. We may. I mean, our revaluation is still in the hands of the Department of Revenue. We have not heard – we haven't heard that we have to change anything, but we're waiting for approval of the revaluation statistics. If they don't come, or we don't hear that they're going to be coming shortly, we still may issue preliminary tax bills just to get the bills in people's hands prior to the first of the year so they can use them as a tax deduction.

So, we're doing everything we can at this point, but we're sort of at the mercy of the Department of Revenue at this time, as well.

THE MODERATOR: Okay, thank you. You had a second question?

MR. NETTO: Second question: what's the status of this \$20

million note as we stand after we vote this \$119,823 interest payment, what's the status of that note? Are we going to get – one, are we going to pay this – obviously this isn't going to pay the note off. Are we going to see another line like this when we come here in April in the Special, you know, to pay off the rest of the note?

Is this one of at least two payments or one of many payments? Whoever's qualified to answer that, I'd appreciate an answer. Because I think the taxpayers at home want to know how many more of these payments we're going to make. They've taken out the loan on our money, so let's get an answer, please.

CHAIRMAN PUTNAM: Mr. Netto, this is one note for \$20 million and this is the sum total of the interest that is due for that note. So this is the only payment that will be due for that note.

MR. NETTO: So we have the 20 million to pay off the note plus this interest?

CHAIRMAN PUTNAM: I'm sorry?

THE MODERATOR: They're going to pay off the note with the revenue once they get the tax bills out.

MR. NETTO: That's my question. We obviously don't have the tax bill out. We borrowed 20 million; this note is due as of what date? When is this money due, sir?

THE MODERATOR: It's March, isn't it? I think it's March 4th

or something?

MR. NETTO: Oh, okay. So it's March 4th; the money is due March 4th, so we have from now to March 4th to get this interest. This represents the interest on the 20 million, payable March 4th of 2011.

Okay, because none of that is up there. The date is not us there. When you borrow money, we all know it's due on a certain date. So it would have been helpful, I think, to the rest of us, not only to tell us what we owe, what we borrowed, but the date that it was due, because that's what I was – thank you very much. I think this is now transparent and the public has a good idea. Thank you.

THE MODERATOR: Okay, Mr. Shearer.

MR. SHEARER: I got my answer.

THE MODERATOR: You're all set.

Okay, anybody else on Article 9?

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

All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed no.

[None opposed.]

THE MODERATOR: The ayes have it unanimous.

Article 12. Article 12 was the local room occupancy tax. The Finance Committee's recommendation is indefinite postponement. Mr.

Chairman of the Board of Selectmen for a main motion.

CHAIRMAN PUTNAM: The Board of Selectmen recommends Article 12 be passed as written.

THE MODERATOR: Okay, we have a main motion on the floor by the Board of Selectmen for Article 12 as printed. Mr. Murphy had held this.

Mr. Murphy, I think the Board's going to make their opening presentation on the main motion, and then I'll --

MR. MURPHY: Okay.

THE MODERATOR: Since they had the main motion. That's okay.

MS. HARPER: On behalf of the Board, I wanted to take some time to review how the policy that the Board adopted just last Monday, November 8th, would be applied if the local options were to pass, and to give you an order of magnitude as to how the local options contribute to the Town's budget policies and practices.

First of all, the local options are not going to be the sole contributor to fiscal sustainability. They are not going to be a sole source for capital funds and they aren't going to be a solution to your operational budgets. It's going to be a multiple of factors, taking a look at opportunities to strategically fund capital exclusions and debt exclusions as we have in the past, to use available funds like Free Cash, which you will see a return

to in future years, and there are going to be a multiple of strategies that you'll be able to apply to achieve the goals of fiscal sustainability as well as support for your infrastructure and Operating budgets.

I do want to talk specifically about the local options, and in perspective of a \$108 million budget, it's approximately a million dollars a year. Those increases in meals, rooms and rooms excise are proposed as part of a municipal relief package. They're offered by the state to offset statewide losses in local revenues. Some of those, we just cut our budget \$404,000 to cope with in this fiscal year, and as well as losses in our local estimated receipts.

And there are going to be multiple strategies that you'll be able to apply to achieve the goals of fiscal sustainability as well as support for your infrastructure and operating budgets.

So it's a combination of support for the local economy and losses in state revenue.

Just some illustrations. I know you're all very familiar with this, but the meals taxes allow an additional 75 percent or – .75 percent or 75 cents on a hundred dollar meal. I think I was out with a group of about four folks last weekend and paid six dollars on my tax for that particular purchase.

