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**COMMONWEALTH OF MASSACHUSETTS**

**TOWN OF FALMOUTH**

**ANNUAL SPRING TOWN MEETING**

**Lawrence School  
Lakeview Avenue  
Falmouth, Massachusetts**

**MODERATOR: David T. Vieira**

**TOWN CLERK: Michael C. Palmer**

**Tuesday, April 7, 2009**

**7:00 p.m.**

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**ANNUAL TOWN MEETING**

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## SPECIAL TOWN MEETING

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

THE MODERATOR: We're going to begin this evening with the Special Town Meeting. Upon completion of the Special Town Meeting, we will return to the Annual Meeting that we were working on last night on the budget.

Okay, folks, let's go, it's seven o'clock. We're going to finish this town meeting tonight; otherwise, we're coming back next Monday. If we do not finish this town meeting tonight, we'll be coming back next Monday, the Board of Selectmen have voted at their 6:30 meeting, so that we don't interfere with the Jewish Holiday of Passover. So, let's take our seats, let's go.

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

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

[Pause.]

THE MODERATOR: Can I have your attention, please, as the tellers are counting. I had a few questions last night about motion on the floor as recommended versus as printed. When you as the Town Meeting are voting a positive motion as printed, it's what is written under the article in the warrant booklet. When you're voting as recommended, it's below the article and there's a recommendation from either the Finance Committee, the Planning Board, or the Board of Selectmen.

So, if there's a recommendation for indefinite postponement, the first thing I always ask is: is there anyone who would like to make a positive motion? For example, last night on 151 zoning, Ms. Thompson made the main motion as printed. So that, at the end of our debate, when you're voting, if you vote "yes", it's for "yes". If you vote "no", it's for "no". So, we were voting as printed, not as recommended.

Since November 16<sup>th</sup>, 1998, when I took this chair, I have not allowed indefinite postponement as the main motion unless there is no positive motion from the floor. That is the only case of which your main motion would be indefinite postponement. And that was an attempt to sort of make it easier so that yes means yes and no means no.

In the first division?

MRS. TASHIRO: 44.

THE MODERATOR: 44.

In the second division?

MR. DUFRESNE: 82.

THE MODERATOR: 82.

And in the third division?

MR. HAMPSON: 59.

THE MODERATOR: 59.

By a counted vote of 185, we have a quorum and I call  
the Special Town Meeting into session.

Would all present please rise for the presentation of  
the colors by Sea Scout Ship 40.

[Colors presented.]

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

[Pledge of Allegiance taken.]

THE MODERATOR: At this time, I'd like to introduce  
Bob Antonucci for the invocation.

MR. ANTONUCCI: Let us pray. Lord, when it comes  
to meeting and communicating with each other, help us to be good  
listeners. Help us to be open-minded, putting aside our own  
agendas. Help us to be honest without being insensitive. Help us

to be respectful without being too formal or artificial. Help us to question and to challenge without being harsh. Help us to be aware that this is just one moment, just one meeting. And lastly, help us to remember that you, too, are always meeting and communicating with us. Amen.

THE MODERATOR: Colors post.

[Colors posted.]

THE MODERATOR: Falmouth Sea Scout Ship 40.

Thanks.

[Applause.]

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

At this time, I'll ask for the dispense of the reading of the warrant, Mr. Chairman for the main motion.

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

THE MODERATOR: Okay, you've all heard the main

motion to dispense with the reading of the Special Town Meeting warrant. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

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

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

FROM THE FLOOR: So moved.

THE MODERATOR: So moved. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The Ayes have it.

At this time, the Chair would entertain a motion for all Town employees who are not residents of the Town of Falmouth to speak on any article before this Special Town Meeting.

FROM THE FLOOR: Moved.

THE MODERATOR: So moved. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The Ayes have it.

At this time, I'd recognize the Planning Board for notification of Public Hearing. There were no public hearings, so tonight we'll start with the Special.

