



SPECIAL TOWN MEETING
Lawrence School Auditorium
Falmouth, MA 02540
APRIL 3, 2012

1. Lot 68, Bernard E. St. Jean Drive – purchase or take by eminent domain
2. Amend Zoning Bylaw - Article XXII Handicapped parking requirements
3. Amend Official Zoning Map and Amend Zoning Bylaw - Article VI General District and Article XIV Dimensional Regulations – Rt. 151 and North Falmouth Highway
4. Amend Code of Falmouth – Chapter 240 Zoning Multi-family use
5. Fund – Salaries and wages
6. Fund – FY2012 Budget transfers
7. Fund – FY2012 Budget supplement
8. Fund – Unpaid bills
9. Fund – Long term debt FY 2012
10. Fund – Energy Coordinator position
11. Accept M.G.L. Ch. 32B, Section 20 – Other Post Employment Benefits Liability Trust Fund
12. Fund – Other Post Employment Benefits Liability Trust Fund
13. Petition – Inquiry into overruns of Falmouth High School Project (B.Putnam)
14. Petition – Menauhant Beach facilities (L.Davis)
15. Defund Community Preservation Committee (M.Finneran)
16. Fund – Communications equipment Falmouth High School
17. Fund – Two outboard engines Harbormaster’s 27’ Boston Whaler
18. Fund – Consulting services for groundwater monitoring - DPW, Senior Center, Chamber of Commerce
19. Fund – Town Marina debt payments FY2012
20. Community Preservation Fund - Beach nourishment, Surf Drive Beach
21. Community Preservation Fund – Waquoit Congregational Church
22. Community Preservation Fund – Spring Bars Road
23. Accept Layout of Austin Stokes Road, Redlands Road, Regis Road and Shepard Place as Public Way
24. Funding Article

ARTICLE 1: To see if the Town will vote to authorize the Board of Selectmen to purchase or take by EMINENT DOMAIN the fee or an easement of all or a portion of land now or formerly of Falmouth PMW, LLC located at Lot 68, Bernard E. St. Jean Drive in Falmouth and shown on Falmouth assessor’s map 16-01-004-068, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted to authorize the Board of Selectmen to purchase or TAKE BY EMINENT DOMAIN in fee a portion of lot 68, Bernard St. Jean Drive in Falmouth Technology Park and shown on Land Court plan 31976K now owned by Falmouth PMW, LLC, which area contains approximately 13000 sq. ft. in area and is the site of an encroachment of capped and buried trash associated with the town's former landfill and to acquire an easement to maintain a monitoring well on lot 68 as required by the Department of Environmental Protection, and further to appropriate the sum of \$41,000.00 from certified free cash as land damages for the acquisition of the land and easement as set forth herein, said sums to be expended under the jurisdiction of the Board of Selectmen.

ARTICLE 2: To see if the Town will vote to amend Article XXII – Parking Requirements – of the Zoning Bylaw by deleting section 240-108.1.B in its entirety and inserting in its place the following:
240-108.1.B Handicapped parking shall be provided as per the requirements of the Massachusetts Building Code, the Architectural Access Board, or Americans with Disabilities Act whichever is more restrictive.
Or do or take any other action on this matter. On request of the Planning Board.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted to amend Article XXII – Parking Requirements – of the Zoning Bylaw by deleting section 240-108.1.B in its entirety and inserting in its place the following: 240-108.1.B Handicapped parking shall be provided as per the requirements of the Massachusetts Building Code or the Architectural Access Board, whichever is more restrictive.