The annual revenue estimated is about \$600,000, and that's the range that we'll expect.

Thirty-five percent, or 121 of the 351 Massachusetts communities have adopted the meals tax. Those include Yarmouth, Dennis, Brewster, Harwich, Orleans, Wellfleet, Truro, Provincetown, Nantucket, Oak Bluffs, Boston and all of the Metro Boston communities, from Quincy to Saugus, just to give you an idea of when you go outside of Falmouth for dinner, where you will be contributing to the meals tax.

Rooms excise, and I know is a more controversial of the two local options, allows an increase in rooms excise from four to six percent. The annual revenue estimate is \$400,000. Currently the state estimates \$330,000 a year with eight months reporting. Twenty-four percent or 86 of the 351 communities in Massachusetts have adopted the six percent option or the additional two percent.

We have an estimated 1,325 rooms and have lost approximately 298 in the recent years as a result of closure or conversion. It is very difficult to track the annual revenues and compare the annual revenues to the number of rooms, and there may be some discussion about that, but I wanted you to have the big picture, that there are 1300 rooms and we've lost close to 300 of those in the last several years.

Annual revenue is averaging about \$946,000, though recent trends do show declines, with the exception of this past fiscal year, which was flat from 2009, and with a modest increase of about \$3,000.

Next slide. The meals excise is estimated at 600,000, the

rooms excise at four, for a total contribution to the municipal revenues of \$100,000 if both are past.

FROM THE FLOOR: A million.

MS. HARPER: A million, that's right. Careful with the zeroes.

The Board of Selectmen have adopted an overall 2012 budget policy, which includes policies on the local option revenues. The local options and fiscal sustainability policy recommends that 25 percent of all local options revenues be reserved for the Stabilization Fund, or \$250,000 to the Stabilization Fund. A minimum of 25 percent towards capital programs.

They also have adopted a very conservative budget growth policy of 1.5 percent. That means across the School and the Town budgets would be added revenue towards next fiscal year 2012 of \$1,475,000. What that means in next year, and this is just big picture, this isn't meant to scare anybody, but this is what we'll be working with over the next several weeks as we prepare an operating budget for Fiscal 2012. We do estimate increases at a modest increase in health insurance based on consumer averages across the Commonwealth of \$800,000. \$250,000 in retirement expenses. \$30,000 to bring that high school back onto the statement of values for the Town. And \$350,000 to offset contract obligations on the Town's side. That's just Town side: \$1.43 million.

That doesn't contemplate any school needs. We know that

there's a loss of federal stimulus money in this next year of \$350,000, plus the school has their own labor costs and overheads that we need to contemplate. So, as you can see, given the current budget year, there are going to be very difficult challenges within all of our operations are going to require a level funding budget across the board. Level funding is a euphemism for cuts. It does mean that there will be reductions in programs for this fiscal year.

And I'll take the next slide. The local options, I do want to add that the local options policy requires the Town Manager to submit a budget that does not include any of the local options, but does an analysis of what those local options may fund in that fiscal year, but there needs to be a balanced budget submitted without the additional local options.

So, if we were to apply the policy, you'd have \$250,000 contributed to what you have now. It's a little over a million dollars in Stabilization. You have a fiscal goal of \$5 million in Stabilization, putting you towards your goal of fiscal stabilization in the Stabilization Fund. \$250,000 contributed to your capital program. And recall that your capital programs on a good year average about \$3 million a year, and there were many years in the past where we had capital programs combine debt and free cash of over \$3 million a year towards your capital program. That's what we should have done. It's what you do when times are good is you buy the equipment, you maintain your facilities. It allows you cope in times

that like we are now. Our facilities and our equipment are starting to see the stress and strain, but we're hanging in there.

And so you've got over \$500,000 in minimum contributions based on the policy.

In addition, there's a balance of \$500,000, and I'm calling that discretionary. Obviously the discretion will lie in this body, ultimately.

You can launch the next slide, Bob. Half of those annual revenues are proposed to either Capital Reserves or to Stabilization. The budget policy limits growth. It's just going to be a challenge for all of us in the next coming – in the coming months.

The remaining funds are proposed to the discretion of the Board of Selectmen, Finance Committee and Town Meeting and could be used to continue to build reserves and fund municipal needs.

I really wanted to have you all to have in perspective what those policies and the application of those meant as you deliberated on the relative merits of the meals tax and the rooms tax.

