



## SPECIAL TOWN MEETING

Lawrence School Auditorium  
Falmouth, MA 02540  
APRIL 9, 2013

**ARTICLE 1:** To see if the town will vote to amend the zoning bylaw by amending Article II – Building Permit Moratoria – by adding the following:

§240-11 The provisions of the Zoning Bylaw to the contrary notwithstanding, no building permit or special permit for the construction of a Medical Marijuana Treatment Center, as defined, shall issue until April 30, 2014 or until this Article is repealed by a vote of town meeting, whichever occurs first. The purpose of this Article is to provide the time necessary to undertake a planning process to address the potential impacts of medical marijuana in the Town, review guidance from the Commonwealth regarding Medical Marijuana Treatment Centers and consider the adoption of new zoning bylaws regarding the operation and location of Medical Marijuana Treatment Centers.

“Medical Marijuana Treatment Center” shall mean: An establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana or products containing marijuana and/or related supplies or educational materials to qualifying patients or their personal caregivers, for ostensibly medical purposes.”

Or do or take any other action on this matter. On request of the Planning Board.

**RECOMMENDATION (Planning Board):** that the Town vote Article 1 as printed in the warrant.

**EXPLANATION:** This Article would place a moratorium on “Medicinal Marijuana Treatment Centers” for one year. This will allow the Planning Board to return to Town Meeting with the appropriate regulations after receiving guidance from the State, anticipated by June 2013, concerning where these facilities can be located.

**ARTICLE 2:** To see if the town will vote to amend Chapter 240 – Zoning – of the Code of Falmouth in the following manner:

**1) Delete** the following sections

Single Residence Districts §240-23.G (5), General Residence Districts §240-28.H (5), Public Use Districts §240-33.G (5), Agricultural Districts §240-38.G (5), Business Districts §240-51.A (12), Light Industrial A Districts §240-57.L (3), Light Industrial B Districts §240-63.G (2)

**4) Delete** Article XXXIV (34) – Windmills in the entirety.

**5) Insert** the following:

Article XXXIV (34) Windmills.

Windmills as defined are not allowed in any zoning district either by right or special permit, except as may be allowed pursuant to exemptions specified under Section 3, c.40A GL.

Or do or take any other action on this matter. On behalf of the Planning Board.

**RECOMMENDATION (Planning Board):** The Planning Board will make its recommendation on Town Meeting floor.

**EXPLANATION:** The Planning Board’s recommendation is dependent on the outcome of Article 7 of the Annual Town Meeting regarding the Wind Energy System (WES) bylaw. If Article 7 fails, then the Planning Board’s recommendation for this Article (2) will be “as printed in the warrant”. Should Article 7 of the Annual Town meeting pass, then the Planning Board will recommend “indefinite postponement” of Article 2.

**ARTICLE 3:** To see if the town will vote to amend the Official Zoning Map of the Town of Falmouth by rezoning from Marine District to Business Redevelopment District the land at 56 Scranton Avenue, Falmouth, Massachusetts, which land, .448 acre, located on the southeasterly corner of the intersection of Scranton Avenue and Robbins Road, is Lot 33 Land Court Plan 7639-4, being Assessors Parcel 47B 09 005A 033. Or do or take any other action on this matter. On behalf of Falmouth Heights Marina, Inc.

**RECOMMENDATION (Planning Board):** That the Town vote Article 3 as printed in the warrant.

**EXPLANATION:** This Article seeks to rezone from Marine to Business Redevelopment a parcel of land located at the corner of Robbins Road and Scranton Avenue. Because the property lacks waterfront access it is impossible for the property owner to have a water dependent use, which is the purpose of Marine zoning. Therefore, the Planning Board recommends the change to Business Redevelopment, a zoning that is preferred when a property has an existing use.

**ARTICLE 4:** To see if the Town will vote to transfer a sum of money within the FY 2013 budget approved by Article 22 of the April 2, 2012 Annual Town Meeting to make necessary adjustments thereto, or do or take any other action on the matter. On request of the Board of Selectmen.