I am not going to do a blanket on the Special. We're just going to go through, get a main motion on the floor for each article and debate it if we want to. If we don't need to debate it, then we will take the vote and move on to the next article.

As soon as we dispense with the Special Town Meeting, we'll dissolve that meeting and we will reconvene after establishing a quorum in the Annual Town Meeting with the operating budget.

Article 1. Article 1 is to vote for the Town - the town vote the following adjustments to the Fiscal Year '09 Operating Budget. Mr. Chairman of the Finance Committee for the main motion.

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

THE MODERATOR: Okay, as recommended,  
Article 1. Any discussion on Article 1?  
Hearing none, the question will then come on the  
main motion as recommended. All those in favor,  
signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it.

Article 2, to see if the Town will vote  
to appropriate a sum of money for the purpose of  
funding the operations of the wastewater  
treatment facility from transferring from various  
accounts. Mr. Chairman for the main motion.

CHAIRMAN ANDERSON: Mr. Moderator, I  
move Article 2 as recommended.

THE MODERATOR: Article 2 as  
recommended. Any discussion on Article 2? Mr.  
Lewis.

MR. LEWIS: Mr. Moderator, Gardner  
Lewis, precinct 6. Also a member of the Finance Committee.

FROM THE FLOOR: Can't hear you.

THE MODERATOR: It's on. I can hear you behind me. So, just maybe a little closer to the mic.

MR. LEWIS: Can you hear me now? Maybe I'm not meant to talk.

FROM THE FLOOR: [Inaudible.]

MR. LEWIS: Okay. This is the first of four articles in the Special Town Meeting which are designed to balance various departments that fell short of what we funded them last year. And I just wanted to make mention of the fact that here's the Wastewater, we're putting \$127,000 in, which is basically ten percent of the total expenditure, but it's not the only thing that was short. We – the Finance Committee had put \$38,000 out of the Reserve Fund into the Wastewater and we did this a while ago and waited and wanted the Town Meeting to see that the 127 more was going to be needed.

This is the case with all the next three articles, 2 through 5, and I know you don't want to talk about them now, but I just want to point that out, the 127.6 is not the only money that's been added to this budget line.

THE MODERATOR: Okay, further discussion on Article 2? Hearing none, the question will then come on the main motion as recommended. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it.

Article 3. Mr. Chairman.

CHAIRMAN ANDERSON: I move Article 3 as recommended.

THE MODERATOR: As recommended. This is for Veteran's Ordinary Benefits, to transfer the sum of \$20,000 from Assessor's Salary and Wages and \$10,000 from Treasurer's Salaries and Wages to Veteran's Ordinary Benefits. Any discussion on Article 3? Hearing none, then the question will come on the main motion as recommended. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it.

Article 4. Mr. Chairman.

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

THE MODERATOR: Okay, as recommended. This is

to transfer \$50,000 from School Prior Year Encumbrances and \$140,000 from Certified Free Cash for Group Health Insurance Benefits for the Fiscal Year ending June 30<sup>th</sup>, 2009. Any discussion on Article 4? Mr. Johnson.

MR. JOHNSON: Leonard Johnson, precinct 5. I'd just like to make the observation that granting health insurance to retired people is not something that many organizations do these days. The only ones that I know that do it in the private sector include General Motors, and I'll rest my comment at that.

I would like to know what percentage the Town does pay in health insurance for current Town employees and what the percentage is of health insurance for retired employees. Thank you.

THE MODERATOR: Mr. Whritenour.

MR. WHRITENOUR: The Town adopts a sliding scale depending on the type of program that you have. It ranges from a 50 percent contribution that we make to the Master Health Plus to a 75 percent contribution if you're in an HMO program which has the high level of cost control and is much less expensive, and the retiree programs are at 50 percent.

THE MODERATOR: Okay, any further discussion on Article 4? Hearing none, then the question will come on the main

motion as recommended. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it.

Article 5, vote to appropriate a sum of money for the purpose of funding the Town's obligation for unemployment compensation benefits. Mr. Chairman for the main motion.