ARTICLE 3: To see if the Town will vote to amend the Official Zoning Map and amend Article VI - General Residence District - and Article XIV - Dimensional Regulations - of the Zoning Bylaw by:

1) a) Rezoning from *Business 2 to Business Redevelopment* the land shown on Assessor's

Map 05, Section 09, Parcel 006, Lot 000; 557 North Falmouth Highway;
Map 05, Section 09, Parcel 007, Lot 001; 22 Nathan Ellis Highway (a portion of);

b) Rezoning from *Single Residence B to General Residence* the land shown on Assessor's

Map 05, Section 09, Parcel 007, Lot 001; 22 Nathan Ellis Highway (a portion of);
Map 05, Section 09, Parcel 007A, Lot 001; 28 Nathan Ellis Highway;
Map 05, Section 09, Parcel 007A, Lot 002; 00 Nathan Ellis Highway;

2) a) Rezoning from *Light Industrial A to Business Redevelopment* the land shown on Assessor's

Map 05A, Section 04, Parcel 012, Lot 000; 00 County Road;
Map 05A, Section 04, Parcel 013, Lot 000; 13 County Road
Map 05A, Section 04, Parcel 015, Lot 000; 00 County Road;
Map 05, Section 08 Parcel 001, Lot 000A; 580 North Falmouth Highway,
Map 05, Section 08, Parcel 01A, Lot 000B; 586 North Falmouth Highway;
Map 05, Section 08, Parcel 004, Lot 000 ; 590 North Falmouth Highway (a
portion of);

b) Rezoning from *Business 3 to Business Redevelopment* the land shown on Assessor's

Map 05, Section 08, Parcel 004, Lot 000 ; 590 North Falmouth Highway (a
portion of);

Also shown on a map entitled "Plan of Proposed Rezoning for Nathan Ellis and North Falmouth Highways" dated January 23, 2012, scale 1"= 100' on file with the Town Clerk.

3) Amending *Article VI—General Residence District—of the Zoning Bylaw* by inserting the words, "the northerly sideline of Route 151 from Route 28A to Old County Road or;" into Section 240-28E so as to read in its pertinent part:

“240-28 E. Professional offices, but not to include medical clinics or retail sales where such use, including any required parking under §240-108, is located within 500 feet of a Business or Light Industrial District, and where said lot has frontage on *the northerly sideline of Route 151 from Route 28A to Old County Road or*; on Palmer Avenue except that...”

4) Amending *Article XIV—Dimensional Regulations of the Zoning Bylaw* by deleting “28A” from the last sentence of §240-68 A(1) and inserting “28” instead, so as to read:

“Minimum setback from Route 151 shall be 75 feet, from Route **28** to the Mashpee Town line.”

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

VOTED: By a counted vote of 55 in favor and 153 in opposition, having failed to received the required two thirds vote, a quorum being present on Tuesday, April 3, 2012, the town voted not to pass Article 3.

ARTICLE 4: To see if the town will vote to amend Chapter 240 – Zoning – of the Code of Falmouth by: Adding the following to Section 240-13. Terms Defined: MULTI-FAMILY USE: Any combination of dwellings, as defined, on a single lot resulting in three (3) or more dwelling units.

Amend Section 240-26C by deleting the word “dwelling” and inserting the words “use” and “no more than” so as to read in its pertinent part: “Multifamily **use of no more than** three units...”

Amend Sections 240-51A(5) and 240-57D by deleting the word: “dwelling”, and insert the word “use” so as to read in its pertinent part: “Multi-family **use** if the Boards of Appeals finds ...”

Amend Section 240-240G(1)(b) by deleting the word “dwelling” and inserting the word “use” so as to read in its pertinent part: “Multifamily **use** ...if the Board of Appeals finds...”

Amending Section 240-66D by deleting the words “ multifamily dwellings and commercial accommodations” and adding the words “multi-family use as allowed for within designated zoning districts” so as to read in its pertinent part: “Not more than one dwelling shall be erected on a single lot except for **multi-family use as allowed for within designated zoning districts.**”

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

VOTED: By a declared two thirds majority vote, a quorum being present on Tuesday, April 3, 2012, the town voted Article 4 as printed in the warrant.

ARTICLE 5: To see if the Town will vote to appropriate a sum of money for the purpose of funding the salaries and wages of town employees for the remainder of FY2012, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted Indefinite postponement of Article 5..

ARTICLE 6: To see if the Town will vote to transfer a sum of money within the FY2012 budget approved by Article 12 of the April 4, 2011 Annual Town Meeting to make necessary adjustments thereto, or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted the following transfers totaling \$136,010.00 within the FY 2012 budget.