**RECOMMENDATION (Finance Committee):** that the Town vote the following transfer totaling \$21,000 within the FY 2013 budget.

AMOUNT	TRANSFER FROM	TRANSFER TO
\$21,000	01220-51110 Fire Dept Salaries	01220-52319 Fire Dept Contractual Services

**EXPLANATION:** The ambulance billing clerk's position went from full time to part time. The actual billing has been contracted and this transfer was scheduled for the November Town Meeting but was inadvertently left out.

**ARTICLE 5:** To see if the Town will vote to appropriate a sum of money for the purpose of supplementing the FY 2013 budget approved by Article 22 of the April 2, 2012 Annual Town Meeting, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

**RECOMMENDATION (Finance Committee):** That the Town vote to transfer the sum of \$840,000 from certified free cash for the purpose of funding \$125,000 to line item 01210-51130 (Police Overtime), \$100,000 to line item 01423-51120 (Snow and Ice salary and wages), \$250,000 to line item 01423-54541 (Snow and Ice Supplies), \$200,000 to line item 01423-52299 (Snow and Ice Plowing Services), \$50,000 to line item 01451-57788 (Regional Water Cooperative), \$75,000 to line item 01150-52300 (Special Counsel), \$32,000 to line item 01162-51120 (Salary and Wages PT Elections), \$5,000 to line item 01162-52319 (Contracts Elections) and \$3,000 to line item 01162-52270 (Rental Buildings Elections) and to be expended under the jurisdiction of the Police Chief, Department of Public Works Director, Town Counsel and Town Clerk respectively.

**EXPLANATION:** These budget accounts will fall short at the end of the fiscal year because of open positions in the police department, inclement weather, long pond quality issues and two additional elections.

**ARTICLE 6:** To see if the Town will vote to appropriate a sum of money for the purpose of paying unpaid bills from a prior year, and to determine how the same shall be raised and by whom expended, or do or take any other action on the matter. On request of the Board of Selectmen.

**RECOMMENDATION (Finance Committee):** Indefinite Postponement

**Explanation:** There are no unpaid bills at this time.

**ARTICLE 7:** To see if the Town will vote to transfer a sum of money from the health Insurance line item of Article 22 of the April 2, 2012 Annual Town Meeting to a health insurance mitigation fund, and by whom expended. Or do or take any other action on the matter, On request of the Board of Selectmen.

**RECOMMENDATION (Finance Committee):** That the Town vote to transfer \$475,000 from the health insurance account to a health insurance mitigation account to be expended under the jurisdiction of the Personnel Department.

**EXPLANATION:** As part of the health insurance reform, 25% of the overall health insurance savings for the first year is required to be set aside into a separate account for employees that experience additional co-pays and deductibles.

**ARTICLE 8:** To see if the Town will vote to fix the salaries of the Elected Officials as follows:

Town Clerk..... \$72,201

**RECOMMENDATION (Finance Committee):** That the Town vote 71,201 for article 5.

**EXPLANATION:** This article corrects the salary of the Town Clerk for Fiscal Year 2013.

**ARTICLE 9:** To see if the Town will vote to appropriate a sum of money for the purpose of supplementing the Reserve Fund approved by Article 22 of the April 2, 2012, Annual Town Meeting, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

**RECOMMENDATION (Finance Committee):** That the Town vote to transfer the sum of \$60,000 from certified free cash to line item account number 01132-57785 (Reserve Fund) in to order supplement the reserve fund.

**EXPLANATION:** This amount represents the amount transferred to the water department for the DEP fine that was placed on the Town. The reserve should be fully funded in order to for the Finance Committee to respond to extraordinary and unforeseen expenses particularly at the end of the Fiscal Year.

