COMMONWEALTH OF MASSACHUSETTS

TOWN OF FALMOUTH

SPECIAL TOWN MEETING

AND

ANNUAL SPRING TOWN MEETING

PAGES 1-150

* * * * * * * * *

MODERATOR: DAVID T. VIEIRA

MEMORIAL AUDITORIUM
LAWRENCE SCHOOL
FALMOUTH, MASSACHUSETTS
TUESDAY, APRIL 13, 2004

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THE MODERATOR: I want to remind all Town Meeting Members that our proceedings this evening are broadcast live on FCTV-13. I'd ask all Town Meeting Members who have an email address to please fill out the little slips that the folks checking you in have. They're waiving the slips up in the back if you didn't get one yet. They'd like to post a list of email addresses on the town website so your constituents can communicate with you. I thank the town clerk for that initiative.

Okay, folks, please take your seats.

I remind everyone that attendance is being published in the Falmouth Enterprise.

Public notice that I gave last night from the Clerk's Office is that there is a change of the voting location in Precinct 8. Voting in the May 18th Town Election and future elections will be held at the Navigator Club, the Portuguese American Association at 55 Ashumet Road. Also, the lottery for the ballot position on the May 18th election will be held on April 14th at 10:00 a.m. in the Clerk's Office.
Our tellers this evening in the first division will be Mrs. Tashiro; in the second division, Mr. Dufresne; in the third division, Mr. Hampson. Microphone carriers this evening will be Sarah Clayton and Student Assistant to the Moderator Morgan Gould.

Would all Town Meeting Members present please rise for the establishment of a quorum. I remind all Town Meeting Members please identify yourself by name and Precinct each time you speak for our transcriber. We were a little lax last night; some folks brought that to my attention. So please, each time you speak, your name and Precinct for the record.

Division three, Mr. Hampson.

MR. HAMPSON: 59.

THE MODERATOR: 59.

Division two, Mr. Dufresne.

MR. DUFRESNE: 77.

THE MODERATOR: 77.

And division one, Mrs. Tashiro.

MRS. TASHIRO: 53.

THE MODERATOR: 53. By a counted vote

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of 189, I call the Special Town Meeting to order.

Would all Town Meeting Members present please rise
for the presentation of the colors by Falmouth High
School Junior Statesmen of America Club.

[Colors presented. Pledge of Allegiance taken.]

THE MODERATOR: Helen Gordon from

Precinct 8 for our invocation.

MS. GORDON: As Town Meeting Members,
may all of us remember that we have been chosen to
represent our neighbors in the best interests of
our town. May our words be driven by the
realization that our loving and caring Creator is
with us this evening. May all of us be aware of
our tasks during this Town Meeting. May we
realize that how we act and speak is important and
may these words and actions be from care and
concern for our community. Amen.

THE MODERATOR: Please remain standing
for a moment of silence. I also want to mention
two of our sitting Town Meeting Members who have
passed since our last meeting: Stephen and Linda
Clark.

[A moment of silence observed.]
THE MODERATOR: Colors post.

Can we have a round of applause for the
Junior Statesmen of America Club from Falmouth High
School.

[Applause.]

THE MODERATOR: At this time, I'd like to
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 town. Signed,
Constable John Doyle.

At this time, I'd recognize the Chairman
of the Board of Selectmen for the motion to
dispense with the reading of the warrant. Mr.
Chairman.

CHAIRMAN MURPHY: I move to waive the
reading of the warrant except for the Officer's
Return.

THE MODERATOR: You've all heard the
main motion; all those in favor, signify by saying
"Aye."
[Aye.]

THE MODERATOR: All those opposed, "No."

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

Mr. Clerk, I ask that the Warrant become an official part of the record. At this time, the Chair would entertain a motion to allow non-town meeting members to sit up front with their respective 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 unanimous.

At this time, the Chair would entertain a motion to allow all Town employees who are not residents of the Town of Falmouth to speak on any article before the Special Town Meeting. So moved. All those in favor, signify by saying "Aye."

[Aye.]

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THE MODERATOR: All those opposed, "No."

[No.]

THE MODERATOR: The Ayes have it by a majority.

At this time, I'd like to recognize the Planning Board for notification of public hearings.

MR. FLEER: Thank you, Mr. Moderator.

Alan Fleer, Precinct 6. In accordance with Section 5, Chapter 40 A, Massachusetts General Law, and Article 43 of the Falmouth Zoning Bylaw, a public hearing was held on March 23, 2004, for Articles 1 and 2 of the April 13th, 2004 Special Town Meeting, and all those wishing to speak were heard.

THE MODERATOR: Okay, thank you.

Tonight we will use a blanket to go through the Special Town Meeting warrant. We'll go through them article by article. Yell, "Hold" if you'd like to discuss that article. We'll then take a vote to pass all articles not held as recommended. And then we will go article by article until we complete the Special. We will adjourned the
Special and reconvene our Annual Town Meeting from last night and finish up the last three articles.

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, enter into contracts to lease or purchase of school busses. Article 7, the Code of Falmouth, pertaining to the hand votes at Town Meeting.

MR. DUFFANY: Hold.

THE MODERATOR: Mr. Duffany.

Article 8, to rescind the authorization to borrow. Article 9, $100,000 from Certified Free Cash for the principal on long term unexcluded debt. Article 10, to transfer $109,780 from Certified Free Cash for interest on long-term unexcluded debt. Article 11, $33,280 from the Land Bank Fund for the purpose of paying interest on long term debt. Article 12, $5,000 from Certified Free Cash to hire temporary professional services in the Zoning Board of Appeals Office. Article 13, to transfer $32,975 from Certified Free Cash to add a property lister, Grade 8.

Article 14, to transfer $10,000 from

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Certified Free Cash for Information Technology Contractual Services. Article 15, to transfer $126,515 from Certified Free Cash for the Town's obligation for employee group health insurance for the Town of Falmouth and for the School Department.

Article 16, to transfer from Certified Free Cash $63,550 for the Town's obligation under the unemployment compensation benefits to cover both town and school former employees.

Article 17, to transfer $30,000 from Certified Free Cash for Veterans Ordinary Benefits.

Article 18, to transfer $2,006.98 from budget line item 01294-58008, Article 18 of the 2001 Special Town Meeting to a Dutchman's Ditch Study Account.

Article 19 -

MR. LOWELL: Hold.

THE MODERATOR: Hold, Mr. Lowell.

Article 20, to transfer $20,000 from line item 24000-34004, Title V Program, for administrative fees related to the town's participation in the Septic Loan Program.

Article 21, to transfer $190,000 from Certified Free Cash for the renovation of the John
DeMello Senior Center. Article 22, to transfer from Certified Free Cash $24,000 for replacing the flat roof located on the west side of the Main Library. Article 23, to transfer $6,500 from Certified Free Cash for the heating system at the East Falmouth Library. Article 24, to transfer $20,900 from Certified Free Cash to budget 01162, for the purpose of funding costs related to the additional election held during the fiscal year 2004.

Article 25 is a hold. Article 26, to transfer $28,667 from Certified Free Cash to budget line item 01911-51182, non-contributory pension. Article 27, to transfer $5,000 from Certified Free Cash to the Falmouth Contributory Retirement Special Military Fund for the purpose of paying contribution for employees who have been called to active military duty, per Massachusetts General Law Chapter 32, Section 22 (4) (a).

Article 28, to transfer $20,000 from the Reserve Waterways Appropriation Fund for the purpose of updating or renewing the town's maintenance dredging permits. Article 29, to vote

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to appropriate $635,628 under Chapter 246 B of the
Acts of 2002 as the state's share of the work under
Chapter 90, Section 34 (2) (a) of the Massachusetts
General Laws and to authorize the Board of
Selectmen to execute with the state, such contracts
as may be necessary for said purpose.

Article 30.

DR. ANTONUCCI: Hold.

THE MODERATOR: Hold by Dr. Antonucci.

And Article 31 is a hold.

Okay. Articles 1 through 5 were held.

Article 6.

Article 7 was a hold.

Article 8. Article 9, unexcluded debt.

Article 10, unexcluded debt. Article 11, Land
Bank transfer for debt. Article 12, Zoning Board
of Appeals. Article 13, property lister.

Article 14, Information Technology, contractual
services. Article 15, group health insurance.

Article 16, unemployment compensation benefits.

Article 17, veteran's benefits. Article 18,
Dutchman's Ditch Study Account.

Article 19 was held.

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Article 20, septic loan program. Article 21, the Senior Center. Article 22, the roof on the library. Article 23, the heating system at the East Falmouth Library. Article 24, the additional election.

Article 25 was held.

Article 26, pension. Article 27, retirement for special military fund. Article 28, transfer from the Reserves Waterway Account for maintenance of dredging permits. Article 29, reimbursement on town accepted roads.

Article 30 was held. And Article 31 is a hold.

Mr. Chairman.

CHAIRMAN VIEIRA: Mr. Moderator, I move that all articles that have been passed and not held under blanket vote 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 as otherwise specified.

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

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[Aye.]

THE MODERATOR: All those opposed, "No."

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

Mr. Chairman.

CHAIRMAN VIEIRA: 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. Mr. Chairman of the Planning Board.

CHAIRMAN FOREMAN: Thank you, Mr. Moderator. I move Article 1 as printed in the insert in the warrant booklet.

Okay, Article 1 the motion is as printed.

CHAIRMAN FOREMAN: I do have a brief presentation. Currently in single residence districts, as many of you know from last Town Meeting, a family dwelling in existence prior to 1980 can be converted to no more than four dwelling units by Special Permit from the Zoning Board of

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Appeals. We proposed to amend this bylaw by including lot size criteria for such conversions at the last Town Meeting, and this amendment of course was proposed to reduce the environmental impacts of increased density and to ensure that lot area is proportional to the number of units added.

Now, Town Meeting, as you will recall, did not pass this amendment by the necessary two-thirds vote, and suggested that there was concern about the town-wide impacts that such a bylaw might have; that such a bylaw might affect the supply of affordable housing in the Town; and also there was concern about the existence of already - of such conversions that are not currently legal and would there be an opportunity or a grace period for those conversions to get permitted before the bylaw went into effect.

We tried to address in this new version of the bylaw those concerns. Let me first refresh your memory on what these density-based lot size criteria are. For lots less than 15,000 square feet, no additional units would be allowed through conversion in single family - in single resident

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districts. For lots between 15,000 square feet and 20,000 square feet, one additional unit, market rate unit, would be allowed. For lots between 20,000 and 25,000 square feet, two units would be allowed. And for lots greater than 25,000 square feet, three units would be allowed or a total of four on the lot through conversion.

Now, if a conversion involves the addition of affordable units, up to three additional units would be allowed on lots greater than 15,000 square feet. So that, for example, if one market rate unit were allowed, you could also add two affordable units to bring the total up to that four units. The existing unit, one market rate unit, two affordable units.

We've also included in the bylaw a one year grace period for pre-existing conversions that would apply without being limited by lot size minimums. And we do not require lot size minimum for conversions - and this is important: outside the coastal pond and water resource overlay districts within single resident district zoning areas. And if we go to the map, we can see here
is what the, under existing bylaw, all of the units within this orange shaded area are in single family residence districts. Those in existence prior to 1980 could apply for conversion into up to four units. There are about, out of the 13,500 units within the single family residence districts, 9,500 that in fact were built prior to 1980 and would qualify for such conversions.

Now, we're proposing within this, as you'll see from the next map, to only apply the bylaw to the red colored areas which are within coastal pond or water resource overlay districts. And that encompasses about 6100 homes within that red colored area.

Now, from the next slide, we've broken down the number of house lots that would in fact be affected. Out of that 6100 homes, there are about 4,050 that are on lots less than 15,000 square feet. So much of our density, our highest density areas, are right adjacent to these sensitive coastal ponds along the peninsulas, along the south coast of Falmouth, and about one-third of the homes out of that 6100 would still be eligible under

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these lot size criteria for conversions into at least one additional unit, possibly two and possible three. So they would have larger than 15,000 square foot lot sizes.

In addition, there are about 3400 single family homes in single family residence districts that are outside of that red-colored area that would also be eligible for conversion, bringing the total to about 5,450 homes out of the 9,500 that would still be able to convert into multi-family dwellings under this bylaw. So, more than half of the homes would be unaffected by this bylaw, or would still be able to convert.

So, in conclusion, I guess, as I just said, 5400 approximately, out of the 9500 homes affected, will still be eligible to convert into at least one additional unit. Pre-existing conversions would have a year to apply before the bylaw size criteria would be enforced. The special permit - and this is important - I think was not completely understood last time - does not apply in other zoning districts, such as business, general residence, agricultural, and in particular,
of course, the GR and the business which are in the village centers, where there was some concern that we might be impacting the ability of property owners to convert properties into multi-family. And, again, the affordable housing exemption will enable conversions even within the resource overlay districts.

I'd be happy to answer any questions if there are any out there.

THE MODERATOR: Discussion on Article 1.

Mr. Ament.

MR. AMENT: Thank you, Mr. Moderator. Ladies and gentlemen, I'm Bob Ament. I live in Precinct 1. And I speak in opposition to this article, or at least to recommend a simple amendment. I'll try to go through this quickly. I can't speak as fast as the Moderator, however.

Recently, I have been consulted in my law practice by a couple of owners of existing occupied apartments who will be affected by this bylaw even though their property is neither in a coastal pond overlay district nor in a water resource protection district, which I do not think was the intent of
the bylaw. But, as both the Planning Board and
the Selectmen know, I've been opposed to this
article personally and before I was consulted by
any clients.

The article makes a change to a bylaw
that does not need fixing, certainly not to the
extent proposed. For 25 years, the bylaw has
allowed the Board of Appeals to grant a special
permit after notice to abutters in a public hearing
and only on specific findings and appropriate
conditions for conversion of an older house into
two, three or four units with no material change to
the exterior of the dwelling.