THE MODERATOR: Okay. Mr. Murphy.

MR. MURPHY: Thank you, Mr. Moderator. And, Folks, you're lucky because this is the only other article that I plan on speaking on in this Town Meeting or have a presentation for, anyways.

Thank you very much. We all know that there's needs in this community. We all know that there's needs in each and every one of your

households. This part I didn't plan on saying, because I was pre-empted a little bit. If you can hold the slide show for a second. I was preempted a little bit. Please keep in mind that the Consumer Price Index over the last five years is 7.8 percent. That means everything that you buy, whether it be your rent, your electricity, your heat, your restaurants, all the things that you buy have gone up 7.8 percent. The Town of Falmouth has taken in an additional 15 percent. So, I understand that we have needs, but just like each and every one of you, we have to adjust for those needs. And I'm going to preempt this particular topic as we move forward on the rooms tax. I don't plan on speaking when we get to the meals tax, because that's going to be a tax you're going to put on each and every one of you. I'm a restaurateur; I won't speak on that. You're going to apply the tax to yourselves. And it's going to be a judgment call to yourself. But this particular tax is applied to a specific segment of the population.

I hear the question about, oh, will it go up on our property taxes or will we have a tax increase. This is a tax increase. Please understand that. If the state – the state also takes in, just so we all know, we're talking about the rooms tax is four percent in the Town of Falmouth now. That's what the Town gets. The state gets 5.7 percent. So the actual rooms tax to begin with is 9.7 percent.

Last year when we left Town Meeting, I tried to work with a compromise to try to find a way that we could come up with a way to

implement this tax but not hurt the hotels, motels, B&B's that particularly generate this tax. I thought we were there, but I've got to be candid with you: once I found the fear in the smaller properties' eyes and the smaller properties' hearts, I realized that now was not the time for that. I realized that their fear included two of their fellow properties being foreclosed on this past year. They asked that we wait and see with particular tax increase which would bring us up to 11.7 percent.

This 11.7 percent will take us over the ten percent barrier; they all feel that they compete, and it's true, with the coast of Maine. The Cape versus the coast of Maine, come summertime. These are our visitors.

The Finance Committee, when we met with them, talked about a home for these funds, and in the regard to the home, we understood that. We looked for a destination marking fund, but I believed that we could work in the future with the Finance Committee to be able to come up with a viable option that could keep these B&B's, hotels, motels, in business for now and in the future.

You know, it's easy to tax the visitor. And, if I might add to you: at the current rate, at four percent, the average visitor pays \$11.48 per night. The average tax bill in this town is \$3226. The average house pays \$9.11 per day. So it's justly unfair to say that those visitors don't pay their share. Besides the fact that these hotels, motels, B&B's pay property taxes, they pay fees, they pay licensing, and they employ our friends and

neighbors, as well.

If you think that this little increase in the tax won't affect anyone and it would take the average room up to \$17.22 a day, think again. How many people here drive over the bridge to get a tankful of gas to save five bucks? How many people on their way back make sure they fill their car? It means a lot to each and every one of us. So don't look and say, "Well, it doesn't mean anything to them", because really, deep down in your soul, you know it means something to each and every one of us.

When visitors stay in our accommodations, they spend money. They shop in our stores, they go to local events, and yes, they eat in restaurants. They provide a lot of impetus in our economy. They say that the average visitor, besides what they pay for accommodations, spends an additional \$8 for every dollar they spend for accommodations. In my case, it helps me employ 30 people, five of whom happen to be school teachers in the Town of Falmouth. It helps me hire plumbers, electricians, a local septic company, painters, trash and recycling company, produce supplier, fishermen, shell fishermen, farmers, bakers. It helps me to be able to donate in cash and kind to the many just causes in this community.

This is a viable part of the face of our community. If we did not have visitors in this community, please don't kid yourself: you would not be able to walk into a restaurant on a Saturday night in the summer

and get a table just as easy as that, because those restaurants wouldn't exist. The Town, the face of the Town, wouldn't have just a few vacancies on Main Street in those storefronts, they'd have many, many, many vacancies in those storefronts.

In 2003, we took in \$1.6 million in rooms taxes. This past year, we took in \$849,000. The tax didn't change. And if I could start to show you, taking down a little trip on Memory Lane. These following places, as we go up here –

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

THE MODERATOR: Mr. Hampson.

MR. HAMPSON: I'd like to make a motion that we go beyond eleven o'clock to finish this.