CHAIRMAN ANDERSON: Mr. Moderator, I recommend Article 5 as recommended.

THE MODERATOR: Okay, Article 5 as recommended. \$30,000 transferred from various accounts for unemployment budget. Mr. Lewis.

MR. LEWIS: Gardner Lewis, precinct 6, Finance Committee. I just want to point out again this is the last of these articles, but the original request was for \$80,000. The Finance Committee has added 117,000 out of the Reserve Fund, and the 30,000 that you're adding tonight, this is part of the problem with budgeting, and budgeting is a guessing game, at best. You try and say what you're going to expend and your income, and it doesn't always work the way you like. But this is a hundred and some thousand dollars that is going to be out of Free Cash. In other

words, our Free Cash for next year will be short this amount.

THE MODERATOR: Okay, further discussion on Article 5? Yes, you want to use the mic right there, it'd be easiest.

MR. BOYER: Peter Boyer, precinct 5. I'd like to ask why has there been a spike in the unemployment benefits? This is a reimbursement, I believe, and not a contributory. So there's been some actions that have created this. Can you explain why, please?

THE MODERATOR: Ms. Harper.

MS. HARPER: Mr. Moderator, the spike is due in part to two factors. One, there were a series of layoffs in the School Department last year as a result of the budget cuts, as well as we're seeing more applications for seasonal employees under the Unemployment Act. And the Town does employ a consultant that advises the Town and we do provide testimony to the Department on the status of those cases, but they are very liberal in their application of the benefits.

THE MODERATOR: Okay, anything else on Article 5? Hearing none, then the question will come on the main motion as recommended. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The Ayes have it.

Article 6, to see if the Town will vote to appropriate \$55,000 transferring from overall Town Insurance Budget for the purpose of funding hospital, medical, and related expenses for police and fire. Mr. Chairman for the main motion.

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 6 as recommended.

THE MODERATOR: Article 6 as recommended. Any discussion on Article 6? Hearing none, then the question will come on the main motion as recommended. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The Ayes have it.

Article 7. This is to transfer \$535 from Fiscal Year 2007 Overlay Reserve Account to Fiscal Year '98 Overlay Reserve Account. Mr. Chairman for the main motion.

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

THE MODERATOR: As recommended. Any discussion on Article 7? Hearing none, then the question will come

on the main motion as recommended. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The Ayes have it.

Article 8. The recommendation is indefinite postponement. This is to vote to appropriate a sum of money for the purpose of funding expenses relating to cyclical property valuation. Is there anyone who would like to place a positive motion on the floor for Article 8? Hearing none, the Chair will entertain the main from the Finance Committee.

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 8 as recommended.

THE MODERATOR: Okay, as recommended. This is indefinite postponement. This is the one time where yes means no. All those in favor of indefinite postponement, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The Ayes have it.

Article 9. This is a Community Preservation

Committee Article that the Town vote to appropriate \$190,000 from the Community Preservation Fund for the purposes of exterior rehabilitation including re-roofing and structural repairs of the Waquoit Congregational Church. Madame Chairman for the main motion.

CHAIRMAN SCHNEIDER: Mr. Moderator, I move Article 9 as recommended.

THE MODERATOR: Okay, Article 9 as recommended. As a reminder, with the Community Preservation Act, Town Meeting can vote yes or no on their recommendations. We cannot change the recommendation; the Committee would have to come back at a future Town Meeting with a new article. So this is a yes or no type of thing.

Any discussion on Article 9? Microphone. We'll start in the center and then we'll go to Mr. Rhodes.

All right, go ahead, Mr. Rhodes, why don't you start.

MR. RAVENS: Fred Ravens, precinct 3. I think this is one article we should not support. We have a history of separation of church and state and I don't think you should use public funds to do maintenance work on a church. I know it's been done in the past and the Preservation Committee has voted for it, but that's not – that doesn't mean it's right. I think we should vote this one down.

THE MODERATOR: Okay. Mr. Rhodes.