**ARTICLE 10:** To see if the Town will vote to appropriate a sum of money for the purpose of funding additional software applications to the Town/School Financial Management System, and to determine how the same shall be raised and by whom expended. Or do or take any other action on this matter. On request of the Board of Selectmen.

**RECOMMENDATION (Finance Committee):** That the Town vote to transfer the amount of \$120,000 from certified free cash to fund additional software applications for the Town/School Financial Management System. To be expended under the jurisdiction of the Information Technology Department.

**EXPLANATION:** The additional applications include collections and billing. This will ensure that the Town's Financial Management system is fully integrated with all of the finance related departments.

**ARTICLE 11:** To See if the Town will vote to appropriate a sum of money for the purpose of funding the installation of security devices in the Falmouth Public School buildings, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

**RECOMMENDATION (Finance Committee):** That the Town vote to transfer the amount of \$45,000 from certified free cash to fund the installation of security systems at the Falmouth Public Schools and to be expended under the jurisdiction of the School Committee.

**EXPLANATION:** This is a necessary step to ensure the safety of our students.

**ARTICLE 12:** To see if the Town will vote to appropriate a sum of money for the purpose of purchasing a replacement Fire Chief's vehicle, and to determine how the same shall be raised and by whom expended. Or do or take any other action on this matter. On request of the Board of Selectmen.

**RECOMMENDATION (Finance Committee):** That the Town vote to transfer the sum of \$38,000 for the purpose of purchasing a Fire Chief's vehicle and to be expended under the jurisdiction of the Town Manager.

**EXPLANATION:** The current fire chief's vehicle will be transferred to fire inspections (they are currently without a vehicle) and the chief will purchase a fuel efficient Interceptor vehicle. The vehicle will cost \$29,000 and the additional \$9,000 will be used to outfit the vehicle with new radios and lights.

**ARTICLE 13:** To see if the Town will vote to appropriate a sum of money to purchase an ADA compliant bathroom trailer for Menauhant Beach, and to determine how the same shall be raised and by whom expended. Or do or take any other action on this matter. On request of the Board of Selectmen.

**RECOMMENDATION (Finance Committee):** That the Town vote to transfer the amount of \$25,000 from certified free cash in order to purchase an ADA compliant bathroom trailer for Menauhant Beach. To be expended under the jurisdiction of the Beach Committee.

**EXPLANATION:** Purchasing a bathroom trailer will save the Town approximately \$15,000 per year in rental expenses.

**ARTICLE 14:** To see if the Town will vote to appropriate a sum of money to design, permit and reconstruct a portion of the Shining Sea Bike Way and eroded oceanfront shoulder in the vicinity of Trunk River, and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

**RECOMMENDATION (Finance Committee):** That the Town vote to transfer \$225,000 from certified free cash in order to design, permit and reconstruct a portion of the Shining Sea Bike Way and eroded oceanfront shoulder in the vicinity of Trunk River and to be expended under the jurisdiction of the Department of Public Works.

**EXPLANATION:** A portion of the bike path was damaged in Hurricane Sandy. This money will restore the bike path and put in safeguards to deter future storm erosion. The Town has applied for reimbursement from the Federal Emergency Management Agency and expects to be reimbursed 75% of the cost. We are appropriating the money at this Town Meeting because the Town wants the bike path patched and then reconstructed for the upcoming season.

**ARTICLE 15:** To see if the Town will vote to appropriate a sum of money to contract for design and permitting services for the reconstruction of the Town Landing parking lot, stone retaining wall, and wooden wharf located at Old Dock Road in West Falmouth, and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

**RECOMMENDATION (Finance Committee):** That the Town vote to transfer \$40,000 from the Waterways Improvement Account for design and permitting services for the reconstruction of the Town Landing parking lot, stone retaining wall, and wooden wharf located at Old Dock Road in West Falmouth and to be expended under the jurisdiction of the Marine and Environmental Services Department.

**EXPLANATION:** The design and permitting is a preliminary requirement before reconstructing the retaining wall at Old Dock Road.