THE MODERATOR: Okay, a motion to go beyond 11:00 to finish this article. All in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[No.]

THE MODERATOR: It is the opinion of the Chair that the ayes have it and we'll stay for this article.

MR. MURPHY: These establishments I'm showing you have changed over the last years to become timeshares, private residences, condominiums, summer rental properties, and senior living units. Please

look at these places, because many of you remember them. You remember them from a long time ago, you remember them from a short time ago.

The old Brother's Four, Doucette's, which is now a property. Some were good, some were bad. [Pause.]

MR. MURPHY: The last slide you're going to see in this whole slide presentation, and I hope you keep watching while we go through this, is the Sea Crest Resort. Last year, we dodged a major bullet. That property was for sale and we found a viable hotelier that came to this community. That property could have gone the way of all of these buildings and these establishments if we hadn't found a proper hotelier. It could have gone the way because by right they could have put in over 150 condominiums. We wouldn't want to see the face of this community change that much. We want to keep these people in business. These people help our economy. They will help our economy in the future.

We need to do everything we can to help them stay alive. The more – if we put this tax on right now, you will hurt them right now and in some cases put it to diminishing returns, where they might not be able to react, they might not be able to come back.

Mr. Chairman, I won't keep going. There's 40 of these establishments up here. Because of the hour, I won't delay it, but thank you very much.

THE MODERATOR: Okay, Mr. Schmitt. I'll put you both on my list.

MR. SCHMITT: Yes, Edward Schmitt, Precinct 8. Fellow Town Meeting Members, I've spoken about this opportunity for increased revenue in the past, so it should come as no surprise to you that I continue to be in favor of it.

But what I'd like to do is focus tonight on providing new information that I do not believe anyone in this room has actually seen before. Maybe Mary Ellen Alwardt has seen some of the data.

The information I have is important because many of the objections I've been hearing, we've all been hearing, relate to what I would describe as a gut fear, and an understandable gut fear, mostly on the part of the hotel/motel/bed and breakfast operators, a big fear that an increase in this room occupancy tax will drive away tourists and cause them to seek accommodations in neighboring communities, or even drive a hundred miles, or hundreds of miles north up to the State of Maine, as Mr. Murphy mentioned earlier. But hopefully the factual information I can present to you tonight will put these fears to rest. And I'm not just speaking to all Town Meeting Members here, I'm speaking to the hotel and motel community, too. I've got some information I think you'll find somewhat reassuring. And I hope it can put fears to rest so that we can move forward and put our financial house in order.

I want to begin by making it clear what we are talking about, and the chart up on the wall says that, yes, currently there is a state portion of the tax; it's 5.7 percent; all of those monies go to the state.

The local portion is four percent; those monies come back to the Town, every dollar, and we decide how they're spent. Those are the kinds of revenues that give us this opportunity for sustainability that we've been talking about tonight.

Before us tonight is this question of whether to add another two percent, which the state is giving us the possibility of doing, in order to make up for the lost revenues that they've not been sending to us.

So the new total, if you approve of this article tonight, would be 11.7%.

Now, let me explain how this tax works, because it's very important. Tourists and other visitors pay the tax when they rent a room in a hotel, motel, or a bed and breakfast establishment. Bed and breakfast establishment is a key word. That means a bed and breakfast with four or more rooms. Something less than that the state calls a bed and breakfast home, three rooms or less. Those three rooms or less are not taxed, only they're exempted. Only those with four or more rooms.

Now, innkeepers who own these businesses are required to collect the tax, and they forward to the state monthly, by the 20th day of the next month, along with something called a Form R02, which looks not

unlike the W2 that you receive from your employer. Four times a year at the end of each quarter, the state takes all of this 4 percent collected by the hotel keepers sent to the state, they send it back to the Town with some kind of an electronic transfer.

It's important, very important, to understand that the innkeepers, that is to say the hotel, motel and B&B owners, do not pay the tax. The person paying – renting the room is the person who pays the tax. This is similar to a sales tax. If you shop in a retail store like Wal-Mart or any one of our very excellent local businesses, you will pay a tax on most of the items you buy. You will pay the tax. It's shown right on your receipt. It's not the store owner who pays the tax. So I think it's a real distortion of fact to say that it's an unfair tax on the hotel industry and kind of give you the idea that they're paying the tax and it comes out of their pockets. It does not.