MR. RHODES: Scoba Rhodes, precinct 8. A little history for me. When I first sat here, we had one town meeting. In the fall, we would have a Special Town Meeting. We changed our government and we went to two town meetings, one in the spring and one in the fall. What's crept in since then has been two additional town meetings, because following each of our regular town meetings is one that we have as a special town meeting.

When I look at articles like the one that we're planning on discussing, there's no hurry in getting this money funded, so I wonder why it's in a special town meeting, rather than part of the regular warrant when we have the rest of the money that we're planning on trying to spend, but this is not an emergency. I mean, we have three articles that are coming to us asking to fund projects that in my opinion belong in a regular warrant, not a special warrant. I mean, if you've got an emergency and we need to put some money into an account to make it work, yes, we can have a special meeting to do that. But I don't see that as these three articles. They belong in a regular warrant.

And I think that the committees that work to bring these things to us get overworked looking at what's in a regular warrant and then the money that they're spending in a special warrant, and

I don't think they belong in a special. I think we need to turn them down and let them come back, having reviewed them at our regular fall town meeting.

THE MODERATOR: Madame Chairman.

CHAIRMAN SCHNEIDER: May I answer that? Thank you, Mr. Moderator.

When the Community Preservation Committee met to decide first of all whether or not to suggest funding on articles, they also look at the money we currently have versus the anticipated receipts that we will receive in this case sometime at the end of July. When we decided to bring three projects, and they're ones that – an open space purchase, the other is funding the housing production plan with start-up funds, and this one which is to repair and restore an historic icon, we felt strongly that all three of these merited funds we currently have so that they could start immediately. We discussed that with great scrutiny. We challenged the urgency of the repairs and restoration to the steeple and roof and if you are able to take advantage of a tour to see what is going on there, we were certainly convinced that this merited being at Special Town Meeting to take advantage of funds now rather than much later at the end of the summer. That way, a building project can commence and even get completed before the

other funds would be available. I will address the land purchase when that comes up and the housing production plan, same reasons.

THE MODERATOR: Mr. MacDonald. If you could stand so they know where to come with the mic. Down here.

MR. MACDONALD: Thank you. Richard MacDonald, precinct 2. The Waquoit Congregational Church, as we all know, is one of the most beautiful churches, one of the most historical and spiritual churches in Falmouth. Any congregation, no matter what your faith is, when you look at this building, not only 200 years old, but less than 20 people, very, very elderly people now, are supporting that church. And it's such a beauty, I hope you reconsider your opposition to church and state being combined and consider what this has meant to the people of Falmouth when they drive down 28, or tourists, they're just spellbound by the beauty of this old building of worship. I hope you consider that. Thank you.

THE MODERATOR: Mr. Shearer.

MR. SHEARER: Dan Shearer, precinct 6. It is a beautiful church, I have no questions about that. It's a nice building. But nobody has said here that what we were told at two meetings I attended that this happened – the damage this church happened in Hurricane Bob. It was insured. They will not tell us or

we have not gotten back to my question which I asked for an answer as to what happened to the insurance money.

We have not had an estimate yet, a firm estimate, on what this would cost. We have looked at a few projects lately. One a high school. When they got in and started looking around, it cost two or three times – I don't know how many times, gosh knows – more than they expected. We had a ball field who has come back to this committee twice for more money because it was wrongly estimated. We don't have anything to go on here. We have no guarantee that a year from now this will be – or six months from now, this will be half done, and we'll come back to Town Meeting and say, "Gee whiz, we need another \$100,000 to finish this project, because it's got to be finished; we started it, we've got to finish it."

Let's vote this down, get an estimate and go from there and see what we can do. Thank you.

CHAIRMAN SCHNEIDER: Mr. Moderator, may I answer that?

THE MODERATOR: Madame Chairman.