Over many years, the Board of Appeals has
allowed one or two of these requests a year. Some
of the applications have been for new conversions
in older houses, which the Board of Appeals has
carefully considered and conditioned, but probably
as many applications have been to legalize
situations which have existed for a long time.
Apartments that are very much needed and often
provide affordable housing have been created or
legalized here in there in town where the Board of

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Appeals determined the use was suitable, and in the process these apartments have been inspected by the town, brought up to code and registered.

Last year, the Board of Appeals granted a special permit in a situation in Seacoast Shores, and that became the impetus for this bylaw change. I had no involvement of any kind in that case, and only recently did I take a look at the Zoning Board of Appeals decision. In a small house set back 125 feet from the street on a 12,000 square foot lot on Child's River with no abutter to the rear, a walk-out basement apartment had been created 16 years earlier, apparently without creating any problem in all those years. It was a one bedroom apartment occupied by an 80 year old retired serviceman. The Board of Appeals, which takes its work very seriously, granted a special permit to legalize this conversion. The Board allowed a single, one bedroom, year-round apartment, and the rest of the house is one two-bedroom, owner-occupied apartment. A total of three bedrooms in a house with a septic system that would have allowed four bedrooms according to the Board of

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Health. The Board forbade any summer rentals or commercial accommodations and required owner occupancy.

As I said, I wasn't involved in that case and I haven't visited the site, but I regard the decision which was not appealed by any of the neighbors and I trust that the Board of Appeals probably did what was best for the Town and the neighborhood in this particular case. I think one one-bedroom apartment and one two-bedroom apartment in an older house with no material change to the exterior might be a whole lot better than the increasingly common alternative: tear down the house, replace it with a much bigger house. In the case at hand, where a four bedroom septic system was already in place.

So, one reason I oppose the article is because I think the Board of Appeals does a careful job in these cases. I've heard it suggested that, with the present bylaw, the 900 homes in Seacoast Shores might become 3600 residences. Please, give the Board of Appeals a little credit and keep in mind that its decisions are appealable and under

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the existing bylaw any conversions have to be
within the existing house without any material
exterior change.

I've also heard that the Board of Appeals
has recommended this change, and that's not quite
right. What members of the Board of Appeals has
said is that with the present bylaw, people with
older houses have a right to apply for the special
permit, and those who don't like the result can ask
Town Meeting for a change. That's a whole lot
different than the Board of Appeals requesting this
change. But I think the Board of Appeals does and
can administer the present bylaw in the best
interests in the town. I think that is what it's
done for many years.

The proposed bylaw would in fact limit
conversions on many lots not only in the coastal
pond overlay district and water resource protection
district, which in fact is most of the areas you
saw on the map. There's no exception for
properties that are on the town sewer or for which
upgraded denitrification septic systems might be
installed. There are houses on Route 28 and on

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28A, there are houses on the streets just off of these business districts, and general residence districts, which are in the residential zone and they will be affected by this bylaw. And those older village homes are often on the smaller lots. It is not the lot size that should be the concern here; it's the existing house which cannot be materially changed and which ought to be considered. That's what the Board of Appeals does, takes a look at older houses and considers the circumstances and imposes conditions to make sure that the result is okay for the town.

At least there is an exception in this bylaw for existing apartments to give people an opportunity to legalize those even in the water resource protection district and coastal pond overlay districts within the next year, or actually the year which began when the zoning article was first published. But there are new limitations in this bylaw which have nothing to do with the coastal pond overlay district or water resource protection district which will preclude a number, probably quite a number of existing occupied

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apartments from becoming legalized. If there's an
apartment out there in a house which has been
changed since 1980, or an apartment created with
the addition of an additional bedroom, it will not
meet these requirements of this bylaw regardless of
whether it's in a sensitive environmental area.

So, what I would ask Town Meeting to do
if it's going to pass this bylaw is at least make
an amendment so that the exception for applications
filed in that year applies not only to the coastal
pond overlay district and the water resource
protection district, but also to the other
subparagraphs of the bylaw: subparagraphs 2) and 3)
and the second sentence of paragraph 4). So that
existing conversions can be legalized even if there
is an extra bedroom already in it, or if the
occupant has a home occupation which may be totally
unobtrusive, these are new requirements that apply
throughout the town, and the exception at least for
the next year should apply to those as well as to
the water resource protection district and coastal
pond overlay district.

The language I would suggest as an

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amendment to be first voted and if someone will offer it I'd appreciate it, would be to simply amend proposed paragraph 5) b) by changing the words "paragraph 1" to read "paragraphs 1, 2 and 3, and the second sentence of paragraph 4."

FROM THE FLOOR: Mr. Moderator.

THE MODERATOR: Yes?

FROM THE FLOOR: I would call for that amendment.

MR. AMENT: Thank you very much.

THE MODERATOR: Mr. Ament, do you happen to have a - I'm sure you have a copy of that, that we can have up here.

[Pause.]

THE MODERATOR: Thank you. So the amendment is for number 5) b), to amend proposed paragraph 5)b) by changing "paragraph 1" to "paragraphs 1, 2, 3 and the second sentence of paragraph 4..."

Discussion - Ms. Taylor made the amendment. The discussion is now open on the amendment.

Mr. Curry.

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MR. CURRY: I would like the Town Meeting Members to know that even under the existing bylaw if the amendment passes, you're adding something new. The conversion has to be in a single family house as it existed in 1980, period. The Board of Appeals routinely conditions their permits that there are no home occupations and no taking of boarders. They do that routinely, but they need not to, because we reviewed the bylaw today, and once you convert into a duplex house, the bylaw does not allow the taking of boarders and a home occupation unless it's in a single family home, and that exists today. So this amendment takes the bylaw and kind of turns it 180 from what exists in practice today, and I on this short notice don't recommend it to the Members.

THE MODERATOR: Further discussion? Ms. Lowell and then Mr. Ament.

MS. LOWELL: I would like to support the Planning Board on this article without the amendment. I think, granted this bylaw hasn't been used too much, but we all know the real estate
market's changing. This is a very old - I mean, I worked extensively on redoing the bylaw in the 1970's and this conversion had been on the books long before then, this right to convert, and it was when the town was very different. It was aimed for those big old houses that were going to seem uneconomically viable because of changing demographics, changing the way the town was. And now, of course, people are building houses just that big everywhere.

I think when the town goes to sewering, when we're doing more defined village centers, we can always go back and be more permissive. But I think we really - if you start having a lot of conversions, it's not just the number of bedrooms and the look of the house, you get another car for the tenant. It changes neighborhoods, and I think people should have the right to decide whether we really want to allow that. And this is going to put the burden on deciding whether we really want more multi-family dwellings in sensitive areas which are water resource protection. But we can always decide that later when we have - when we
have sewerage or a better handle on how to handle
the wastewater in those areas. Thank you.

THE MODERATOR: Mr. Ament.

MR. AMENT: It is true that the Board of
Appeals routinely adds conditions to its special
permits, including conditions which are being
written into the bylaw. What I say is that the
Board of Appeals does a good job by putting such
conditions in there. But at least if it's a
condition of the Board of Appeals, you can talk to
the Board of Appeals about it, why it's applicable
or should be applicable in a certain case, and why
it ought to be appropriate to take a boarder as
opposed to perhaps having another apartment in
another case. When we write it into the bylaw,
there is no flexibility given to the Board of
Appeals to do the right thing.

THE MODERATOR: Mr. Dufresne.

MR. DUFRESNE: Mr. Moderator, ladies and
gentlemen. Last year I spoke against this article
and this year I'd like to ask Town Meeting to
support it. I do have a concern with item number
2, "There shall be no home occupations or taking of

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boarders." In the downtown area of Falmouth, in
and around Shiverick's Pond, Weeks's Pond and a lot
of the small ponds in my precinct, there could be a
number of people in home occupations: legal office,
town accountant, seamstress, you know, somebody
wanting to work out of the house because of the
high cost of renting out commercial buildings.

So, I would ask the Planning Board to
really consider what this does to a single parent
trying to earn their living. Because, under the
home occupation, in order to make it successful,
you've got to put your name in the phone book and
you may have to put a little sign out in front of
the house. This traditionally was done through
the Board of Appeals. And again, the Board of
Appeals was usually restrictive as to how many
automobiles would come into the yard and whatnot,
and it was taken care of with the restrictions at
the hearing of the Board of Appeals. So, I do
have a serious concern with the home occupation
portion of this bylaw. I would ask Town Meeting
to support it but I would ask the Planning Board to
give consideration to the restriction of item
number 2.

THE MODERATOR: Okay, Joe.

MR. APICELLA: Thank you, Mr. Moderator, Joe Apicella, Precinct 7. Speaking to the amendment, I did a little research on the history of how this bylaw came about, and as this young lady said, it just so happened that somebody had a house that they wanted to put some apartments in, so they came to town Meeting and asked to have it approved and it got approved. The problem with that is town meeting back in the '70's didn't really give much consideration to what this would do in the future. So now we have a bylaw that covers the entire town that was made for one house.

We have estuaries and bays that are slowly dying because of the nitrogen loading. We have crowded situations on our peninsulas and we have people that are adding to the pollution problem. The amendment - obviously I'm against the amendment because it just takes everything that the new bylaw stands for and does a complete 180. It makes it totally meaningless.

Regarding the comment on the Zoning Board

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of Appeals, the Zoning Board did not say that they were recommending that we change the bylaw. But they said if we wanted to stop the increase in these conversion apartments, that they would back a change in the bylaw. Because their hands are tied when it comes to approving these apartments, okay, there are no criteria that they can use.

It simply says, the way it exists now, that it has to be suitable in their eyes. And "suitable" is kind of a very broad term. They don't legally have a way to turn it down. So, as a consequence, everything that comes before them almost automatically gets approved.

All we're looking to do is to put a restriction on the lot size, and the reason for that, we have not only Seacoast Shores but you saw the charts up there: Maravista, Shorewood, there are many areas where there are lots under 10,000 square feet and we just can't have this increased density in there, for reasons of water resources and density. Thank you.

THE MODERATOR: Mr. Foreman.

CHAIRMAN FOREMAN: If we could go back

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just to the map, I think it's the one before this.

No, next one. There you go. I think it should be clear to Town Meeting that this bylaw only applies in a portion of the single residence districts. The home occupation limitation does not apply outside of any of the red areas shown on this map. It does not apply in General Residence, it does not apply throughout the entire single residence. Okay. What - the reason for putting this in is to, again, seek balance if a homeowner - homeowners within this red district will be able to have home occupations unless they're converting their dwelling into multiple units. That is the intent. That's what it says. If you read it carefully, that is what it says, okay.

The point is currently, within single residence districts, you are allowed, as an accessory use, to take on boarders. That right will continue to exist as it does today. You are allowed to have a home occupation, which is defined as the use of a dwelling unit or accessory buildings that is, quote, clearly incidental and subordinate to its use as a home by family

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residents for the manufacture, sale of goods and services by one or more of those residents. And you are allowed that home occupation by right provided no more than 30 percent of the gross floor area of the dwelling is used to conduct the home occupation. You're also allowed that by special permit if your lot doesn't conform to minimum lot dimensions or if someone not a family resident is employed. You can have up to one employee from outside the family work in your home occupation. And also by special permit if the home occupation is a home based service business as was defined in the bylaw a few years ago.

All those rights continue to exist. The limitation here is that should you then decide you want to convert into multifamily from your single family dwelling, you would not be able to both have a home occupation and convert. Or both take on boarders and convert. That's where the limitation is. And that only applies, that limitation only applies within the red colored zones, okay?

So it's affecting less than half the homes within the single family residence district.
As I mentioned, about 4,000 homes would be directly affected in that they are on lots less than 15,000 square feet. There are another 2000 or so within the district that might be affected to some degree depending on their lot size. Outside this red colored zone, none of these restrictions apply; I think it's misleading to imply that they do. We, again, at the behest of Town Meeting, restricted the scope of this article so that it would not affect those homes. And that is what the language means.

When we looked — again, you know, the — this — the impetus for this article did arise out of particular cases, but what I think motivated the Planning Board to support this initiative is looking at these 6,000 homes in this area, sensitive area of Falmouth, and saying, "What is the potential liability if they do develop?" And if just five percent of these homes converted over the course of the next 50 years — that's 300 homes converting into four units each — that's adding 1200 units to Falmouth. As I said at the beginning of Town Meeting, I think we need to be
concerned about controlling growth. And that's a liability that I think the Planning Board felt was simply too great; that we need to put some limit in. And logical limits would be based on lot size: can your lot support this density or not?

THE MODERATOR: Gentleman in the far right.

MR. LEWIS: Wayne Lewis, Precinct 7. I live in Seacoast Shores and I'm a member of the Seacoast Shores Association. I happen to live right on the water on the Child's River between Edwards and the beach. I look out and I watch all this slimy green salad that's floating around out there. Seeing these minnows floating bellied up. The nitrogen, things like that that are going into the water. Adding an amendment, all that does is put a shield over this article. It creates immense amounts of loopholes. I'm totally against an amendment. Thank you.

THE MODERATOR: Okay, any further discussion on the amendment? Mr. Ament.

MR. AMENT: Thank you, Mr. Moderator, just one last thing. The amendment that I offered

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doesn't have much effect if any on the Coastal Pond Overlay Districts and the Water Resource Protection District, for which there is an exception for applications filed within the next year from the density. The main concern I have is with the impact of this article on areas that are outside those environmentally sensitive areas. And I beg to differ with Dr. Foreman that the way the bylaw is written it doesn't impose these additional conditions upon the properties that are not in that red area on the map. It doesn't say that.

Subparagraphs 2) and 3) are not limited to areas that are within the Water Resource Protection or Coastal Pond Overlay Districts. If there were to be amendment that said before 2) and 3) and within 4) that within the coastal pond overlay district or water resource protection district there shall be no home occupations or taking of boarders; and within the Coastal Pond Overlay District and the Water Resource Protection Districts there shall be no additional bedrooms, that would improve this a whole lot. But that's not what it said. I don't agree with Dr. Foreman

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in his reading of this. Thank you.

THE MOD: Mr. Curry.