That's not to say – I'm not unsympathetic to the problems they face and the difficulties of trying to run a very seasonal business. And yes, everything Mr. Murphy showed you about all the places in town that, you know, were formerly successful business, they've passed on, but I think it really had nothing to do with taxes. There's a lot more fundamental issues which are the reasons why those businesses have been struggling.

Now, I do want to look at these numbers related to occupancy tax receipts. These are the actual figures confirmed by Mary Ellen Alwardt

for the Town of Falmouth over the past three years. Fiscal '78 [sic] – this is the period ending June 30th of every year – \$926,000. Fiscal 2009, up slightly to 941. Most recent fiscal year, again ending June, we were down to 849; that's about a ten percent decline.

Now, one thing you've got to keep in mind on the 10 percent decline this year, this includes not this past summer, but the previous summer, summer of – a very wet and cool summer of the year fiscal 2009. Other towns on the Cape, I can tell you, and we'll see the figures in a moment, they suffered likewise through this very cool and wet season, with similar results.

But in the most recent summer, just this past summer, we had really good weather, so the numbers are looking pretty positive, and some of the numbers are looking very, very positive, but unfortunately not for Falmouth, but we can talk about why that is.

If you can take those three years of actual results, you can add them together, divide by three, and you get a three year average, and that's what we've been – the total receipts have been: \$905,721. And when I kind of estimate what this tax increase will be worth, six percent over four percent, that's 50% more. So we should be getting 50% more than the 905; that would equate to 452,000.

Now, the numbers in your warrant booklet for the 341, yes, were provided by the state in July of 2009; it was bulleted in 17-R and it

was only based upon eight months of receipts and it did not include the very important months to a seasonal business of July, August and December – September of that year.

I just want to give you some background, but that 331 is a pretty low number. It's not to say it couldn't happen, but it might take another double-dip recession or even maybe a category three or category four hurricane hitting the coast of Falmouth to really drive down the rooms revenues so dramatically. That would be a 27 percent decline from an already low year.

Now, these next two charts compare Falmouth room receipts, and these are all for the latest fiscal 2010, the period ending last June 30th.

As I said, what's included in these numbers, the reason you're seeing a lot of negatives, that was the cool, wet summer of 2009. I'm not looking at what I wrote, here, I'm just sort of getting booed on, here.

But, you know, you get into these numbers and they tell you an awful lot about the competitive visitor situation, so I could take a lot of time, we could work together if we had it, to really learn a lot about what's really been happening in business, and not just the hotel business, because these figures, as Kevin mentioned, are a barometer. When you get more people or less coming to town, then you have more people or less people shopping in our stores, more people or less people eating in

our restaurants.

This particular chart, first fiscal quarter, for the sake of time, let me pass over this. And the next one. And move on.

I want to talk about room occupancy tax generated in the month of July, 2010. And this month of July is very important, because there were three towns on the Cape: Brewster, Provincetown and Yarmouth, who have already adopted this extra 2 percent tax. Their adoption went into effective July 1st of 2010. Now, the latest monthly data available from the Department of Revenue -- and all my numbers are from the Department of Revenue. I have to say they've been very helpful, very cooperative, very quick to respond to all of my requests. Except the request on individual hotels; that information is private and we can all be glad they do keep, you know, private information private and not release it to competitors.

But can we go to the chart before? Oh, that's Brewster. Brewster was one of those towns that went up in July 1st in 2010. And these, the tax receipts are really based upon room rentals during that month of July. Now, with a 50% increase in the tax, you would expect to see Brewster generating 50 percent more in local receipts in the month of July. But the number there says it went up 86 percent. So I'm saying 50 percent of that increase was just a higher tax, but the other 36 percent tells us that in Brewster, they had a lot more hotel business, a lot more rooms

rented and in fact their rentals are up 36 percent, and that probably did translate to more people eating in their restaurants, more people shopping in their stores.

Other towns likewise did well. Okay, we're on the next chart, here, look at Provincetown. That was another Town adopting the tax on July 1. The expected 50 percent increase is just about what they got in Provincetown. So, in terms of room occupancy rates, they kind of remain flat. The extra tax clearly did not hurt them; it didn't help them, but in Brewster what we saw is: despite the tax increase, their rentals are actually going up.

The last key town to look at is Yarmouth. Yarmouth's is the third town that adopted the tax. Now, some people were telling you last year, if we raise this tax, people are going to run to other towns. Well, it certainly didn't happen in Yarmouth. Yarmouth took that two percent tax increase; they got a 91 percent increase in revenues. I can't tell you why they're doing so well, but I can tell you that 50 percent of that increase was just due to the six percent instead of four percent. But they're doing a lot more business.