<u>AMOUNT</u>	<u>TRANSFER FROM</u>	<u>TRANSFER TO</u>	
\$3,850.00	01122-51110 BOS/Town Mgr. (Sal & Wages)	01141-51110 Assessing	(Sal & Wages)
2,595.00	01122-51110 BOS/Town Mgr. (Sal & Wages)	01146-51110 Collector	(Sal & Wages)
3,020.00	01122-51110 BOS/Town Mgr. (Sal & Wages)	01150-51110 Legal	(Sal & Wages)

5,750.00	01122-51110 BOS/Town Mgr. (Sal & Wages)	01155-51110 Info Tech	(Sal & Wages)
855.00	01122-51110 BOS/Town Mgr. (Sal & Wages)	01156-51110 G.I.S	(Sal & Wages)
495.00	01122-51110 BOS/Town Mgr. (Sal & Wages)	01159-51110 Affirm. Action	(Sal & Wages)
2,510.00	01122-51110 BOS/Town Mgr. (Sal & Wages)	01160-51110 Clerk	(Sal & Wages)
1,890.00	01122-51110 BOS/Town Mgr. (Sal & Wages)	01171-51110 Conservation	(Sal & Wages)
2,105.00	01122-51110 BOS/Town Mgr. (Sal & Wages)	01175-51110 Planning	(Sal & Wages)
1,230.00	01122-51110 BOS/Town Mgr. (Sal & Wages)	01176-51110 Zoning	(Sal & Wages)
12,700.00	01198-51110 Facilities	01220-51110 Fire Dispatchers	(Sal & Wages)
1,685.00	01198-51110 Facilities	01295-51110 Harbormaster	(Sal & Wages)
5,765.00	01198-51110 Facilities	01411-51110 DPW Engineering	(Sal & Wages)
51,345.00	01451-51110 Water	01422-51110 DPW Highway	(Sal & Wages)
2,070.00	01451-51110 Water	01431-51110 DPW Waste Mgmt	(Sal & Wages)
5,900.00	01122-51110 BOS/Town Mgr. (Sal & Wages)	01440-51110 DPW Wastewater	(Sal & Wages)
2,245.00	01122-51110 BOS/Town Mgr. (Sal & Wages)	01510-51110 Health	(Sal & Wages)
30,000.00	01152-51110 Personnel	01611-51110 Library	(Sal & Wages)

ARTICLE 7: To see if the Town will vote to appropriate a sum of money for the purpose of supplementing the FY2012 budget approved by Article 12 of the April 4, 2011 Annual Town Meeting, to determine how the same shall be raised and by whom expended, or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted to appropriate the sum of \$305,000.00 from certified free cash for the purpose of funding \$120,000.00 to line item 01220-51130, Fire Rescue Department overtime, and \$185,000.00 to line item 01210-51130, Police Department overtime for the purposes of this article to be expended under the jurisdiction of the Fire Chief and Police Chief respectively.

ARTICLE 8: To see if the Town will vote to appropriate a sum of money for the purpose of paying unpaid bills from a prior year, and to determine how the same shall be raised and by whom expended, or do or take any other action on this matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted to transfer \$818.87 from Certified Free Cash for the purpose of paying the following unpaid bills from previous years to be expended under the jurisdiction of the Board of Selectmen.

Board of Selectmen	M. Sylvester Towing	\$55.00
Board of Selectmen	Sandi's Towing	\$110.00
Board of Selectmen	Cape Cod Times	\$42.02
Board of Selectmen	J & G Towing	\$440.00
Legal Department	Lawyers Weekly Books	\$54.85
Legal Department	MCLE New England	\$117.00

ARTICLE 9: To see if the Town will vote to appropriate a sum of money for interest on long term debt for the balance of FY2012, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted to transfer the sum of \$4,877 from the Community Preservation Fund estimated receipts under the category of Open Space;

AND

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted The sum of \$24,768 from the Wind Energy reserve fund, the sum of \$24,374.00 from the Waterways reserve fund and the sum of \$25,580 from certified free cash and appropriate the sum of \$79,599 to fund line item 01754-59915 long unexcluded debt for the purposes of this article to be expended under the jurisdiction of the Town Treasurer.