MR. CURRY: I'll try again. Once you convert your house into a duplex home, the bylaw does not allow you to have a home occupation or the taking of boarders, whether you're in a Water Resource Protection District or Coastal Pond Overlay District, a wildlife corridor, an air protection zone, you name it, it can't happen.

THE MODERATOR: Mr. Latimer.

MR. LATIMER: Richard Latimer, Precinct 2. I think the language of this as it is written is confusing in the way Mr. Ament says, with the exception of number 2, as Mr. Curry says, presently there shall be no home occupations or taking of boarders if you convert your property. That's not a change. The changes that we have here is the lot size requirements that apply only within the Water Resource Protection District. So, I think what is needed is perhaps something like what Mr. Ament says, with the exception being that there shall be no home occupations or taking of boarders remains, period. But the other criteria or the
other conditions there should be limited to if said
conversion is within a Water Protection Resource
District.

I think a written amendment that makes
that clearer would be in order, or simply
reordering the headings and the subheadings of this
existing text. You know, for example saying
"Under the following criteria, if said conversion
is within a Water Resource Protection District: 1),
then 3) and 4). Then, as a separate section 2),
and then as a separate section what is now number
5), would make this a lot clearer. So it would
read, "If said conversion is within a Water
Resource Protection District or within a Coastal
Pond Overlay District: 1) The minimum lot size
shall be 15,000 square feet, 25,000 square feet,
and so forth. 2) -

THE MODERATOR: Mr. Latimer, are you
actually making that amendment?

MR. LATIMER: Well, I think an amendment
should be an order that says that, because I think
that gets to the intent of both the Planning Board
and the substance of Mr. Ament's objection. I

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wasn't prepared to do that because I wasn't aware -

THE MODERATOR: Okay.

MR. LATIMER: - of Mr. Ament's objection

until I came here tonight.

THE MODERATOR: Okay.

MR. LATIMER: So I think something is in

order along those lines. I'm not the drafter for
the Planning Board and I would feel uncomfortable

doing that because I am a member of the Planning
Board. But I think if Mr. Ament were to make a

written amendment to such effect, I think I would

support it. Thank you.

THE MODERATOR: Or we could vote this

down and send it back. Ms. Lowell. Those are

the two options.

MR. LATIMER: I don't think we should do

that. I think it's long overdue that we actually

get this on the books.

THE MODERATOR: Okay. I don't have an

amendment on the floor, so Ms. Lowell has the floor

on the first amendment.

MS. LOWELL: I think we should vote down

the amendment. If there's only one or two a year,
and this is, on reflection the Planning Board wants
to come back in the Fall Town Meeting and make a
minor change to this, I would support that. But
this is — little changes in the bylaws can have
totally unintended consequences so, without a lot
of thought, I wouldn't want to start amending this
on Town Meeting floor. And so let's go ahead and
vote.

FROM THE FLOOR: Question, question.

THE MODERATOR: Okay, the vote is just
going to come on the amendment whether or not to
add to the list of exemptions: paragraph 2), 3), and
the second sentence of paragraph 4'. The question
will come on the amendment. All those in favor,
signify by saying, "Aye."

(Aye.)

THE MODERATOR: All those opposed, "No."

(No.)

THE MODERATOR: It's the opinion of the
Chair that the No's have it. The question is now
back on the main motion as printed. As printed
in the warrant book. All those in favor, signify
by saying, "Aye."

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[Aye.]

THE MODERATOR: All those opposed, "No."

[No.]

THE MODERATOR: It's the opinion of the Chair that there is a two-thirds majority and I so declare.

Article 2, Mr. Chairman of the Planning Board for the main motion.

CHAIRMAN FOREMAN: Thank you, Mr. Moderator. Article 2, our recommendation is indefinite postponement.

THE MODERATOR: The recommendation is indefinite postponement. Is there anyone who would like to place a positive motion on the floor?

A Town Meeting Member that would like to place a positive motion on the floor?

[Pause.]

THE MODERATOR: Last chance for a Town Meeting Member to place a positive motion on the floor.

[Pause.]

THE MODERATOR: Hearing none, the Chair will entertain indefinite postponement as the main
motion. All those in favor, signify by saying, "Aye."

[Aye.]

THE MODERATOR: All those opposed, "No."

[No.]

THE MODERATOR: The Ayes have it by a majority.

Article 3.

Sir, only Town Meeting Members can place motions on the floor and I didn't have a positive motion. If you're - do you want to speak on the indefinite postponement motion?

FROM THE FLOOR: We've already voted.

THE MODERATOR: Mr. Peck?

MR. PECK: Mr. Moderator, whatever we need to do, let the man speak, okay? If we could reconsider the vote that we just took, and then come back and let him speak and then we can vote.

THE MODERATOR: Okay, the question will come on reconsideration of Article 2. All those in favor of reconsideration, signify by saying "Aye."

[Aye.]
THE MODERATOR: All those opposed, "No."

[No.]

THE MODERATOR: It's the opinion of the Chair that the Motion to Reconsider does not carry.

MR. NETTO: Point of order, Mr. Moderator?

THE MODERATOR: Mr. Netto.

MR. NETTO: In fairness to everyone, Mr. Moderator, I think many people were confused under the Parliamentary procedures of the last article. I think, myself included, and I know you asked numerous times for someone to put a positive motion on the floor, but I think most of us felt that there was going to be some discussion on the article.

FROM THE FLOOR: No, no.

MR. NETTO: So, if the people here feel that once IP, we're not going to have any discussion, then so be it. But I know there's some people around me that are somewhat confused -

THE MODERATOR: Okay -

MR. NETTO: - and we thought we were going to have some discussion. That's all -
THE MODERATOR: I was a little uncomfortable too, because usually someone will place a positive motion and that's why I said it three or four times and no one did. I was surprised myself. But the way we've done this in the past is we get a positive motion on the floor and we have a debate. If not, indefinite postponement is the main motion and then we go on.

Usually I need new information, you know, for reconsideration, but I'm just - I'll do one more vote to reconsider, which is non-debatable, but my precedent has been and will continue to be when indefinite postponement is on the floor as a recommendation, unless there's a positive motion, we're IP'n it, we're going on to the next article.

So, the question will now come on whether or not to reconsider Article 2-

MR. FLEER: Point of order.

THE MODERATOR: Yes, Mr. Fleer.

MR. FLEER: I believe you can only have one reconsideration of an article.

THE MODERATOR: I don't see that in the chart, let me check.
[Pause.]

THE MODERATOR: It's not debatable, it's not amendable, it requires a majority. The motion to reconsider the motion for reconsideration is not reconsider-able, you are correct, I'm sorry.

[Applause.]

THE MODERATOR: First time in six years, congratulations, Mr. Fleer.

[Laughter.]

THE MODERATOR: The Chair would entertain a main motion on Article 3. Mr. Chairman.

CHAIRMAN VIEIRA: I move Article 3 as recommended in the warrant booklet, with the following corrections: borrow the sum of $12,575,000, expend not more than $3 million plus interest from the Land Bank Fund, expend the sum of $3,300,000 from the Nutrient Management Fund provided by the U.S. Air Force Center for Environmental Excellence, petition the General Court for special legislation to authorize the Town to issue notes or bonds for the purposes of this article, which mature on or are due and payable in

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30 years from the date of the bonds.

THE MODERATOR: Okay, you've all heard the main motion. And we have a presentation. So the main motion is pretty much as printed, with the changes that are listed up above here, I'm not going to read all of them again. They're the numerical changes in the funding sources.

Mr. Murphy.

MR. MURPHY: Good evening. Last fall, this body put together for us a positive motion on the purchase and gave us our orders to go out and secure a purchase and sale for the Falmouth Country Club. And we are here, very excited, with a signed purchase and sale agreement this evening. I hope you all got one of the sheets that was handed out in the back. If you didn't and you'd like to see one, you can either share it with someone next to you or they may have some others in the back.

I'll begin this evening asking again for a positive vote on Article 3 of Special Town Meeting. And I will be very brief. I would like to take this opportunity to thank Lenny and Helen.
Bedford and Jerry and Laura Barrett of the Falmouth
Country for this extraordinary opportunity that's
before us this evening.

I'd also like to thank the 300 Committee
for their extraordinary - and I'll use that word a
couple of times this evening - pledge of $3 million
to go toward this purchase. As Selectman Clarkson
said at our meeting, it's really a testimony to the
private-public partnership that they had set out to
do at their inception at the 300 Committee, and
this really is a watershed and historical mark for
the 300 Committee and for the Town for that
relationship.

And I would like to thank some of the
individuals and organizations that have written
letters and articles supporting this, and private
phone calls and conversations that I have had and I
know members of the Committee have had in making
sure that this was brought to this body in a full,
complete way.

And I also want to just make a quick
point to thank the committee that worked very hard:
Selectman Troy Clarkson, Ron Garcia, Jim Vieira,
myself, Bob and Heather, and some thanks to Bob - I mean to Frank Duffy for his in-house counsel.

We will open this to the floor for a discussion and comment. I know Bob would like to just run down - Bob would like to run down the financing very quickly and then we will open it up for discussion.

Everyone has seen this in the paper, they've seen multiple articles about it, but we will entertain questions and comments, thank you.

MR. WHITENOUR: Thank you. Good evening, ladies and gentlemen, I just wanted to run through a few key facts on the financing plan for this project. And I do have a slide in here. It's about maybe the third or fourth in. Just to get it up on the board. And I want to make it clear to everyone what we've done with this project.

The total parches price for the 27 holes of golf and all of the adjoining open space is $15,800,000. And I think this financing plan really shows the true strength of the Town of Falmouth, the way that we've been able to put it
together and to keep part of this. The reason that it works so well is, as you can see, not all of the funds come from any one place. It's spread out from multiple sources of funds.

And the first point that I wanted to raise is that the key funding for this project comes from a $6.5 million golf revenue bond. And the financial foundation for that comes from the Income and Capitalization Study that we had performed through the due diligence on this golf course. We are absolutely confident and we've worked it out with the Town's financial advisers that the revenues from this golf course, if operated just as the family golf course, affordable as it is now, can support fully, 100 percent of the debt on the golf bond and in addition provide the funds that we need for the capital improvements as we move forward.

We've also used $3 million from the Land Bank to support some of the purchase. This project also, as it sits directly in the watershed for three of the nitrogen sensitive coastal embayment areas in East Falmouth, we've been able
to use $3.3 million of the Federal Nitrogen
Mitigation Funds, and this will be a key project in
helping to reduce the nitrogen problem that we have
in some of the south-facing coastal embayments in
town. And again, as Selectman Murphy as pointed
out, the extremely generous donation of $3 million
from the 300 Committee has led to this project
being able to be funded 100 percent, without any
property tax dollars at all. And I think that's a
critical piece of news, especially based on the
information that we discussed last night. And the
significance of that is that this project will in
no way compete with any of the essential town
services that we have: education, public works,
public safety. It's being funded entirely
independent from there and we'll be able to operate
it in the black with this funding program.

MR. MURPHY: I did forget one member of
the committee, Paul Ketchum, of the 300 Committee
who is sitting in the back of the room, and he
played really a tremendous role in this entire
purchase, thank you.

THE MOD: Discussion on Article 3. Mr.

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Johnson.

MR. JOHNSON: Leonard Johnson, Precinct 5. Carey, could you explain the difference between those numbers and the numbers that were moved in the motion? I'm confused. There was a $12 million bond.

THE MODERATOR: Mr. Whritenour.

MR. WHRITENOUR: In the motion, what we need to do is consolidate these various funding sources into the bond. For instance, the Land Bank Funds all come from a bond and the 300 Committee funding will come over a five year period. So what we've done is just take care of the technical amendments to assemble the capital.

MR. JOHNSON: Thank you.

THE MODERATOR: Mr. Fassett.

MR. FASSETT: Thank you, Mr. Moderator. I just want to make - state probably an obvious point. It would be counter-productive, after assuming ownership of this golf course, for any discount to be offered to local citizens. That would severely impact other competing golf courses in town who are tax payers. I hope that's clearly
understood.

THE MODERATOR: Mr. Herbst, then Mr. Woods.

MR. HERBST: Ralph Herbst, Precinct 8. This is a great opportunity for the town, especially for those of us who don't play golf but care about open space. But any time a proposal of this magnitude comes before this body, we should understand how the portion that is not open space, in other words, the golf course, how that is proposed to be managed. From what I've read, you'll hire a professional management team to operate the golf course. But what town entity will control it? In other words, under whose authority will this golf course operate?

THE MODERATOR: Mr. Murphy.

MR. MURPHY: The Board of Selectmen. It will be under the jurisdiction of the Board of Selectmen. There will be an advisory committee, a five member - we're proposing a five member committee, if we have a positive vote and we move forward, we will have a five member committee to oversee the operations of the golf to the Board of

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Selectmen through the administrator.

MR. HERBST: Okay, thank you. That would be appointed by the Selectmen?

MR. MURPHY: That's correct.

THE MODERATOR: Mr. Woods.

MR. WOODS: I don't want to stop the wedding, here, but I just have a couple of quick questions and I think that the committee was made up of some brilliant minds, but I had the privy to look at the financial pro forma, and I was kind of hoping that we could see that up there with regard to the operations.

My first question comes in the grounds and operation, you're showing a line item there of expense of - and I don't know who I should really be directing this question to, Mr. Moderator, but you can direct it after I finish it, I guess. He's showing $350 in expense in the grounds and operations. In my little homework that I did, I couldn't find a golf course anywhere on the eastern seaboard that was functioning for less than 700,000, just in that specific line item. So, it's - maybe it's a typo, I don't know exactly what
that means. That's the first question.

The second question that I have is you're showing a three percent fee, management fee, payable to whoever that management firm is. That's a sum total of $56,000. I don't know where that number comes from, either. I couldn't find a management company for anything less than ten percent that would handle an operation of this magnitude.

So, my only reason for raising these issues is I really think that it's great that the community is about to make this purchase, but I think we need to create a municipal golf course that this entire community can be very proud of and have the funds to do it, because there is a multitude of municipal golf courses that function in this country, or not, and have problems managing them financially. The open space is a wonderful thing, and I guess my basis is that if the golf course cannot support the nut, then maybe this looks at a 2¼ override and you just buy it.