CHAIRMAN SCHNEIDER: I'd like to say something right now so this doesn't go any further. Unfortunately, at one of the meetings that Mr. Shearer did attend – and he was not at the

last one to hear the responses – someone did make an accusation that there had been damage to this church and that the insurance money had been kept. I hope that this group has learned to trust the Community Preservation Committee more than what is being said here tonight. We certainly insisted on an answer to that. Not only did we insist on that answer, but if Mr. Shearer had remembered what we asked, we refused to come to town meeting tonight unless we had much more detailed plans.

On March 19<sup>th</sup>, we were provided with a very complete set of numbers. We have had experts in the field look at them and we are very comfortable with the numbers that they have given us. And, for \$190,000, they can bring this project in and get the work done in a timely fashion.

I will also say that the investigation that the people bringing the project to us did and the answer they provided to the charge that someone kept insurance money is so false. In fact there was damage and in fact repairs were made, and they were nothing like what's happening now. And I hope that statement will not come forward again, because it was an unfortunate thing that was said and I'm sorry you weren't there to see the answer and we did in fact get that answer in writing.

So, please do know we don't let things go by and just

bring things to this Town Meeting without doing our homework.

THE MODERATOR: Okay, Mr. Freeman. Follow-up, Mr. Shearer, and then Mr. Freeman behind you.

MR. SHEARER: I checked with the Finance Committee when I came back from Florida and was told that nobody from your committee had ever come back to them. And I did come to one of your committees and I was at the Finance Committee when you made your recommendation. That's two committees, not one.

THE MODERATOR: Okay. Well, we have an answer to the question, now. So, Mr. Freeman – whoa, whoa, whoa. Mr. Freeman's right there.

MR. FREEMAN: Thank you, Mr. Moderator. Michael Freeman, precinct 8. I want to go back to the same issue that the first speaker came to, and that's the separation of church and state. We heard from the Chairman of our Finance Committee yesterday where he told us what a state of affairs we have right now, which is devastating. All right? I'm speaking as a taxpayer. These people have the money that we taxpayers pay as in addition to our real estate taxes. We all understand that.

Now, if we have a division of church and state, which I believe should be here, if there's a need for something, what I don't

understand is how do you get an estimated project cost of \$263,000 and 70 percent, which is recommended, now going to satisfy the need. I don't understand that. When churches have a problem of finances, what they usually do is they have a fund-raising drive. They have auctions, silent, regular auctions. They have also yard sales. They bring in that kind of money.

Now, if this church does not have the people that can handle that, they can go out and hire them and give them a percentage of the take. And tell them, "We have a goal. We need \$190,000 to do repairs here. You get it, and whatever you bring in, you get whatever percentage it is." That is what I believe should be done. Not taking our taxpayers' money and taking care of this particular establishment, thank you.

CHAIRMAN SCHNEIDER: Mr. Moderator, may I answer that?

THE MODERATOR: Yes.

CHAIRMAN SCHNEIDER: Thank you. First, let me address the church and state, if I could have slide number 20, please. Well, that didn't work. The next one. Thank you. And perhaps I could have Town Counsel address this to explain that in this case we are not looking at church and state, we are looking at preserving an historic icon. Mr. Duffy, could you comment on the

anti-aid amendment?

MR. DUFFY: Okay, there's a provision in the Massachusetts Constitution called an Anti-Aid Amendment, which prohibits the use of public money for the purpose of advancing religion. Several years ago, we had a question involving the CPC funding, the renovations at the West Falmouth Methodist Church. We took a look at the Anti-Aid Amendment at that time and came to the conclusion that since this money was being used strictly for the building, and the building is in an historic district, it is visible from a street and the money is not being used by the congregation to advance its religious purposes, that it was not prohibited by the Anti-Aid Amendment. And so today, if you want to, I believe you are free to fund this project without violating the Anti-Aid Amendment. But the decision to fund it is yours, knowing that.

CHAIRMAN SCHNEIDER: And the other answer I'd like to add is discussing the percentage. One of the things that the Community Preservation does when they get a project proposal is that they look at the immediate needs versus what can wait. And in almost every instance for this Town Meeting, we deleted parts of projects that we thought were not urgent.