**ARTICLE 16:** To see if the Town will vote to appropriate and/or transfer a sum of money from the Community Preservation Fund for the purpose of historic preservation to pay for restoration of the Silo at The 300 Committee's River Bend Conservation Area on Sandwich Road, and to determine how same shall be raised and by whom expended. Or do or take any action on the matter. On the request of the Community Preservation Committee.

**RECOMMENDATION (Community Preservation Committee):** That the Town vote to appropriate the sum of \$75,000, for the purpose of historic restoration of the Silo located on the River Bend Conservation Area, including the foundation, masonry blocks, and roof to be restored in a historically appropriate manner according

to the Secretary of Interior's Standards for the Treatment of Historic Properties as required by the Community Preservation Act; and to meet said appropriation transfer the amount of \$45,544 from Community Preservation Undesignated Fund Balance and \$29,456 from the Historic Preservation Reserve and to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this Article.

**EXPLANATION:** The Finance Committee concurs with the Community Preservation Committee's recommendations on Article 16-18. The Silo is listed on the Town's Cultural Resources Inventory is a cylindrical silo built of ceramic blocks built in 1920 to store winter feed for grazing animals. The CPC's recommendation of \$75,000 will cover the cost of restoration of the foundation masonry, ceramic blocks, roof on the silo and the el connector and other related work. The exterior of the Silo will be restored in a historically appropriate manner according to the Secretary of Interior's Standards for the Treatment of Historic Properties as required by the Community Preservation Act. The "Save Our Silo" friends group will provide \$15,000 for long term maintenance and a historic preservation restriction will be in place.

**ARTICLE 17:** To see if the Town will vote to appropriate and/or transfer a sum of money from the Community Preservation Fund for the purpose of community housing to the Falmouth Affordable Housing Fund, and to determine how same shall be raised and by whom expended. Or do or take any action on the matter. On the request of the Community Preservation Committee.

**RECOMMENDATION (Community Preservation Committee):** That the Town vote to transfer the amount of \$14,902 from the Community Preservation Undesignated Fund Balance for the purpose of community housing to the Falmouth Affordable Housing Fund.

**EXPLANATION:** The Community Preservation Act requires up to ten percent of the annual Community Preservation Fund Revenues be used for the category of Community Housing. This amount is added to an amount approved in November 2012 to achieve the 10% minimum.

**ARTICLE 18:** To see if the Town will vote to appropriate and/or transfer a sum of money from the Community Preservation Fund for the purpose of historic preservation to the Historic Preservation Reserves, to determine how same shall be raised and by whom expended. Or do or take any action on the matter. On request of the Community Preservation Committee.

**RECOMMENDATION (Community Preservation Committee):** Indefinite Posponement

**EXPLANATION:** 10% is required to be reserved every year (if not spent) on historic preservation. This amount represents the amount the amount to be reserved is article 16 does not pass.

**ARTICLE 19:** To see if the Town will vote to authorize the Board of Selectmen to PURCHASE OR TAKE BY EMINENT DOMAIN land in Falmouth, Barnstable County, Massachusetts, for public water supply purposes, or any other appropriate purpose, and upon such terms and conditions as the Board of Selectmen deems reasonable and proper, said land to be under the jurisdiction of the Board of Selectmen, described as:

Parcel I:

Land now or formerly of Arthur L. Chute, Christina C. Thys and Judith C. Chute comprised of approximately 4.952 acres, more or less, and being shown on Assessors Map 35, Section 4, Parcel 004, Lot 000.

Parcel II:

Land now or formerly of Oliver Swift Chute comprised of approximately 8.760 acres, more or less, and being shown on Assessors Map 35, Section 4, Parcel 004, Lot 000CR.

Parcel III:

Land now or formerly of Oliver Swift Chute comprised of approximately 2.130 acres, more or less, and being shown on Assessors Map 35, Section 4, Parcel 000, Lot 005.