That's my question.

THE MODERATOR: Mr. Whritenour.

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MR. WHITENOUR: And thank you, and that's an excellent question. The first thing that you need to understand in the due diligence for putting together a 25 year financial analysis for the operation of this particular course, the town hired not one but two separate, independent consultants and we performed a completely detailed appraisal that had a full business plan work up and an income capitalization report associated with it. Some of the numbers are consolidated in that report, but they're based on a combination of industry standards in our region plus the exact numbers of the financial statements and the operations of the golf course facility over a long period of time.

We have an extreme luxury in this case that this particular golf course was a very stable operation, family owned and operated for many years. We put together that 25 year financial plan on a very conservative model that was based on initially a higher amount than the town is even funding. What we showed is that operating that course to industry standards maintaining its

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current market niche, that we've attained the types of ratio that would be fund-able for a bond higher than we're going to be bonding, up to eight million, 8.5 million, and by having that bond payment down to 6 ¼ million now, which we've been able to do because of the amalgamation of the different types of funding that were used, this golf course, if operated in exactly the way that we propose to, will more than pay for itself. And I don't think that right now I have any qualms that there's a possibility of a Proposition 2 ¾ override to support it.

THE MODERATOR: Follow-up, Mr. Woods?

MR. WOODS: Again, for clarification: on these financials, and they do go out 25 years and the expense line items, they're all the same, as is the gross income, but it says Golf and Grounds - do you want, so you can comment on what I'm holding here? It shows Golf and Grounds, $350,000 in cost. I checked with the closest municipal golf course would be Barnstable. Last year, their costs were somewhere around $770,000. This number is somewhat less than that. And I guess maybe the

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owners could explain to us possibly how they were able to keep that number at 350. But, if it's 350, fine, that's great, but I just want to know that it's a real number. I think we all need to understand that that's a real number.

THE MODERATOR: Those numbers are real numbers. I'm not going to take apart the financial statements for you right now and argue how much it takes to fertilize the lawn, but again, we had some of the highest quality consultants that looked at the current operations, the operations of area golf courses and did a full study based on that. And we are confident that those numbers stand. And they are extremely conservative.

If you take a look, you know, we've projected the income to remain constant and not grow with the market. And that's just - in every turn, I think that those numbers have a conservative bias in it. Because we had the skepticism with the committee - and, again, my hat is off to this committee as well that, had I think the Finance Committee, local business people, there was a healthy dose of skepticism. And I think

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that the key thing with that study right now is to just indicate to you that a lot of those numbers are consolidated numbers, but overall that is an accurate representation of what it's going to take to run that course and that it can be done.

THE MODERATOR: Mr. Freeman.

MR. FREEMAN: Thank you, Mr. Moderator. Michael Freeman, Precinct 8. I have several questions. I am not a golfer. Everything that I see in this thing and package and what I've read is a win-win situation.

Number one, we probably all have seen in the paper the problem, I think it was in Dartmouth, or no, South Yarmouth, I think, which came of this last year and they were $70,000 in the hole and they were trying to figure out a way how to get out of it. The questions that I have are as such: we're talking of two golf courses, I believe, Mr. Murphy, a 19 hole –

THE MODERATOR: Eighteen.

[Laughter.]

MR. FREEMAN: The 19th hole, yeah, we do have one of those.
MR. MURPHY: The 19th Hole will be open after hours.

MR. FREEMAN: We'll renovate it, right?

MR. MURPHY: We may pay more if there's another hole there.

MR. FREEMAN: An 18 hole golf course and a nine hole golf course. And that was taken into consideration when the $350,000 for maintenance was -

MR. MURPHY: That's correct.

MR. FREEMAN: - was brought in? Okay, fine.

Now, the money that's going to be developed for, you know, the fees that are going to be obtained here, there's two questions. Number one is I read was that the two owners, current owners, they are going to currently operate it from the time that we take over this particular course, or courses, is that correct? They will operate it and maintain it?

MR. MURPHY: They will operate this course through this current season. We will pass papers, I believe, in December into January of next
year.

MR. FREEMAN: So we get it next year?

MR. MURPHY: Correct.

MR. FREEMAN: For the golf season.

MR. MURPHY: On January 1, we turn the key on what I believe is a turnkey operation and walk in through the door.

MR. FREEMAN: Then how do you go about and what will the process be for getting a management company to handle this?

MR. MURPHY: Well, the first thing we need is to pass this with an affirmative vote. The second thing we will do is the committee will stay intact to the transition of this project. We will issue an RFP for management companies. We've already had some interest from some local folks and some people who - Billy Casper Golf has sent us a notification that they may be interested in the management of this course.

This course is well-run, it's well maintained, it has a good history. Lenny and Jerry and the workers have done a fabulous job.

Their groundskeeper Bucky has done a fabulous job.

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For anybody who golfs and knows golf, this is an operation that is a desirable operation for people to run.

MR. FREEMAN: It's probably not in my purview, but I have spoken to Russ Latoucca [sp?] who runs the Ballymeade courses. The second one is being up to date, being started right now. And seems very interested. Just throwing it out for you for your consideration. He's got the groundskeepers -

THE MODERATOR: No, he can bid for the RFP.

MR. FREEMAN: And I hope he will be able to get the papers for it because not only is he very knowledgeable but he runs -

THE MODERATOR: Okay. That's another forum, Mr. Freeman. Okay, I've got Mr. Pinto next. Mr. Pinto. Mr. Bishop, you're next on my list and then Ms. Bother.

MR. PINTO: Thank you, Mr. Moderator.

Greg Pinto, Precinct 9. Assistant Golf Course Superintendent, Oyster Harbors Club. And formerly Assistant Golf Course Superintendent, Falmouth

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Country Club.

Mr. Woods, it is not a typographical error. The Golf Course Superintendent Buck Hall does an excellent job pinching pennies. I have had the opportunity to speak to one of our selectmen about this, and if we do buy this golf course, and I believe we should, he should definitely be kept on. This, you know, the management issues, the fees issues, you know, folks, that's later. We either have to buy it or not buy it right now. So let's please move on to either buying it or not buying it. Thank you.

FROM THE FLOOR: Question.

THE MODERATOR: Mr. Bishop.

MR. BISHOP: Pat Bishop, Precinct 3.

I agree in buying the golf course. I think it's a win-win situation for the Town of Falmouth, but I do disagree with Mr. Fassett. I believe if the Town of Falmouth does obtain the golf course, I believe the residents of the Town of Falmouth should have some kind of fee structure, just like all other municipal golf courses throughout the country. We do have a fee structure for our

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moorings and our dock space. I believe town residents get a cheaper rate for dock space than the non-residents. I believe that town residents get a cheaper dump fee than the non-residents; shellfish fee than the non-residents. And I do believe that in this day and time a lot of money up front, January 1st, if you had 400 members at a thousand dollars apiece, you would definitely have your maintenance fees up front January 1st every year. I know there's not a businessman in this country that wouldn't like to have three-quarters of their revenue January 1st of every year without serving any service to the people or anything like that.

The golf courses on the Cape are losing approximately 23 percent of their revenue for the past three years; the reason is, the weather has been a bad spring and a bad fall, and all the other new golf courses over in Plymouth. The people aren't coming down to the Cape to pay the same amount of money as they would playing the golf courses in Plymouth. So I do think the residents in Falmouth should have an opportunity.
And I believe that once we do purchase
the course, which I hope we do, that there will be
another committee formed with people that are
informed in the golf operating business. We have
eight Class A professionals in the Town of Falmouth
that would be welcomed to be on the committee and a
lot of other golfers in the town that would
probably also like to be on the committee.

Not taking away from the committee, I
think they've done a great job, but I think it
should be turned over to people that know a little
bit about golf operation. Thank you.

THE MODERATOR: Ms. Bother. Then Mr.
O'Connell.

MS. BOTHER: Elizabeth Bother, Precinct
2. I would like to make a request that's
procedural. You began at the beginning of Town
Meeting by reminding people to identify themselves.
I would appreciate - I think many of us would -
your reminding speakers to identify themselves so
that we have a better understanding when they are
presenting their comments. For instance, the
first gentleman did not identify himself, but he
spoke at length about the financials. Also, it's my understanding that whenever anyone makes a comment and they're answering question, it should be through you, Mr. Moderator, and not be a kind of free for all discussion.

THE MODERATOR: That's correct, and it's not out of control, so I'm -

MS. BOTHER: Thank you.

THE MODERATOR: - in control of this meeting.

Mr. O'Connell. Was it Mr. O'Connell?

No. Mr. Maclone, did you still want the floor? And please identify yourself. You are correct, we should be identifying ourselves by name and Precinct.

MR. MACLONE: Richard Maclone, Precinct 4. Through you, Mr. Moderator. What we're looking at up here is something that it took some people a lifetime to build, and Lenny and Jerry, they're experts at what they do. And the Town is going to buy a business and the Town doesn't know how to run a business like this so they're going to have management people do it for them. The
management people are not going to be viewing
tings the same way as an owner when he's taking
every dollar out of his pocket. And I think
probably what Mr. Woods was talking about is that
the costs involved are probably going to be
climbing rapidly as compared to what an owner-
operator ran an expert golf course, knowing what he
was doing over a lifetime of experience. And so I
have a few misgivings about the Town going into the
golf business, not being an expert, not having the
wherewithal and the commitment that a business
person has buying an operation of this magnitude.
So I would have Town Meeting think about that in a
purchase of this place.

I'm also wondering that, you know, we
want to take this and one of the other things I've
heard is we want to get rid of our wastewater on
this golf course, which sounds like a fine idea,
but I'm wondering: what is going to be the incurred
cost to the Town to do a six or eight inch pipeline
from the wastewater plant over to East Falmouth I
order to distribute this, or wherever it's coming
from. You know, I'm wondering how that works into
the whole cost. We're looking at a 30 year debt on ourselves, our children and grandchildren.

THE MODERATOR: Do you want to briefly comment on that portion of the -

MR. MURPHY: Well, I'll answer the second question first: it's a bit premature to talk about sewering in East Falmouth, and I think it's a little outside of the scope of this article, other than no, we will not use all of the water that could be potentially discharged from the water treatment plant onto that course; there will be other factors that will go into that. I do think it's a bit premature.

To answer the first part of your question and I think to secondarily answer one of the earlier questions, the relationship we will have with a management company will be just that, a relationship. We have no intention of turning this totally over to a management company and have them come in and run this course for us. The makeup of that committee will be golfers. It will be someone from the environmental field to look at those issues that are being done. There will be

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people from the Finance Committee on that and the integrity of the finances of this operation of this course is paramount.

You know, when this was offered to us, we didn't jump up and down and say, "Oh, Boy, we're going to have free golf!" or reduced golf or anything of the like when this was presented to us. What was presented to us was in my mind a gift from those owners to secure, in a critical piece of East Falmouth, a piece of land that future generations are going to benefit from. So, anything short of a positive vote here is going to short those generations.

I think a lot of the questions on how we manage this course and how we move forward, in all due respect, are a bit premature. But you have to have faith in what we do. We run a harbor, we run a Recreation Department, we run a lot of good things in this town and they run very well. And I think that there is enough intelligence throughout this community, throughout Town Hall, to be able to financially sustain this project, to environmentally sustain this project and protect

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238 acres in a critical part of this town for future generations. And I, again, urge an enthusiastically yes vote on this project to move it forward.

There are going to be questions. Are we in the golf business now? We are not. Are we going to be in the golf business? I certainly hope so. We're going to find those service models in those communities that have municipal courses that work very well and we're going to model ourselves after them. We know there are bad models and we're not going to model ourselves after them. You know, it's not a huge leap of faith to say to us, "We trust you and you can do the right thing." We will do the right thing.

MR. MACLONE: Thank you.

[Applause.]

MR. MACLONE: Mr. Moderator.

THE MODERATOR: Mr. Maclone.

[Applause.]

THE MODERATOR: Let's go.

MR. MACLONE: Excuse me, Mr. Moderator?

THE MODERATOR: Mr. Maclone.
MR. MACLONE: The protection issue is also of concern to me. In the reading of this, it says, "For the purpose of open space, water resource protection, public recreation or any other municipal purpose as provided by any appropriate authority." It sounds really loose in there as to "any appropriate authority" doesn't limit authorities that want to get their hands on some of this open space, and we're all running scared for the past few years with the 40 B proposals and I know better than most how they can affect. But is there anything in here, any protective wording that you can put to prevent any act by the legislature to come down the pike or someone to be able to abscond with some of this open space? Because it says "any appropriate authority". And it say, "or any other municipal purpose," and that can be awful open-ended.

THE MODERATOR: Mr. Murphy.

MR. MURPHY: Nobody will abscond with any of this land, I can guarantee you. This will be under the jurisdiction of the Board of Selectmen.
MR. MACLONÉ: But that's not what it says. It says, "Any appropriate authority" and it says, "any municipal purpose or other municipal purpose." So the way the writing is I here, I think there's an awful lot of open holes in this plan. And could I go through you, Mr. Moderator, to our Town attorney and ask him about that open-ended language?

THE MODERATOR: Mr. Duffy.

MR. DUFFY: Mr. Maclone, I think the reason the language is as it is is at this point we want as much flexibility to plan how we are going to use this land when we acquire it. Every decision as to how this land is going to be used cannot be made here tonight, but there is a golf course and there's some open space, and I don't think it's the intention of anybody here to utilize any of this land in any way that's going to deter from those stated purposes.

MR. MACLONÉ: Thank you, but I wasn't worried about the people here.

THE MODERATOR: Well, the legislature can do whatever they want regardless of how we vote.

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tonight, if that was your concern, the legislature doing something there.

The next person on my list is Mr. Hampson. MR. Hampson? No.


Rabesa, you want the floor?

MS. RABESA: Yeah.

THE MODERATOR: Microphone.