One thing I do suspect and cannot prove, but I do get some indications from the people at the DOR who I talked to, is that some of that business might have actually come to Falmouth. That's why on these two charts, you're seeing that Falmouth is the only town on the Cape that had

reduced local hotel receipts in the past year.

What's special, what's unique about what's going on in Falmouth? Well, you know, it's not that we're really doing anything wrong.

I really suspect, and I've got a really strong feeling that a lot of the reasons for Falmouth's negative numbers, here, do come back and relate to the Sea Crest Resort. That sale went through back in the spring, and almost immediately they did start refurbishing some rooms. Word did get out to the travel community, those people who book group tours, and I suspect some of those – I know at least – I know one company, but there may have been others, who went and canceled their reservations at the Sea Crest and moved to the Town of Yarmouth because the Town of Yarmouth does have the most bedrooms available on the Cape; very much in a position to be able to accommodate someone who needed a lot of space quickly.

So all of these numbers, what they're saying to me, and I hope they say to you is, there's no evidence here that the increase in the tax has hurt the business of the people in Brewster, in Provincetown, or in Yarmouth. In fact, their numbers happen to be very, very, very strong. So the real answer to the real question, this fear, this gut fear about losing the business because we raise the tax, there's no evidence. There's a lot of evidence to the contrary, that really it is not hurting the business.

When I've discussed this with people at the Department of Revenue, Fred Kingsley, a bureau chief, his quote – I'm quoting here very

directly, he says, "For the three communities that implemented the six percent tax in time for it to impact July, 2010, there appears to be no impact in terms of decreased receipts."

FROM THE FLOOR: Question.

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

MR. SCHMITT: Now I'm going to come close to wrapping this up.

FROM THE FLOOR: [Inaudible.]

THE MODERATOR: Okay.

MR. SCHMITT: We can skip this one and just move on, if you will. These are comparisons with what the taxes are in other states. And even other countries. I think the reason why these taxes, they really don't have much of an effect, is that people expect to pay them. People in Rhode Island expect a 13 percent; New York City it's up to 14.75 percent.

The next chart shows some foreign countries, even England and France –

THE MODERATOR: Folks, let's quell the undercurrent, so that Mr. Schmitt can finish and we can go on to the next speaker, thank you.

MR. SCHMITT: So my very last chart, here, says, if we can get to it, that what really counts I think is that Falmouth has a lot to offer.

More than 12 miles of public access to beaches, attractive shopping, quaint historic downtown, boating, fishing, biking, swimming, tennis, golf, spectacular 4th of July fireworks display, lots of great ice cream shops. We have a lot to offer. I really believe Falmouth is a pearl of Cape Cod and we need to have the revenue to keep it that way.

I hope you'll support this article. Thank you very much.

THE MODERATOR: Okay, up in the back in the aisle, I had a blue sweater and a red sweater. If we can get a mic up there.

MR. O'CONNELL: Mr. Moderator, Town Meeting Members, I'm Bill O'Connell, Precinct 2, the Palmer House Inn.

About six years ago my wife and I moved to Falmouth to purchase the Palmer House Inn. It's a 17 guestroom bed and breakfast in the Village. It's a business which needed some new infusion of energy, new infusion of capital. We viewed it as an opportunity to live in a great Town while we re-built a business that we could someday sell and fund our own retirement.

In addition to the purchase price, for about three years we poured money into this property from our savings to offset a lot of deferred maintenance from the prior owners: re-roofed the main inn, six new water heaters, new boiler; but the biggest investment we made, which is ongoing, is an investment in marketing.

We slowly built the occupancy back up, but it was our fourth

year before we crossed the threshold and the Palmer House Inn was able to pay its ongoing bills and fund some continued investment in the property, which is something that it needs constantly. A property of that size, you should be refurbishing part of it every single year.

When the stock market did a meltdown in '08, our season was basically already in the bank, so it didn't really hurt us. In '09, it hurt us severely. In '09 we lost 18 percent of our business. We've used about all of our reserves. We cannot continue to maintain the property as it should be done. We have to make the payments on the mortgage. We're able to survive with that. We have to pay our real estate taxes every year. We're able to keep up with that. But maintenance is down to emergency maintenance, only.

So our backs are to the wall, here.