And further to appropriate a sum of money for the acquisition of the foregoing land, and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

**RECOMMENDATION (Board of Selectmen):** Indefinite Postponement

**Explanation:** The Town is in active negotiation with the property owner and the Board may change its recommendation at Town Meeting.

**ARTICLE 20:** To see if the Town will vote to authorize the Board of Selectmen to grant an easement on, under, through and across the Mill Road parking lot, a portion of Surf Drive and a portion of Surf Drive beach for the installation and maintenance of a combined power and broadband communication cable to Martha's Vineyard, upon such terms and conditions as the Board of Selectmen deems reasonable and proper, or do or take any other action on the matter. On request of the Board of Selectmen.

**RECOMMENDATION (Board of Selectmen):** Indefinite Postponement

**Explanation:** The Procurement Act requires the Town to Issue a Request for Proposals. Responses were due March 9, 2013 and are currently under consideration. At time of printing of the warrant, the Board did not have sufficient information to make a positive recommendation and hopes to make a positive recommendation at Town Meeting.

**ARTICLE 21:** To see if the Town will vote to appropriate a sum of money to fund payment of existing debt obligations authorized by Article 14 of the November 14, 2007 Annual Town Meeting, Article 16 of the November 10, 2008 Annual Town Meeting, Article 19 of the November 9, 2009 Annual Town Meeting, and Article 1, Article 2 and Article 3 of the June 29, 2009 Special Town Meeting for the purpose of constructing, repairing and maintaining two town-owned wind turbines, known as Wind I and Wind II, located at the Falmouth Wastewater Facility on Blacksmith Shop Road, and to raise any additional revenue required to fund the Town's Wind Energy Program and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

**RECOMMENDATION (Board of Selectmen):** Indefinite Postponement

**Explanation:** In an effort to resolve the well-documented concerns about the operation of the Town's wind turbines located at the wastewater treatment facility on Blacksmith Shop Road. Once the Board of Selectmen receives all necessary information, it intends to make a positive recommendation on the floor of Town Meeting. With our goal to bring this matter to closure through a town-wide resolution and with the hope of restoring community harmony the Board has set in motion a process to shut down Wind I and Wind II, to decommission the turbines and restore the site.

**ARTICLE 22:** To see if the Town will vote to appropriate a sum of money to fund the cost to mitigate the neighborhood impacts of two town-owned wind turbines, known as Wind I and Wind II, located at the Falmouth Wastewater Facility on Blacksmith Shop Road, including without limit, to dismantle and dispose or relocate both turbines, including all engineering and design costs, and any other expenses relative thereto; or for other appropriate measures and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

**RECOMMENDATION (Board of Selectmen):** Indefinite Postponement

**Explanation:** Once necessary additional information is received, the Board intends to make a positive recommendation at Town Meeting.

**ARTICLE 23:** To see if the Town will vote to appropriate a sum of money to supplement the Fiscal 2013 and

Fiscal 2014 operating budget necessitated by the curtailment or shutdown of both of the town-owned wind turbines, known as Wind I and Wind II, located at the Falmouth Wastewater Facility on Blacksmith Shop Road, and to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

**RECOMMENDATION (Board of Selectmen):** That the Town vote to transfer from Certified Free Cash \$140,000 for operating budget deficits resulting from the shutdown of Wind I and Wind II, said sum to be expended under the jurisdiction of the Board of Selectmen.

**Explanation:** The funds requested will provide for two months of energy costs for Fiscal Year 2013 and the projected Fiscal Year 2014 energy needs for the waste water treatment plant if the wind turbines are shut down and no longer provide energy to meet the demand of the wastewater treatment facility.

**ARTICLE 24:** To see if the Town will provide funding for any or all of the purposes voted for in the foregoing articles by transfer from available funds, by borrowing, or by any combination of the foregoing. Or do or take any other action on this matter. On request of the Board of Selectmen.

**RECOMMENDATION (Finance Committee):** The Finance Committee will make its recommendation on Town Meeting Floor.