ARTICLE 10: To see if the Town will vote to appropriate a sum of money to continue funding a part-time Energy Coordinator and to determine how the same shall be raised and by whom expended, or do or take any other action on this matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted Indefinite postponement of Article 10.

ARTICLE 11: To see if the Town will vote to accept the provisions of General Laws Chapter 32B, Section 20, which is a law providing for the establishment of Other Post Employment Benefits Liability Trust Funds in Massachusetts municipalities, or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted Article 11 as printed in the warrant.

ARTICLE 12: To see if the Town will vote to appropriate a sum of money to the Other Post Employment Benefits Trust Fund established under the provisions of General Laws Chapter 32B, Section 20, to determine how the same shall be raised and by whom expended, or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted to appropriate the sum of \$20,000 from Certified Free Cash for the purpose of starting to fund the OPEB Trust Fund.

ARTICLE 13: To see if the Town will vote to appropriate a sum of money for the purpose of conducting an inquiry into the reason(s) behind the cost overruns associated with the high school renovation project as recommended by Article 42 of the November 2008 Fall Town Meeting, and to be expended under the jurisdiction of the Board of Selectmen. Or do or take any other action on this matter. On request of Brent Putnam and others.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted Indefinite postponement of Article 13.

ARTICLE 14: To see if the Town will vote to appropriate a sum of money for the purpose of leasing, installing and maintaining portable bathroom/lavatory facilities for Menauhant Beach in East Falmouth for the 2012 summer season, to determine how the same shall be raised and by whom expended or do or take any other action on this matter. On request of Linda E. Davis and others.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted to transfer the sum of \$10,000 from account 01431-52294 FY2012 Waste Management Facilities/Recycling and appropriate the sum of \$10,000 for the purposes of Article 14 to account 01632-52272 Beach Department FY2012 to be expended under the jurisdiction of the Beach Department. The Public Works Director confirms that this transfer is possible for funding Article 14. The Board of Selectmen Support this onetime transfer to install temporary lavatory and hand washing facilities at Menauhant Beach.

ARTICLE 15: With 2600 Acres already purchased for open space. (more than 25% of Falmouth's land mass) should taxpayers be allowed to decide (by Ballot Question) whether to defund the C.P.C. and apply those monies where need is more acute. Such as capital projects and the more than 100 million dollars in unfunded town liabilities. Thus eliminating the need for a proposition 21/2 override and averting the financial train wreck described by Mr. Boyer. Or do or take any other action on this matter. On request of Marc Finneran and others.

AMENDMENT(McNamara): That the Town vote to authorize the Board of Selectmen to petition the General Court to allow the Town of Falmouth by special act, notwithstanding any provisions of chapter 298 of the acts of 2004 or chapter 44B of the General Laws to the contrary, to reduce the amount of or revoke the co called Community Preservation Act surcharge on real property upon the approval of town meeting and approval of a majority of voters voting at the next regular municipal election or at the next regular state election following town meeting approval. Any reduction or revocation of the surcharge would become effective on the first day of the fiscal year following the fiscal year in which the voters of the Town of Falmouth approve the change. Or do or take any other action on this matter necessary to allow the Town of Falmouth to reduce or revoke the Community Preservation Act surcharge on real property.

VOTED: By a declared failed majority vote, a quorum being present on Tuesday, April 3, 2012, the town voted not to amend Article 15.

VOTED: By a declared failed majority vote, a quorum being present on Tuesday, April 3, 2012, the town voted not to pass Article 15.

ARTICLE 16: To see if the Town will vote to appropriate the sum of money to install communications equipment at Falmouth High School to improve emergency communications in the school during emergencies and to determine how the same shall be raised and by whom expended or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted Indefinite postponement of Article 16.