We all know that every product and service which we use faces price sensitivity at some point. When we quote a room, usually it's 189 plus the tax, 199 plus the tax, but more and more of our enquiries are including a question, "What is the tax?" At 9.7 percent they groan.

We really fear that going across the double digit to 11.7 is a psychological hurdle that more and more of our prospective guests are not going to be willing to jump.

The occupancy will certainly be driven down by any increase in taxes; we don't know by how much. We don't have any room to absorb

a further decrease in occupancy at this point. Our closest competition for the Cape Cod region is the State of Maine, and I'm not making this up. This comes from surveys that are conducted by the Massachusetts Office of Travel and Tourism. As Kevin Murphy pointed out, we watched two of our fellow bed and breakfast operators lose their properties, lose their home, lose their business to foreclosure auctions, a devastating experience. We don't want to be number three.

THE MODERATOR: Okay, gentlewoman with the red sweater.

MS. ROBINSON: Thank you, Mr. Moderator and Town Meeting Members. My name is Trish Robinson. My husband and I own the Captain's Manor Inn, formerly known as Moseby Hall. You may be familiar with the fact that that was one of the troubled properties; we purchased it in January and we invested \$300,000 in that property.

We hired painters, roofers, electricians, plumbers, who put in a new heating system, new air conditioning, new carpets throughout, new furniture. You name it, we did it. New bathrooms. And we did that and had a good first year in terms of people coming to Falmouth, loving the town, and staying with us, and we figured that in addition to visiting our property, they spent about \$78,000 frequenting the stores and the restaurants in Town.

In the May meeting which we attended, which was our first,

this issue came up about taxes. And based on the overwhelming vote-down at 150 to 51, my husband and I made a commitment to expand our property. So we invested another \$50,000 with local architects, surveyors, landscapers, you name it, in order to get ready November 1st for our addition. Right now our addition is on hold, because we can't take the risk of investing another \$700,000 into that property to add more rooms to bring more visitors who love this town and want to come here and invest in this town. We can't take that risk.

And I know you saw some interesting numbers and people are saying, "Well, there's nothing to fear but fear itself." I respect that, I understand that. But keep in mind that only 25 percent of the cities and towns in Massachusetts have passed this. Only 25 percent have passed it on the Cape. There's a reason. And the reason is there is fear, there is concern, and taxes change behavior, just like we saw with the alcohol tax, just like we've seen with fees like on trash, people change their behaviors. And we are afraid of the risk that that poses.

So right now, we've put all our plans on hold, which included hiring a tripling of our staff, which are all local Falmouth people. That was a commitment we made to the community.

It puts on hold the extra rooms which would have brought, just from our small property, \$4,000 more in room tax revenue at the four percent level.

And it puts us in a position of making some serious decisions about what we can risk and what we can commit.

So I urge you to think about this, and as Bill stated, we've watched a lot of others who have made commitments to this Town, unfortunately they are really on the edge and two percent more makes that psychological barrier of taxes of 11.7 percent a battle that many of us do fear for very good reason.

THE MODERATOR: Okay, Mr. Bidwell, did you have something still? All set.

Mr. Smolowitz.

MR. SMOLOWITZ: Thank you, Mr. Moderator, Ron Smolowitz, Precinct 8. I have a question first, which is: the money that's raised from this tax, it goes into the general funds. The previous article had talked about a destination program, where the money would be used for trying to bring more tourists and more business to the community. So, that's off the table, or? Okay.

THE MODERATOR: This money would go to the General Fund, but then you'd all have to appropriate it at a future Town Meeting to go somewhere.

MR. SMOLOWITZ: Okay. In that case, I'm going to have to say that I would be against this tax. And the reason is that, the next three days there's a meeting of about a hundred people, it's a Fisheries meeting,

and I advocated for the meeting to be held in Falmouth; Brewster won out.

And Brewster has a program where they actively went and sought out the meeting. That brings 100 people for three days to Brewster, using their restaurants, paying their hotels.

If in fact we're going to tax our hotels, or tax the visitors to those hotels, I would think the hotels should get a return on the investment and we should be appropriating a percentage of the money in whatever article when we vote for this increased tax that actually devotes the money to trying to bring more tourism into the town to keep those hotel rooms filled and to provide more jobs, more economic activity for all the other businesses.

This does not do that. This is just a way to fund the general government, which certainly we do need some money, but I think it's inappropriate to put it on one small segment. So I would have to vote against this, thank you.

THE MODERATOR: Mr. Bidwell, did you change your mind?