MS. RABESA: I'm in favor of this. One of my family members, my uncle, started this course with Mr. Bradford way back when. In fact, I used to bill some of the fees. But anyway, I was thrilled that part of the deal with the 300 Committee was the course was going to be - or the condition was the course was going to be put into conservation land; that would be under the Selectmen would have to do that. I just want to sort of get publicly that that is the Selectmen's intention, to do that, number one.

And number two, I mentioned that to someone and they said, "Well, if it's conservation land, how is that affected by fertilizers and

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whatnot?" Will that, now if you say it's
conservation land, are you restricted on what you
can do with it as far as taking care of the course?

THE MODERATOR: Mr. Murphy.

MR. MURPHY: The issue of Conservation
restriction, part of the course, the new nine
holes, is currently under a Conservation
restriction, and we have intentions to put the
remainder under the Conservation restriction.

FROM THE FLOOR: Can't hear you.

THE MODERATOR: Can you speak up? We
can't hear you.

MR. MURPHY: The course now is under a
Conservation restriction and our intention is to
put the remainder of that course under a
Conservation restriction. What was - I didn't
hear the second part of her question.

MR. WHRITENOUR: Just to address it
briefly, that you're asking does the Conservation
restriction prevent the course from being operated
as a golf course. And the answer to that is no.
The restriction says we're not going to build those
types of things on it that the previous speaker had
mentioned, Mr. Moderator.

THE MODERATOR: Okay.

FROM THE FLOOR: Question, question, question.

THE MODERATOR: Okay, the question will come on the main motion. Article 3, the main motion is as printed and we have the number of changes up there. If we can pop those up on the screen.

Okay, all those in favor of the main motion, signify by saying, "Aye."

[Aye.]

THE MODERATOR: All those opposed, "No."

[None opposed.]

THE MODERATOR: Unanimous.

[Applause.]

THE MODERATOR: Mr. Chairman.

CHAIRMAN MURPHY: I want to thank Town Meeting Members for that vote. We will not let you down. The land will not be absconded, and we will run this course professionally and with your faith and -

FROM THE FLOOR: Can't hear you.

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THE MODERATOR: You’ve got to get into that mic.

CHAIRMAN MURPHY: I'm not used to, like Andy Dufresne, here. I'm going to have to get my library card to get a little closer to this thing, here.

I would like to call Susie Goodman down, at this point, from the 300 Committee. We have a Certificate of Appreciation that we – this is a little outside of the scope of what we traditionally do, but we felt that the extraordinary gift from the 300 Committee warranted our using this forum and the television cameras at home. Suzie represents the 300 Committee here in the community, and we would like to from the Board of Selectmen, on behalf of the Board of Selectmen, present this Certificate of Appreciation.

The Town of Falmouth Board of Selectmen certify before all present at the Special Town Meeting and to all those hereafter, that recreational activities for our residents and visitors, the 300 Committee exceeded our expectations and set a higher standard for private
land Trust contribution by its $3 million donation
to the Town of Falmouth for the acquisition of the
Falmouth Country Club and surrounding open space.
This contribution will forever alter the future of
this town by preserving 238 acres of open space and
by assisting the town to promote recreational
activities for our residents and our visitors.

By the authority vested in us, we hereby
award this certificate to the 300 Committee this
13th day of April, 2004.

[Applause.]

MS. GOODMAN: I feel like this is sort
of the Academy Awards, or something. My goodness.
I thank everybody at home. There are a lot of
people that should be thanked. Our Board of
Directors. Our very generous donors who came
forward for this specific project, knowing how
important it was to the town. This is a lot of
money and just an enormous contribution on their
part.

I'd also like to thank our membership.
Many of you are members and you keep us going, keep
us afloat, keep us moving in the right direction.

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I thank you for being members. And I have been doing this long enough to really feel a tremendous obligation to thank the taxpayers of the Town of Falmouth, because they have been taxing themselves, we have been taxing ourselves, for at least 18 years that I know, to preserve open space and to save this place that we love. And so I thank everybody in this room and everybody at home who's been paying the bill and keeping this place as beautiful as we can keep it.

And, you know, I'm a teacher, and I'm the one who looks at those little guys' faces every day and I know that this is an important contribution to them.

Also, one last thing. We have a great staff: Pat Dwyer, who is - you know, keeps the ball rolling there. Lucy Helfrick. And Peter Boyer, who in my opinion is still the little guardian angel of this town, looking out for all of us and for the future of the town, and I'd like to really thank him, too. This is a lot of his work.

[Applause.]

MS. GOODMAN: Let's keep on a roll,
here. We've got one more to go.

THE MODERATOR: Thanks. Thank you very much.

Article 4. Article 4, to see if the Town will vote to appropriate $80,000 for a survey for environmental inspection and professional contractual services to develop a transitional plan for the land purchase named in Article 3, to come from Certified Free Cash. Mr. Chairman for the main motion.

CHAIRMAN VIEIRA: Mr. Moderator, I move Article 4 as recommended.

THE MODERATOR: Article 4 as recommended. Any discussion? Hearing none, 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 5, Mr. Chairman.

CHAIRMAN VIEIRA: Mr. Moderator, I move

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the Town vote to authorize the Board of Selectmen
to purchase or take by eminent domain land in
Falmouth, Barnstable County, Massachusetts, being
described as follows: Land owned now or formerly by
Boulevard Bank, Trustee, consisting of a parcel of
71.33 acres, more or less, located off Carriage
Shop Road, as shown of Assessors Map 21, Section
09, Parcel 002, Lot 001, and described on Land
Court Plan 3954A; further described in Certificate
of Title 112487 registered in Barnstable County
Land Court.

And further to appropriate the sum of
$5,600,000 for the acquisition of the foregoing
land, including costs incidental and related
thereto, to be expended under the jurisdiction of
the Board of Selectmen. And that to meet this
appropriation, the Town Treasurer, with the
approval of the Board of Selectmen, is authorized
to borrow the sum of $5,098,000 under and pursuant
to the provisions of Chapter 44, Section 7, part 3
of the Massachusetts General Laws, or any other
enabling authority, and to issue bonds or notes of
the Town therefore, and to expend not more than
$3,976,000, plus interest, from the Land Bank Fund, in partial repayment of the bonds or notes.

And further to transfer 500 - $2,000 from line 21000-49754 of April, 2003 Annual Town Meeting Article 21 for the purposes of Article 5.

Fifty-seven acres of the land are to be under the jurisdiction of the Conservation Commission for purposes of open space, water resource protection, and public recreation, and 14 acres are to be under the jurisdiction of the Board of Selectmen for other municipal purposes. The approximate division of the land being shown on a draft plan prepared by the Engineering Division of the Department of Public Works, as filed with the Town Clerk at this meeting. And that the Board of Selectmen is hereby authorized and directed to accept any gifts of property, real, personal or otherwise, in connection with the said acquisition, and to enter into any agreement any execute any and all documents incidental and related thereto.

THE MODERATOR: Okay, you've all heard the main motion. Any discussion? Mr. Boyer.

MR. BOYER: Thank you, Mr. Moderator.
Peter Boyer, Precinct 5. I sense that I need not belabor this. It certainly is a straightforward item without the complexities of the previous article. But I would like just to take a minute to highlight some of the issues.

This is an adjacent parcel to 130 acres of existing publicly-owned land to the east. To the west is a subdivision of about 60 homes, and to the south another subdivision of about 60 homes. And northerly, this leads to the other conservation land and Crane Wildlife.

Next. The draft plan referred to in the motion is this. It's a carve-out of the 14 acres as depicted conceptually in the other maps and illustrations.

Next. The basis of this purchase price was really arrived at by two appraisals. One by the owners - the estate of the owners' appraisal, and the Town's appraisal. This represents what's considered the highest and best use alternative to the - for the use of the property. And it represents a cluster subdivision of 64 homes. The owner's appraisal was for $6.1 million, and the
Town's appraisal was $5.1 million. So the meeting of the minds was the middle ground of 5.6 million.

    Next. Well, that simply shows that it is a wooded lot, fully wooded. And to the southeasterly line is the headwaters of the Bachus River, down into Green Pond.

    Next. And that's its relationship, of course, to the other acquisitions, the golf course and the other conservation areas.

    Next. Simply shows the topographical features of the parcel and illustrates the wetlands adjacent to the southeasterly corner.

    And that's the motion.

THE MODERATOR: Any further discussion? Article 5. Hearing none, the question will come on the main motion for the purchase. All those in favor, signify by saying, "Aye".

[Aye.]

THE MODERATOR: All those opposed?

[None opposed.]

THE MODERATOR: Unanimous.

[Applause.]

THE MODERATOR: Article 7, to see if the
Town will vote to amend the Code of Falmouth for Town Meeting hand votes. Mr. Chairman of the Board of Selectmen for the main motion.

CHAIRMAN MURPHY: I move Article 7 as printed.

THE MODERATOR: As printed. Mr. Duffany.

MR. DUFFANY: Thank you, Mr. Moderator. Michael Duffany, Precinct 6. Through you, my question is regarding, like last night we had a vote that was close and it was questioned, or it sounded like one individual and we did a recount. I just want to be sure that that procedure will still continue and that you don't need to have six or seven people stand up and ask for a recount in order for that to happen.

THE MODERATOR: Okay, what we're doing here, I chair the Rules Committee, obviously; this was a recommendation. So I'll give you a little explanation what we're doing.

Back when we did the last Charter change, we mandated the standing vote and eliminated the hand vote in our Town Charter. We never cleaned
up the bylaws, so the bylaws actually say that you can use a hand vote, which, it's pre-empted by the Charter. And a lot of the new Town Meeting Members over the last few years when I was doing the orientation were confused, because they would pick up the section on Town Meeting and it said, "Hand Vote", and then they would pick up the Charter and it said, "Standing Vote," which one comes into play? So we're cleaning that up.

Now, under the General Laws Chapter 39, Section 15, it says that we require seven folks to stand. My practice has been, when it's close and there's a question, somebody questions it, that I would count it. What happens is that if there are two people on a two-thirds vote who vote "No" and want us to count it, in an extreme case like that, I would ask, "Are there a sufficient number of members questioning the vote?" And we would look first to seven folks to just stand up, I will count it right from here; if there's at least seven people that have a question, then we'll count the entire body. The reason for that is, like I said, that we don't have one or two people when it's
overwhelmingly in a two-thirds or even in a majority situation, to spend the time to count each vote. But my practice will continue to be as it has always been: if it's kind of close and I'm wondering and somebody questions it, somebody just says, "Question it," okay, we'll count it.

So it won't change our current practice.

MR. DUFFANY: Thank you, that's really what I want to hear, and I release my hold.

THE MODERATOR: Okay. And, again, this is just cleaning up our language so that our bylaws comply with our charter. Any further discussion on Article 7? Hearing none, the question will come on the main motion as printed. 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 19. Mr. Chairman of the Finance Committee for the main motion.

CHAIRMAN VIEIRA: Mr. Moderator, I move
Article 19 as recommended.

THE MODERATOR: As recommended. This is to transfer $10,000 from Certified Free Cash for a cranberry bog manager. Mr. Lowell held this article.

MR. LOWELL: Thank you. I hesitate to bring up cranberry bogs -

THE MODERATOR: Can we do the identification thing?


FROM THE FLOOR: Point of order.

THE MODERATOR: What's the point of order?

FROM THE FLOOR: Article 13 has a hold.

THE MODERATOR: Article 13?

FROM THE FLOOR: No?

THE MODERATOR: Article 13 is not a hold on my list.

FROM THE FLOOR: Okay, our fault, thank you.

THE MODERATOR: Town Clerk, do you have 13? No, we don't have 13.
Article 19.

MR. LOWELL: Nick Lowell, Precinct 5.

I hesitate to bring up cranberry bogs considering what happened last fall and the long-winded debate. But I just did have a couple questions considering the very lean budget that we are presently under, and I wanted to direct some questions to the Moderator.

My understanding is after going to my Precinct 5 and 6 meeting, that the bog operator, as a condition of the license agreement, is supposed to report his operations to the Town, and that furthermore the Conservation Commission has agents presently has agents who can, as necessary, investigate to determine if the bog manager is in compliance with the license agreements. So, considering that the bog operator is supposed to report, and that there are existing Conservation agents who can go out and investigate, I don't understand why we need to create a new position to do something that seems like it's already being done. Especially considering the very lean budgets.

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And quickly, the second question is: I don't understand why this person reports to the Town Manager instead of to the Conservation Commission.

And thirdly, I'd like to just understand why the position is being advertised now before Town Meeting approval, when it hasn't yet been approved. Thank you.

THE MODERATOR: Mr. Whrittenour.

MR. WHRITENOUR: Well, I'd like to take your questions through the Moderator in order if I could, because I think that this is a particularly important position for the Town, given the vote of the last Town Meeting to re-enter into the cranberry bog business.

And first of all, I do want to agree with you that the Conservation Commission is staffed and they do have very qualified people that work in that department. But if there's one thing that we learned, and it was a very, you know, hard lesson, but you know over a long period of time is that while we had the continuous renewal of the leases to operate the bogs, based on the tremendous
workload in just the Notice of Intents and the 
other development applications that the 
Conservation Commission routinely deals with, the 
fact of the matter is is that we do not have the 
management capacity to have a person on the ground 
to serve as that critical liaison, the linchpin 
between the cranberry bog manager and the 
Conservation Commission. To work directly with 
the Conservation staff and the Conservation 
Commission, also involving that these are jointly 
these license agreements signed between the Board 
of Selectmen and the Conservation Commission to 
have a person that can be there to supervise the 
issues associated with harvest where, you know, 
we've had concerns and issues with respect to 
irrigation, chemigation, sanding, and any number of 
other items. We feel that this can more I think 
accurately be described as a clerk of the works for 
a very important contract. 

It is a complex business, the operation 
of the bogs, that must be done on a public bog 
within a very narrowly defined guidelines. And 
quite honestly we've struggled at maintaining those
relationships and the positive working relationships. And a big part of that is that the Conservation staff just has not had the ability to be there at all times, and it's more of a knee-jerk reaction that we can send someone out based on responding to complaints. And what this position is geared towards doing is having less of a defensive posture and more of a partnership with the grower that you really need to make any success whatsoever out of this operation.