ARTICLE 17: To see if the Town will vote to appropriate a sum of money for the purchase and installation of two outboard engines for the Harbormaster's 27' Boston Whaler and to determine how the same shall be raised and by whom expended, or do or take any other action on this matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted to transfer the sum of \$40,000 from the Waterways reserve fund for the purposes of this article to be expended under the jurisdiction of the Harbormaster.

ARTICLE 18: To see if the Town will vote to appropriate a sum of money to contract for ongoing engineering and consulting services at the Department of Public Works Facility on Gifford Street, the Senior Center on Dillingham Avenue, and Chamber of Commerce building on Academy Lane for groundwater monitoring, inspections, and reporting as required by the Massachusetts Department of Environmental Protection (MassDEP), and to determine how the same shall be raised and by whom expended, or do or take any other action on the matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted to transfer the sum of \$40,000 from certified free cash for the purposes of this article to be expended under the jurisdiction of the director of public works.

ARTICLE 19: To see if the Town will vote to appropriate a sum of money to fund the debt payments due during fiscal year 2012 for the Town Marina project authorized by Article 16 of the April 5, 2010 Annual Town Meeting, to determine how the same shall be raised and by whom expended, or do or take any other action on this matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted to transfer the sum of \$36,372 from the Waterways reserve fund for the purposes of this article to be expended under the jurisdiction of the Town Treasurer.

ARTICLE 20: To see if the Town will vote to appropriate a sum of money from the Community Preservation Fund estimated receipts for the purpose of open space and recreation to pay for beach nourishment at Surf Drive Beach, to determine how the same shall be raised and by whom expended, or do or take any other action on the matter. On request of the Community Preservation Committee.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted to appropriate the sum of \$40,000 from the Community Preservation fund estimated receipts for open space/recreation for beach nourishment to preserve and protect the Ellen T. Mitchell Building and abutting dunes; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this Article.

ARTICLE 21: To see if the Town will vote to appropriate a sum of money from the Community Preservation Fund estimated receipts and historic preservation reserve account for the purpose of exterior restoration of the Waquoit Congregational Church, to determine how the same shall be raised and by whom expended, or do or take any other action on the matter. On the request of the Community Preservation Committee.

VOTED: By a declared majority vote, a quorum being present on Tuesday, April 3, 2012, the town voted to appropriate the sum of \$136,424 from Community Preservation Fund for historic preservation (\$49,697 from estimated receipts and \$86,727 from historic resources reserves), for the exterior restoration of the Waquoit Congregational Church; to be expended under the jurisdiction of the Community Preservation Committee for the purposes of this Article.

ARTICLE 22: To see if the Town will vote to appropriate a sum of money from the Community Preservation Fund estimated receipts and the community housing reserve account for the purpose of engineering and construction of the sewer extension and related pump station for Spring Bars Road community housing, to determine how the same shall be raised and by whom expended, or do or take any other action on the matter. On the request of the Community Preservation Committee.

VOTED: By a counted vote of 91 in favor and 107 in opposition, having failed to receive the required two thirds vote, a quorum being present on Tuesday, April 3, 2012, the town voted not to appropriate the sum of \$400,000 for community housing (\$219,211 from estimated receipts and \$180,789 from the community housing reserve account) to support the engineering and construction of the sewer extension and related pump station on Spring Bars Road for proposed community housing to be expended under the jurisdiction of the Community Preservation Committee for purposes of this Article.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted to transfer \$219,211 from estimated receipts to community housing reserve account.

ARTICLE 23: To see if the Town will vote to accept the doings of the Board of Selectmen in laying out the following roads according to a plan on file with the Town Clerk for taking as a public way:

<u>STREET</u>	<u>LENGTH</u>
Austin Stokes Drive	629'
Redlands Road	3355'
Regis Road	2816'
Shepard Place	792'

Under Chapter 80 of the Massachusetts General laws, the cost will be recovered by 100% betterment assessments to the land that received the benefit. Or do or take any other action on this matter. On request of the Board of Selectmen.

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted article 23 as printed in the warrant.

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

VOTED: By a unanimous vote, a quorum being present on Tuesday, April 3, 2012, the town voted that all articles approved at this town meeting be funded as voted for a total of \$1,104,434.87