MR. BIDWELL: Good evening, Mr. Moderator, Todd Bidwell, Precinct 4. Also general manager of the Island Queen.

This is a complicated issue, and none of us can argue with the fact that there may be fear, there may be unknowns, but what I can tell you is we live in a community, the Town of Falmouth, which is at risk for our level of visitors to this area.

We saw a couple of numbers that Mr. Schmitt did put up on the screen, and I took note of the fact that both Provincetown and Yarmouth had two of the most significant increases in their rooms tax. The Town of Provincetown this year reinvested \$400,000 in tourism marketing and related services. The Town of Yarmouth currently has \$250,000 raised for reinvestment in visitor services and marketing. The Town of Falmouth is doing very little to none at all of developing our tourism base.

You're hearing from a couple of the innkeepers the fear that's in their voices. We saw nearly 40 properties, I believe if I'm not mistaken, of photographs of conversions that were once wonderful --and perhaps some that weren't -- of accommodations that we offered to visitors. We are losing rooms at a constant rate in this town. Without rooms, we cannot attract visitors.

Our innkeepers expressed this last year, a loss of approximately ten percent in their occupancy rates, and based on the fiscal year collections, we did lose approximately \$100,000 in our rooms tax revenue collected in Falmouth. And, as Mr. Schmitt did show, the first quarter of Fiscal Year 2011 shows a decrease of \$38,000 from the first quarter of last fiscal year.

I believe that we are lagging behind many other communities on Cape Cod. I believe that our beaches are deplorable. No longer can we tout our beaches as some of the most beautiful on Cape Cod. And any

one of you who wishes to disagree with me needs to take a walk again and look at how little sand we can offer our visitors. So Falmouth is not competing with some of the other resources that our other communities on Cape Cod can offer – and off Cape can offer.

Our innkeepers have a right and fair reason to be fearful. I suggest to you we give this another year. Let's see how these other communities continue doing with their occupancy tax. I'd also urge us to look in the future at doing some reinvestment for tourism development, to attract our meetings and our conventions and our conferences and our independent traveler and our domestic traveler and our international traveler to come see the beautiful town that we have, because by increasing this tax, we may very well remain steady in our rooms tax collections for some time, but I promise you it'll be on the backs of our business owners, because they will see a decrease in visitors if we don't take steps to rebuild the tourism industry that we had and we are currently losing. Thank you.

[Applause.]

THE MODERATOR: Okay. I think we're – Mr. Young, something new? I think we're almost ready to take a vote on this.

MR. YOUNG: Mr. Moderator, I brought this up at our precinct meeting last week. I find that the Board of Selectmen are supporting this increase through Ms. Harper, and that Mr. Anderson from the Finance

Committee is opposed to it. Until these two boards can agree, I think that we should vote indefinite postponement and I move the question.

THE MODERATOR: Okay. Ms. Siegel. One last thing, here. I don't take the motion to move the question unless it's the reason for standing. But we're ready to go here. Go ahead. Last thing and that's it.

MS. SIEGEL: Deborah Siegel, Precinct 6. Three years ago, when this first came up, I voted for it. And I am now going to ask you to vote against it. There is one big argument that tourists who come here use services that they don't pay for. And when I look at all the services they use, I see them paying for it. I don't think they're getting anything for free.

As much as I would like to see fewer tourists in this town – and believe me, I would – that's not the question. The point I'm trying to make is that I think this is an arbitrary tax. And I think it was an easy target, and I don't think it's good government and the next – we could put a tax on baby carriages and strollers because the children are going to eventually be using the schools. It's the same kind of an arbitrary tax. I think it's unfair and I ask you to not approve this. Thank you.

THE MODERATOR: Okay, the question will come on the main motion, Article 12 as printed.

All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, no.

[No.]

THE MODERATOR: It is the opinion of the Chair that the no's have it; is there a challenge to the Chair?

FROM THE FLOOR: No.

THE MODERATOR: Hearing none, the article fails and we'll stand in adjournment until seven o'clock tomorrow night.

[11:30 p.m. Whereupon, this matter adjourned.]

C E R T I F I C A T E

BARNSTABLE, SS

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

The foregoing 187 pages comprise a true, complete, and accurate transcript to the best of my knowledge, skill, and ability of the proceedings of the Falmouth Town Meeting held on Monday, November 15th, 2010, commencing at 7:00 p.m.

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

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this 13th day of December, 2010.

Carol P. Tinkham

My commission expires:
April 21, 2017

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