You had two additional questions that I did want to address. This position, like all of the positions in town, does respond to the Town Administrator. We are centrally positioned and in the perfect location to have the overall oversight of this position to make sure that they're doing the job that they should be. However, I want to point out in no uncertain terms that the key duties of this job, right in the job description, which we have a detailed one, is to serve as that liaison to the Conservation staff -- who also report to me -- to the Conservation Commission, and what my goal in this entire thing is to enhance that communication.
level between the Conservation Commission, its staff, and the grower, to make sure that hopefully if we have issues, problems and concerns, we deal with them before it becomes a major issue and not after the fact.

And the third question that you answered, is why would we possibly be advertising this position now when it hasn't even been approved by Town Meeting? Well, the fact of the matter is that tonight's April 13; the bogs need to move forward. Those things are budding whether we're ready or not. And we needed to get the advertising out there so that we could begin to be in a position that if this funding is approved by Town Meeting, that, in a reasonable amount of time, to coincide with the start-up of operations on a bog, if it's successfully licensed out, that we can get going. If we waited and did every thing completely stepwise, by the time we got this thing going it would be July, and that's just too late.

THE MODERATOR: Mr. Shearer, and then Mr. Latimer.

MR. SHEARER: Dan Shearer, Precinct 6.
In think this is a hardship on taxpayers, and I think it would be much easier if we bill the licensee a fee to hire this person before he starts work. In mean, no matter what you do, you have to pay something up front. So if we could get a license for this person and its costs $1,000, depending on how many we have, to pay this $10,000, I think it's fine. I think charging the taxpayers in general is not correct. Let the person who wants to lease the bogs pay for the overseer.

THE MODERATOR: Mr. Latimer.

MR. LATIMER: Richard Latimer, Precinct 2. Did I hear Mr. Whritenour correctly that this person was to be in partnership with the grower, is that the term that was used?

THE MODERATOR: Mr. Whritenour.

MR. WHRITENOUR: The Town needs to be in a much stronger partnership and a state of communication with any grower. Many of the problems that we've had with the town's cranberry bogs - and we've discussed these for a long time and there were excellent points raised. Many of the problems, I think, could have been avoided had

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we had closer communication, a better partnership, and a better agreement up front, as we've done with the whole new licensing program with the complete revamping of the documents. Not - what I said was we can't wait until the ship has gone off course and we have major problems with decisions on the bogs. What we need to do is address those concerns up front through the license agreements, through having the clerk of the works there, through better communications with the grower.

THE MODERATOR: Mr. Latimer.

MR. LATIMER: Better communications is one thing, a partnership or a cooperative relationship with the grower through an official that we hire raises alarm bells in my mind. I think - may I ask, another question is what are the qualifications for this person to be? Are they to be connections with the cranberry industry or are they to be a background in environmental law enforcement? How do you see that position in terms of the job that's being advertised right now?

THE MODERATOR: Mr. Whitenour.

MR. WHITENOUR: It is not a scientific
position, nor it is a position that is directly
someone from the cranberry bog industry. However,
it will be critical to have this person receive the
adequate training if they don't have it coming in
from the experimental station on the specifics
involved with the best management practices for the
cranberry bogs.

We need someone that has an awareness of
the wetlands issues and an awareness of how the
management practices can be applied, such as the
integrated pest management, of only using the
chemicals when it's absolutely necessary.

So, again, it's not a complete land
manager position, but it is someone who must be
qualified to fully understand and deal with the
very specific requirements that are contained in
the extremely detailed licenses that we're working
on now. It's a totally different ball game than
it was ten years ago.

MR. LATIMER: My comment to that would
be I would support a position that is an additional
enforcement officer answerable to the Conservation
Commission to monitor specifically this bog
operation. I would think that would be a benefit to the town if it could be a part-time position. I am very leery of any kind of position that is to be paid by the town to be working in conjunction with the grower as sort of the grower's representative to the town, because that's what it sounds - the grower's liaison with the Town.

Thank you.

THE MODERATOR: Ms. Siegal. Microphone up in the back.

MS. SIEGAL: Deborah Siegal, Precinct 6. Mr. Moderator through you, doesn't the license agreement already stipulate how the grower is supposed to manage the bog?

THE MODERATOR: Mr. Whitenour.

MR. WHITENOUR: There is a tremendous amount of detail in the license with respect to that.

MS. SIEGEL: Because it seems to me if it does, then a bog manager is superfluous, again particularly since we have a qualified Conservation Agent.

Another question I have is whether or not

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there's any other situation in town where an employee has been hired for the express purpose of overseeing that the terms of an existing contract are being met. Has that ever happened?

THE MODERATOR: Yes. In fact, that's a model that we're using. And the perfect example is when on every single building project that we do, where it's a complex agreement and you'd think, "Well, doesn't the contractor know what he's supposed to be doing? Well, he's a builder."

And, yes, it's true that they do know what they're doing, but you have an owner's representative. It's not the bog operator's representative.

What we're talking about here is a clerk of the works position, very similar to if you're building a building, to have someone that can work directly with the Conservation staff and then go out and be on site and conduct inspections and report back. When we just don't have the luxury of having the Conservation staff out on the site as much as we need them.

So that way, we use that Clerk of the Works model, having someone for a reasonable fee,
that we can have out on site to eliminate,

hopefully, a lot of the problems that we've had in
the past.

MS. SIEGEL: I admit that I may be

missing something, but what I see here is that

we're choosing to spend $10,000 that we don't have
to hire a second person to do a job which someone
else has already been hired to do?

THE MODERATOR: Okay. Mr. Moreland.

MR. WHRITENOUR: I don't know if that's

rhetorical -

THE MODERATOR: In think it was. Mr.

Moreland.

MR. MORELAND: This article is for

$10,000 per year, is that correct?

MR. WHRITENOUR: That's correct.

MR. MORELAND: I question that because I

read an article in a newspaper where it said that
our total income for two years that is owed to us
for the cranberries is only $8,900. Is that

correct? We're going to spend $10,000 a year to
save approximately less than $5,000 a year for

cranberries?
THE MODERATOR: Mr. Whitenour.

MR. WHITENOUR: No, that's not correct. If you do take a look at the history of the yields on the bogs, they've been much, much higher. It's only the last two years, the last years of the license, the revenues were down tremendously, but what, again, we have an entirely new licensing process that establishes minimum fees that are far in excess of the $10,000 that's going to be required for this.

So, what you can say is that, in the profits derived from the cranberry bogs, the first 10,000 goes to our management and oversight and so it will not be money that we don't have. It will be money that comes from the cranberry harvests. And the licenses do have minimum fees so that we're guaranteed that this is covered.

MR. MORELAND: One other question. Is the cranberry grower or licensee, are they paying us for the use of that house that their employees are staying in?

THE MODERATOR: Okay, we're talking about funding a contract here for a cranberry bog
MR. MORELAND: I understand that, but I'm trying to get the economics in my mind together of what we're spending $10,000 to save, is what I'm getting to.

THE MODERATOR: Okay. It's for the license on the cranberry bogs.
The gentleman in the orange sweatshirt? No? Okay, any further discussion on Article 19?

Ms. Buesseler.

MS. BUESSELER: Hi, Wendy Buesseler, Precinct 2. In the advertisement that appeared in the paper for the cranberry bog manager, the price per hour is $15 an hour. And if we're here in the Town Meeting Article and we're voting for $10,000 a year, that equals 66 hours total for the year.

Now, if we assume that this bog manager will be working year round, that equals a 12 hour week. Or, if you say seven months out of the year, that's 23 hours per week, and I'm just curious how that job would possibly take up that much time.

I think the town would be better served

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if instead we had a general land manager for all of
the Conservation lands in town. I think all of
them needs some type of oversight and management
and I think that would serve us much better than
having one person spend all their time and energy
on just 160 acres of land in town, thank you.

THE MODERATOR: Ms. Valiela, is that?

I see the mic moving. Ms. Valiela.

MS. VALIELA: Virginia Valiela, Precinct

5. I don't think the math was right on the number
of hours. It looks more like 600.

But the main point is I would urge Town
Meeting to support this article. We all know that
the cranberry bogs are very important to the town.
We need to have a better understanding of their
operation. Having a contractor for this year will
give us a lot of information on how the grower is
actually doing his agriculture. It will benefit
both the grower in terms of explaining how he
manages the bogs and it will help the town
understand from their point of view in terms of
protection for Conservation and wetlands.

The funding is covered by the minimum

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payments that will come from each of the licenses, 
and so that sort of addresses the economic issue. 
This is not a year after year after year position. 
This is one year. This will fund one year and 
then we will review whether it makes sense to 
continue with such a clerk of the works. I urge 
Town Meeting to support this.

THE MODERATOR: Microphone down here.

Mr. Dick.

MR. DICK: Henry Dick, Precinct 8.

President of the Coonamessett Pond Association. I 
urge Town Meeting to pass this. It's a very 
sensible motion. The Town is going to learn a 
great deal about the management of the bogs and 
their daily operation. I think that this is a 
one year position, In think it's smart.

They've already told us that the 
Conservation Commission is booked up. They're 
very, very busy. Just take a look around the 
building around town if you don't believe that. 
Just drive down Hayway Rotary or those other roads 
in East Falmouth. Take a look along the shore 
line and you'll see that our Conservation Agent has
his hands full and the Conservation Commission
does, too.

I urge you to pass this. Thank you.

THE MODERATOR: Mr. Miller.

MR. MILLER: Mike Miller, Precinct 4. I just have a quick question here. Assuming that
the license holder and the bog manager have a
steady line of communication, if the license holder
went ahead and sanded or applied chemicals without
notifying the bog manager, would the license be in
some kind of a jeopardy?

MR. WHRITENOUR: I think what the key
issue is is all of the terms of the license have to
be met. So, if there was a specific provision in
the license that said a notification had to be
provided, what our thing now is to be able to be on
top of that when it happens and take immediate
corrective action. Not six months, eight months
later, but to be able to handle it then. And yes,
the idea is is that if a notification is supposed
to go to the town through the cranberry bog manager
that that could happen, and if it didn't happen
that we could, you know, maybe have a hearing or a
meeting in front of the Conservation Commission
more in the short term, and be able to respond
quicker and address things.

THE MODERATOR: Okay, I think I had one
more person in the back. Is there someone back
there? No. Okay.

The question will come, then, on the main
motion. The main motion for Article 19, Certified
Free Cash, $10,000 for the cranberry bog manager.
All those in favor, signify by saying, "Aye."

[Aye.]

THE MODERATOR: All those opposed, "No."

[No.]

THE MODERATOR: It's the opinion of the
Chair that the Ayes have it by a majority. This
meeting will stand in recess for 15 minutes, then
we'll come back and finish up tonight.

[Whereupon, meeting recessed.]

[Whereupon, meeting resumed.]

THE MODERATOR: Would all Town Meeting
Members please take their seats.

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

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You may remember the discussion about the future of the cupola over at the Mullen Hall - actually the Hall School, and during the break Mr. Marks was telling me about the efforts that he and a group of folks have put together to place the cupola behind the Mullen School, where we'd switch the road back there. But they need a little funds to be able to clean it up and to move it to that location, make it presentable. If anybody's interested in helping with that effort, either on television at home or any of our Town Meeting Members, we are looking for private donations and you can speak to Mr. Marks directly about how they are working on that project.

Division one, Mrs. Tashiro.

MRS. TASHIRO: 49.

THE MODERATOR: 49.

Division two, Mr. Dufresne.

MR. DUFRESNE: 80.

THE MODERATOR: 80.

Division three, Mr. Hampson?

MR. HAMPSON: 52.

THE MODERATOR: 52.
By a counted vote of 181, we are back in session and we are at Article 25.

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

CHAIRMAN VIEIRA: Mr. Moderator, I move Article 25 as printed.

THE MODERATOR: Okay, the main motion for Article 25, as printed. This is for the Town of Falmouth to pay an employee who has been granted military leave of absence to serve on active duty with the Army National Guard, Air National Guard or a Reserve component of the armed forces between September 11th, 2001 and September 11th, 2005. Any discussion on Article 25? Mr. Lynch.

MR. LYNCH: Kevin Lynch, Precinct 3. I have a little experience on that since I'm coming back from a ten month deployment as a National Guardsman in Bosnia. I urge you to pass this article.

What I found on my deployment, Bosnia's not too much of a threat there, but we have other soldiers and guardsmen, air guardsmen, that are in Iraq, in Afghanistan and are in imminent danger all

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the time.

The other thing I found out is what the worst part of it is being away from your home, being away from Falmouth, and for the families that are home it's very difficult also. And, by passing this article, the soldier and his family will not have to deal with an economic hardship or having less than pay when he's away. So I urge you to pass this.

I understand that right now there is no guardsmen that fall under this category, but in the future there may be some. So please pass this article.

THE MODERATOR: Okay. Any further discussion on Article 25? All those in favor of Article 25 as printed, signify by saying "Aye."

[Aye.]

THE MODERATOR: All those opposed, "No."

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

Article 30, the recommendation is indefinite postponement. The article was held by

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Dr. Antonucci. Dr. Antonucci, would you like to put a positive motion on the floor?

DR. ANTONUCCI: Yes.

THE MODERATOR: Okay. And the sum from Certified Free Cash?

DR. ANTONUCCI: Right.

THE MODERATOR: The main motion is as printed, from Certified Free Cash.

DR. ANTONUCCI: I'd just like to make a couple comments about the article. First, as right of petition, people say, "Why are you sponsoring this?" I'm doing it because somebody asked me to do it. And, as a Town Meeting Member, I think we have a responsibility. I felt very uneasy tonight when we did not let that gentleman speak on Article 2. And from this point on I will always bring a motion forward for anybody who wants to speak at Town Meeting; that's what this process is all about.

So, when I was approached by these three individuals to do it, in the issue of fairness and equity, I did it. Since that time, however, I investigated the issue at great depth. And it
really is not about people; it's about a process. And we're talking about three professionals, career employees of this town, who have given great service. We're talking about an administrator who works hard, a Board of Selectmen who works hard, and everyone was involved in this reclassification.

Unfortunately, there were some issues on both sides of the table that weren't resolved.

Since signing onto the petition, and after some discussions tonight, we really have come to an agreement. This really should go back to the Board of Selectmen and to the Town Administrator to be resolved. At the same time, many of you have supported very strongly the three individuals for reclassification. But to protect the reclassification system, to protect management rights, to protect the rights of the exempt employees, it is my opinion and the opinion of the Board of Selectmen and the three professional, classy individuals, that this go back to the Board of Selectmen for resolution and be brought back to this Town Meeting in the fall.

[Applause.]
DR. ANTONUCCI: So I will withdraw my motion and move for indefinite postponement.

THE MODERATOR: Okay, the motion is on the floor, so we will have to vote the motion and it is open for discussion. So, we have a main motion as printed from Certified Free Cash, so discussion will be open. Gentleman in the back.

MR. POTTER: David Potter, Precinct 6. It's just ancillary to this. I would like to see if we could print in the warrant booklet a description of what these classifications are. I don't know what an M-9 is, and there are other classifications throughout the town. It would be nice if they were listed in here so you had some clue as to what those classifications were. It would just help us make a determination whether or not - what's an adequate salary.

THE MOD: Okay. Where can we get a copy of those? Town Meeting Members that want to do some homework after - over at Town Hall over at the -

MR. WHITENOUR: Yes, in the Personnel Department.
THE MODERATOR: Okay. Any further discussion on Article 30? Hearing none, the question will come on the main motion. So the main motion is as printed. So, if you wanted to do what Dr. Antonucci said, you'd vote "No", okay? If you want to change the classification system, you vote "Yes."

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

[Aye.]

THE MODERATOR: All those opposed "No."

[No.]

THE MODERATOR: It's the opinion of the Chair that the No's have it by a majority.

Article 31, Mr. Chairman.

CHAIRMAN VIEIRA: Mr. Moderator, I move that all articles approved at this Town Meeting be funded as voted for a total of $23,028,801.98.

THE MODERATOR: Okay, you've all heard the main motion to fund everything we did tonight. All those in favor, signify by saying, "Aye."

[Aye.]

THE MODERATOR: All those opposed, "No."

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[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

Mr. Chairman.

CHAIRMAN VIEIRA: Mr. Moderator, I move the April, 2004 Special Town Meeting be closed.

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

[Aye.]

THE MODERATOR: All those opposed, "No."

[None opposed.]

THE MODERATOR: The Ayes have it unanimous and the Special Town Meeting is adjourned.

At this time In need to establish a quorum to reconvene the Annual Town Meeting. Would all Town Meeting Members please rise for the establishment of a quorum.

We're going to take just a moment, as soon as I get these quorum numbers in, we're going take just a moment to do a little PowerPoint about a discussion that we had last night about the new

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opportunities through the Town website to make
electronic payments to the Town. Our tech
department has some visuals to show you folks how
you could do that if you so choose, and also the
folks at home will have an opportunity to learn
about this service available through the town.

Division one, Mrs. Tashi-o?

MRS. TASHIRO: 51.

THE MODERATOR: 51.

Division two, Mr. Dufresne.

MR. DUFRESNE: 80.

THE MODERATOR: 80.

Division three, Mr. Hampson.

MR. HAMPSON: 56.

THE MODERATOR: 56.

By a counted vote of 187, we have a
quorum and I call the Annual Town Meeting back to
order. At this time, I'd recognize our Town
Treasurer Carol Martin for a presentation.

MS. MARTIN: Carol Martin, Precinct 2
and Town Treasurer. When we left Town Meeting
last night, Lynn Grant Major and I knew that we had
left all of you confused about the question as to

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whether or not you can pay your tax bills by credit

card. In fact, you can and you can't.

You can pay by credit card for services

of the Town, such as mooring your boat. We supply

that service and we pay the fees associated with it

through my budget and the reason we do that is

because we do that as a favor to our visitors in

the summer who use our harbor. As a convenience

to the people who are residents of the town and

sign up for night classes in the school system, we

also pay for that fee. We do the same thing for

the ambulance and it's very little draw on the

ambulance.

But since we've been offering payment via

credit card for the harbor and the school system,

the $6,000 that we spend every year to pay those

fees has certainly been more than paid for for the

increased use of those services. That's one thing

that we do pay for.

Now, we don't pay for and you cannot make

a credit card payment over the counter to the Tax

Collector for payment of your real estate taxes.

And the reason for that is state law prevents us

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from treating any person who pays by credit card
any differently than we would treat a person who
pays with cash. We could never absorb the fees
associated with those sorts of transactions.

So the Collector and Lynn Grant Major and
I worked last year in August to be able to provide
another way that persons could not have to stand in
line to pay their taxes, and that is through the
use of a service called "Ebill". Our third party
vendor on that is called MCC - Metropolitan
Communications Corporation. They service real
estate and excise taxes paid online.

So what happens then is - next one - you
can to go the Town of Falmouth website, we prefer
you would, just to familiarize yourself with our
wonderful website, and there's a link to MCC.net
and there's a link to Ebill. You'll see the link
at Ebill. See on the Town of Falmouth website, it
shows up right away. If you'd like to sign up for
this, that's the way to do it.

You can also go directly to Ebill through
the net.

As I said, the Town of Falmouth doesn't
pay anything at all for, you know, providing this. We are not paid and we do not pay. The only thing that we get from that service is the actual amount of the real estate tax bill that's due.

Now, when you're finally finished logging on and making an account for yourself, then -- and you go to make your payment, you type in how much you're going to pay and if the amount that you say you're going to pay agrees with the amount that has been downloaded into the system, then everything goes forward. And the method of payment, which the Town never gets involved in, is either a credit card or a debit card.

For use of a debit card, you, the taxpayer, will be charged 25 cents. The Ebill company gets the 25 cents; the Town of Falmouth does not. And vice versa we don't pay it, either. That's for a debit card.

If you want to use a credit card, then you're going to be charged 2.95 percent, which also, except for American Express, that's a bit more. Also, the Ebill company gets that as their fee. So we have no expense related to collection
of real estate taxes in that manner.

But let me say this: we cannot collect your taxes using a debit card or a credit card. We do this through a third party payer and that's the only way that we can sort of - well, I don't want to say circumvent the state law, but in a way that's what we're doing.

So, anyway, you can do this from your home or, if you're out of town, you can do it from out of town. You can set up your account and pay your bill on time. And, honestly, this is an electronic transmission, not a credit card that you're using - not a credit card that the Town is taking in payment.

Twenty-five cents for the Ebill is cheaper than paying by mail and you don't have to come to Town Hall and stand in line when you're trying to pay at the very last minute.

You can pay from your checking account, which is a debit transaction.

And the benefits to the taxpayer are that it's very convenient, it's very safe, it works well. We have had no missed communications on

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this whatsoever so far. It's still in the infancy
as far as the Town participating in this now,
because we've only been offering it for the first
billing of the real estate tax. Now we're in the
second billing of the real estate tax for this
fiscal year and the Collector has also taken on
excise taxes. As time goes by, she wants to offer
water bill payments through this method, also.

So, the company services many
Massachusetts towns and we wanted to offer it as a
convenience to you. And I hope that that clears
things up.

THE MODERATOR: Good, thank you, Carol,
very much.

[Applause.]

THE MODERATOR: If you haven't logged on
the new, redesigned Town website, I urge you to do
so. They're doing a great job with putting up new
information and making a lot of things available to
residents through our town website. So I urge you
to log on.

Okay. Let's go back to the Annual Town
Meeting. Article 33. This was held by Mr.

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Duffany. The Chairman for the Board of Selectmen for the main motion, please.

CHAIRMAN MURPHY: I move that the Town vote Article 33 as printed.

THE MODERATOR: As printed. Mr. Duffany.

MR. DUFFANY: Thank you, Mr. Moderator. Michael Duffany, Precinct 6. The reason I asked to hold this article last night was threefold. Number one, in reading it, it described a 16 acre piece of property that's been, as you all know, a very controversial issue, certainly with the Mares Pond neighborhood in the disposition of that property for the well site, and furthermore it just goes on to say that this could be used for other municipal purposes, and then there's a comma and it goes on to describe an agreement that was made between the Town and the plaintiffs, actually, in the suit. That's an agreement that will actually restrict the use of this property.

So it's – the language may seem a little bit ambiguous to you, it certainly was to me, and it brought me to my feet to find out what in the
world is going to happen to this property next.

So, it is with thanks that I talked with both Mr. Whittenour and Heather Harper today and Frank Duffy to try to straighten this out, to find out what is it that I'm missing or what is that's going to happen to this property, and I appreciate it that they took the time to explain it to me, and I know there's a lot of people here besides myself that had the same concerns. Like, "Now, what?"

So, if you'll bear with me for a little bit, it's going to be a little bit more confusing before it becomes clear, that keeping the language in there will actually make this more restrictive.

So, I would ask through you, Mr. Moderator, for Mr. Duffy to explain what it is that the Selectmen agree to that we will hopefully then vote for. Because on the surface it appears it's something that needs to be questioned. So.

THE MODERATOR: Mr. Duffy.

MR. DUFFY: Well, Mr. Duffany, the article says the the land will be under the - conveyed to the Board of Selectmen for water resource protection, water supply and other
municipal purposes, as more particularly set forth in a vote of the Board of Selectmen on May 12th, 2003. And then I have with me a copy of that vote. And this took place at a meeting of the Board where we brought before the Board a settlement to settle the lawsuit as it existed between the neighbors and the Board of Selectmen at the time. And the Selectmen agreed that they would put some restrictions on this 16 acre parcel.

So the vote in question, which starts out with a lengthy description of the land -- basically it's that section with the parallel lines on it -- and it said, "The land shall be under the jurisdiction of the Board of Selectmen for water resource protection, water supply, open space, conservation and public access to Spectacle Pond, and shall not be used for any other purpose, and there shall not be any further construction or development on the above-described parcel except for repairs and maintenance." And that last phrase was added at the suggestion of Selectman Mustafa to make sure that the issue you were concerned about would be addressed. The only

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further construction on this property is just to
repair and maintenance of anything that may be
there. But there will be no further development.
The 16 acres is the minimum required by the Mass.
Department of Environmental Protection to protect
the well source. So, that 16 acres can only be
used for purposes that are consistent with its use
as a well.

Now, this agreement, which was signed
that night by the parties involved, has been filed
in the Land Court, and when the final judgment is
rendered in the case, this agreement will be made
part of the permanent record of the Land Court and
it's my belief that the use of the land will be
firmly restricted to the purposes we're
representing tonight.

THE MODERATOR: Mr. Duffany.

MR. DUFFANY: Thank you, Mr. Moderator.
Thank you, Mr. Duffy. I just wanted to have that
read into the minutes so that all the people that
have appealed to me to ask the Town to replace this
piece in kind with another 16 acre piece will at
least feel comfortable that that property is going
to be kept in perpetuity in conservation as it
exists today. Because the well site itself
doesn't really take up much more than about a 600
by 600 square foot area. But 16 acres is a lot
larger. So, I appreciate that being in the
minutes and at this point I would release my hold
and offer that we vote this favorably. Thank you.

THE MODERATOR: Okay. Any further
discussion on Article 33? Hearing none, the
question will come on the main motion as printed.
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 34. This is the boat safety
regulation. Mr. Chairman of the Board of Selectmen
for the main motion.

CHAIRMAN MURPHY: In move that the Town
vote article 34 as printed.

THE MODERATOR: As printed. This was
held by Mr. Shearer.
MR. SHEARER: Dan Shearer, Precinct 6.

I'd like to make an amendment to this. I would like to drop the a) sentence: "within 150 feet of shoreline which is being used as a swimming area, whether public or private"...

I wanted to do this because we have harbors in this town that have swimming beaches beside their channels: Waquoit Bay, West Falmouth, Megansett, Quissett, and I don't know about the rest, because those are the ones I know that will be restricted that power boats are not going to be able to get in and out.

I think the rest of the article is very good. If they have floats and markers, that's fine, that is a swimming beach. But if you aren't going to let boats go in and out of your harbors, I think you're going to have a hard time and it won't be enforced and it's going to cause trouble with everybody. So why don't we make a rule that can be enforced and is good for the Town? Thank you.

THE MOD: Okay, there's an amendment on the floor to strike Section a) of paragraph 1.

Mr. Dufresne.
MR. DUFRESNE: Adrian Dufresne, Precinct

2. I would urge you to vote against the
amendment. 150 feet from a swimming area is
really not a whole lot of distance for
inexperienced boaters. I would urge that you vote
the article as printed for the protection and
public safety of our beach areas.

THE MODERATOR: To the right. I'll put
you on the list.

MR. FRAZIER: Greg Frazier,
Harbormaster. I do want Town Meeting Members to
know that striking Section a) has no effect.
There is a state law in effect. The wording
actually is verbatim out of the code of
Massachusetts regulations. So, we're simply
trying to add the wording into our town bylaw so
that we can enforce it under the town bylaw rather
than enforce it through the state criminal - excuse
me, environmental citations. It's an easier
process. But not voting for that particular line
will not affect the state statute one bit.

THE MODERATOR: Okay, Mr. Lewis.

MR. LEWIS: Wayne Lewis, Precinct 7.
There has to be an amendment. Anyone who's been
to Waquoit Bay on the weekends in the summertime,
on the Mashpee side and the Washburn Island side,
on the channel there's at least 100 boats every
weekend parked right there. People are swimming,
children are swimming. And I don't think that
channel is more than 150 feet wide to begin with.

So, we might as well close down the
Waquoit Bay jetty. Simple as that. There has to
be an amendment. Thank you.

THE MODERATOR: This Mr. Lewis. You
were going to say the same thing. Okay. Okay,
Richard, you're on my list, if you want to hold on
a second. Mr. Maclone.

MR. MACLONE: Richard Maclone, Precinct
4. The first speaker and the just previous
speaker, they're both correct. If you go down
towards Edwards Boatyard, Seacoast Shores has got a
swimming beach and the boats that pass that beach
in that narrow channel, it's not more than about 50
feet, total. So, I think if we're going to do it,
I think we ought to do it correctly and not create
problems. I mean, there's tremendous boat traffic
that goes to Edwards Boat Yard, and they'd all be
in violation if they're going that way. Thank
you.

THE MODERATOR: Mr. Latimer.

MR. LATIMER: Thank you. Richard Latimer, Precinct 2. It's worse than that. The Tides Motel has a private bathing beach right next to the entrance of Falmouth Harbor. If you read this literally, that means we'd have to shut down Falmouth Harbor. The Island Queen could not operate because it would be within 150 feet of the Tides private bathing beach. I think Mr. Shearer's amendment should be supported and we should pass the rest of the article.

THE MODERATOR: Mrs. McElroy.

MRS. McELROY: I believe the state has had some problems with this bylaw as well. And it will shut down most of the harbors in Falmouth. It will shut down all the areas where there are mixed use of boat clubs that have boating and swimming. Megansett Yacht Club is close to a town pier in Megansett. The bathing beach is at the entrance to the harbor. You will not be able to
bring boats into the town pier at Megansett because there's bathing in front of the yacht club.

I agree, Mr. Shearer's attempt won't fix it and we should perhaps have something that is enforceable but I don't think this is it. Thank you.

THE MODERATOR: Mrs. O'Connell.

MS. O'CONNELL: Maureen O'Connell, Precinct 4. Through you, Mr. Moderator, I do have the Code of Mass. Regulations, and indeed part one of this article is directly from the Code of Mass. Regulations. However, I'm wondering where part two is, that motorboats shall not anchor within 75 feet of the seaward boundary. And I guess I'm thinking about the same kind of things as everyone here is mentioning.

In Waquoit Bay, for example, I don't really know how if you went out with your children on the Whaler and you wanted to drop an anchor, would you expect them to swim 75 feet to the shore or? I just think this is a community that does a lot on the water and I don't know that this article in the whole makes a lot of sense for the reasons
already mentioned, and mine as well.

THE MODERATOR: Mr. Rose.

MR. ROSE: Through you, Mr. Moderator.

Steve Rose, Precinct 4. I'm a little uneasy with
the wording of this line 1.a). What is a private
swimming beach? And how will a boat captain know
if it is unmarked? There are a lot of good
fishing areas along the private beaches in
Falmouth. And I just want to know: how will a
boat captain know, if he's chasing a school of
bonito, and he sees a couple of people with bathing
suits on, that that's a private beach and he's
within 150 feet?

I think the wording is too vague and we
should do something about it. Thank you.

THE MODERATOR: Mr. Frazier.

MR. FRAZIER: Based on the comments, I
don't have any problem bringing the article back.
What I can do, if it suits Town Meeting, is to
specifically gear it, and that's what is the
article is for, for the bathing areas that are
marked. The problem that we have particularly is
in North Falmouth, and we are starting to have the
problem in West Falmouth, where boats are encroaching all summer long on the public bathing areas. The reason the article is written the way it was was because, as I said before, it's already state statute.

To answer the other question about section 2, that's in Chapter 102, 21. But I can certainly rewrite the article to gear it directly towards the public bathing beaches, the ones that are marked by swimming areas, and that might solve the problem.

THE MODERATOR: Mr. Frazier, that would be an appropriate amendment for a Town Meeting Member to make since it's within the scope of this article. So, I'm going to start going down my list; if anyone wants to make that an amendment to add those words, we can do that tonight.

Mr. Augusta?

MR. AUGUSTA: I'll make it.

THE MODERATOR: You want to make that amendment. So that Section 1., paragraph a) be amended to add the words after "private", "if designated by markers, floats or otherwise"? That

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pretty much does it? Okay.

We've got two amendments on the floor. What we're going to do now is take any discussion on the amendment to add the words, "Designated by markers, floats or otherwise,". Once we do that, we will then go back to the amendment as to whether or not to strike out the entire section, whether we've added those words or not, okay?

So, any discussion just on adding those three words to Section 1.a)?

Mr. Netto.

MR. NETTO: Joe Netto, Precinct 9. I applaud the Harbormaster for trying to -- I know how hard the job is and you have people, just because they own a boat don't do everything that's common sense and we have to pass some laws -- but we're into a legal area here, now, and I would advise Town Meeting, and I would hope that this article would be withdrawn and maybe the Waterways and Mr. Frazier the Harbormaster look at the wording, because even on the amendments, we cannot get out of all the people who spoke before are exactly correct.

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Guess what, Folks? The Island Queen is

not going to get out of Falmouth --

THE MODERATOR: It’s actually illegal

now under state law.

MR. NETTO: Right. You have to -- the

wording, you’re not going to get out of Green Pond

and you’re not going to get out of most of our

ponds. I’m not that familiar with those in the

West and North Falmouth side. The fishing’s

better on the south side.

Anyhow, I think we should table this

tonight. I think of a few words here tonight,

it’s getting late, exceptions, maybe we have to

make Mr. Frazier mark down some exceptions. And

let’s take this off, move on, and that’s my

recommendation, that we defeat the amendments and

the articles. We do need this, but the way

they’re written, I’m sorry, Folks, we’re never

going to get these boats out of these harbors.

THE MODERATOR: Okay. Down here on the

right. That’s what you were going to say? Okay.

Any other discussion on the second amendment? Mr.

Swain?

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MR. SWAIN: Mr. Moderator, I'd like to move indefinite postponement on the whole article. So, at what point --

THE MODERATOR: You know, I don't know how many times I have to say this, but when we have a main motion on the floor, you vote yes if you want it, you vote no if you don't. So, I will not accept the indefinite postponement now or ever.

Any further discussion on amendment two?

Mr. Hoffer.

MR. HOFER: Don Hoffer, Precinct 4.

The only thing in regards to what Mr. Netto said was that when you have markers and floats, they're not on -- for instance, in Falmouth Harbor, there are no public beaches that are marked by floats, to the best of my knowledge. So if you have the word "floats" in there, which we do put on all our public beaches, that would eliminate a lot of the things that people are saying tonight as far as even Waquoit Bay, I don't believe that -- I know we don't put float, the Town doesn't put floats there, to the best of my knowledge.

So, if you put that in, the floats, it
does eliminate a lot of the other objections.

MR. NETTO: Point of information. Mr. Hoffer, how do you get a boat inside of Bourne’s Pond?

THE MODERATOR: Whoa, whoa, whoa. Point of information comes to me, not to Mr. Hoffer. We’ve already said this is existing written state law and yes, it’s -- why do you think DEM’s not down here telling you you can’t go into the harbor? They’re not enforcing the existing law. I mean, the Harbormaster made it clear that this is what is written in the state code. The question is whether or not you’re going to make it part of the Town bylaw that can be enforced by the Harbormaster’s Department.

MR. NETTO: Okay, that’s my point.

Let’s write something --

THE MODERATOR: Mr. Mackey.

MR. NETTO: -- that’s correct in the Town of Falmouth that’s enforceable.

THE MODERATOR: Okay, Mr. Mackey.

MR. MACKEY: This is a minor technicality. Phil Mackey, Precinct 8. This is

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probably a minor technicality, but there's no
mention of sailboats in there. The sailboats that
are with motor, the sailboats that are without
motor. Now, I would think that in a court of law,
this might be brought up and thrown in our face,
but that's up to Town counsel to decide on that.
But I would suggest that we do put in sailboats in
there. You have just motorboats listed, thank
you.

THE MODERATOR: Okay, we have two
amendments on the floor; no further amendments will
be entertained. Any further discussion on the
amendment to add the additional wording of
"floats"? Mr. Latimer.

MR. LATIMER: Yes, Richard Latimer,
Precinct 2 again. I think the simple deletion of
Section a) under number one would provide us with a
decent and enforceable bylaw, a reasonable one,
because I doubt that the Beach Committee would be
unwise enough to place floats and create a bathing
area next to one of or any one of our inlets for
our harbors.

However, on every harbor on the south
side that I can think of there are private beaches right next to the inlet: Green Pond, Falmouth Harbor, and there's nothing that prevents a private beach owner from setting out floats to mark the beach area. So that means right next to Falmouth Harbor, right next to Green Pond, the owners on either side could put out floats and then nobody could go in and out of those harbors. It would be at the discretion of those home owners who, you know, may be in good faith trying to protect their bathing areas but maybe just don't want motor boats going through there.

So I think the simple solution to this right now is to delete a) under Section one and vote the rest of it, thank you.

THE MODERATOR: Okay, Mr. Anderson.

MR. ANDERSON: Brian Anderson, Precinct 9. I believe part of this is needed to protect our beaches. Section a) is the problem. The amendment that we're proposing for Section a) is going to further complicate matters because people can put out private markers which will then interfere with navigation. We need to eliminate
Section a) and pass the rest of the article.

Thank you.

THE MODERATOR: Mr. Augusta.

MR. AUGUSTA: Scott Augusta, Precinct 4, Waterways Committee. The article just goes to bring us in compliance with the state law, and it's just a little bit of common sense here. The designated channels into our harbors and embayments are Coast Guard approved channels and this bylaw will not affect those whatsoever. So it will not impede the flow of traffic of our motorboats on the waterways.


FROM THE FLOOR: Point of order.

THE MODERATOR: Do you have a parliamentary question?

FROM THE FLOOR: Yes, I do, sir. Can the Town of Falmouth supersede state law?

THE MODERATOR: Supercede, no.

FROM THE FLOOR: Then why are we even discussing this when the state has a law?

THE MODERATOR: We're not superceding

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it, we’re actually using the exact same wordage, so that the local law enforcement officials in our waterways can enforce the law under our code.

FROM THE FLOOR: Exactly correct.

THE MODERATOR: Under existing state law, it can only be enforced by a state law enforcement official.

FROM THE FLOOR: I agree with that 100 percent, so why are we discussing it?

THE MODERATOR: Because we want to make it a town bylaw.

FROM THE FLOOR: But if it’s a state law, we can’t do anything else.

THE MODERATOR: We can make it a town bylaw and then allow our local officials to enforce it. Right now, our local officials cannot enforce it, unless we pass this.

FROM THE FLOOR: But then, voting negative is useless --

THE MODERATOR: Okay --

FROM THE FLOOR: -- because it’s a state law.

THE MODERATOR: -- your question’s been
answered.

Next speaker.

MS. MACDOUGALL: Jean MacDougall,
Precinct 3. It's obvious that we have a problem
with this and it's got to be worked on. When it
is worked on, I would like to suggest that the
element of speed be incorporated into the
regulations.

THE MODERATOR: Okay. Mr. O'Connell.

MR. O'CONNELL: Richard O'Connell,
Precinct 4. Having researched a little bit the
state law, there are all sorts of additional
regulations which address headway speed, no wake
zones, et cetera, so that if you take this one
small portion of it you may very well create a
problem. Because there will be access to Waquoit
Bay and everything else if you take the whole
regulation, by headway speed and no wake zones.

So, there are ways in the state law, but
we're not addressing that; we're just taking a
small portion, apparently to -- that we would
receive 100 percent of the revenue from the fines
rather than 50 percent? Is that the reason behind

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this?

THE MODERATOR: Does the Harbormaster
want to address that?

MR. FRAZIER: The tickets that we write
now, we do local law enforcement on the water, we
are empowered to write state tickets. They're
just more cumbersome, they take more time, they're
eight-fold, have to go to three different agencies,
and then after all that we have to apply back to
the state for half of the money that we receive in
the fine. A town bylaw would allow us to collect
the entire amount and it goes into the Town
coffers.

Again, we're not going to assess a ticket
to the Island Queen to come into Falmouth Harbor
because they go by a swim area, you know, east side
of Falmouth. This is particularly and was solely
put on the warrant to help at the town beaches
where the boats are encroaching on the town
beaches. Any of you that have probably been out
there have seen boats that actually slalom the
Town's swim buoys. Sooner or later, someone is
going to get struck by one of these boats and we're
[No.]

THE MODERATOR: It's the opinion of the Chair that the Ayes have it by a majority and the section is taken out.

The question will come on the main motion, which is Article 34 as printed, without section a). 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 majority, and Article 34 passes as amended.

Mr. Chairman of the Finance Committee on Article 42.

CHAIRMAN VIEIRA: Mr. Moderator, I move that all articles considered in this Town Meeting be funded as voted, for a total of $84,851,749, and that the Board of Selectmen place a question on the May, 2004 Annual Town Election ballot as voted in Article 32.

THE MODERATOR: Okay, the main motion is
$84,851,749 and to have the ballot question. All
those in favor, signify by saying, "Aye."

[Aye.]

THE MODERATOR: All those opposed, "No."

[No.]

THE MODERATOR: The Ayes have it by a
majority.

At this time I'd like to -- hold on, Folks. At this time, I want to recognize the
Chairman of the Board of Selectmen for notification
of our next Annual Town Meeting.

CHAIRMAN MURPHY: November 8th.

THE MODERATOR: November 8th is our next
Annual Town Meeting.

Mr. Chairman of the Finance Committee.

CHAIRMAN VIEIRA: Mr. Moderator, ladies
and gentlemen, I move the April, 2004 Annual Town
Meeting be closed.

THE MODERATOR: You all heard the main
motion. All those in favor, signify by saying
"Aye."

[Aye.]

THE MODERATOR: All those opposed, "No."

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[None opposed.]

THE MODERATOR: The Ayes have it unanimous. This meeting is adjourned.

[Whereupon, Town Meeting adjourned.]
CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF BARNSTABLE

I, Carol P. Tinkham, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript represents a complete, true and accurate transcription of my audigraphic recordings taken in Falmouth Town Meeting, April 13, 2004, to the best of my knowledge, skill and ability.

[Signature]
Carol P. Tinkham
Notary Public
My Commission Expires
May 14, 2010

PLEASE NOTE: THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF THE SAME BY ANY MEANS UNLESS UNDER THE DIRECT CONTROL AND/OR DIRECTION OF THE CERTIFYING REPORTER.

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