We understand the concerns, we know our money is diminishing, we know we will be getting less money this year than

we had last year, and we are operating, as I will remind everyone, strictly on state-matched monies. Your tax dollars are committed until 2020 on your Land Bank purchases. The money you are voting to spend is strictly money coming to you from the state because you do have the Community Preservation Act in place.

This project came in at a much larger figure. We removed everything from the roof down, and said it was not structurally necessary at this time. We did not set out to completely restore the facade of this church, but to take care of the most urgent need, the one thing that a bad storm could in fact take the whole roof and steeple down, and that's what we voted to bring to you tonight. Thank you.

THE MODERATOR: Okay, Mr. McNamara and then Mr. Murphy. Yeah, you're on my – I've got a big list.

MR. MCNAMARA: Thank you, Mr. Moderator. Three quick things. First of all, this is an extremely hard-working committee that we owe a lot of thanks to. What we don't see as Town Meeting Members is the extraordinary amount of effort that goes through the application process. No recommendation is brought to this Town Meeting unless the application has been thoroughly reviewed and I can't even imagine the number that have been rejected already before they get here.

Secondly, the church and state issue has already been answered, but those of you who don't vote in Precinct 7, which I am a member of, we vote in that church. We also hold our precinct meetings there. I would imagine that church and state for those of you who don't understand the Anti-Aid Amendment, probably works both ways. It doesn't apply to this.

The third point is I do live in the village of Waquoit and Route 28 headed toward Mashpee, which by the way is not a thoroughfare like 151; I can't possibly imagine not having that church there. The character of that village would dissolve. Think of it not who owns this building, but the historic building itself that needs preservation. Thank you.

THE MODERATOR: Mr. Murphy.

MR. MURPHY: Carey Murphy, precinct 7. I also represent Waquoit and I agree with Mr. McNamara, he just – I believe we should vote on this on the merits of the application, not on its placement on the Special. I agree with Mr. Rhodes on some of that issue, but I believe that this application should stand; we shouldn't micro-manage the Community Preservation Committee. I think they've done a very thorough job as they do with all of these, and it would not be before us, like Mr. McNamara said, if it hadn't been completely vetted legally, and I think we need to vote this

forward, thank you.

THE MODERATOR: Okay, Mr. Dufresne.

MR. DUFRESNE: Adrian Dufresne, and I'm going to speak as a Falmouth resident. I hope you will support this article. In my short time in Falmouth, which is about 78 years, I've watched the Town take down five historical buildings. This church in Waquoit -- this town body represents every 44 square miles of the Town of Falmouth. Historical preservation -- and right now under the guise of the taxpayers' funds through the CPC funds and the Committee involved in trying to preserve historical buildings in the town of Falmouth I think is one of the most important things that this body faces in this particular request.

And I hope you will consider that with that church not getting the aid that this body can give, conceivably could disappear from the Waquoit area. So, please consider and vote the sum of money required to help preserve the Congregational Church of Waquoit. Thank you.

THE MODERATOR: Okay, Ms. Zacks and then Mr. Netto.

MS. ZACKS: I'm Marilyn Zacks, precinct 6. I am firmly into the core of my soul dedicated to the idea of separation of church and state. I'm also sincerely dedicated to preserving our

heritage and those things which make us a community, which make us a landscape. This may include a cathedral, it may include a mosque, and whatever goes on inside has really nothing to do with our view of its place in the town and in its sight on the outside. And I hope that those of you who raised the church and state issue realize that this in no way perpetuates any dogma. What it does is preserve a cultural treasure.

Any calendar that shows pictures of New England, guess what's on them? You see the water, you see the church spires, you see the lovely streets, and that's a – it thrills me to go by; I wonder who created that, and I would hate to see it in any way disappear.

THE MODERATOR: Okay, Mr. Netto, you're next on the list.

MR. NETTO: Joe Netto, precinct 9. This is a public building in the east end of the town and I have a question for Mrs. Schneider that in Mr. Duffy's explanation, and it's not somewhat tangent to the particulars of this article. This is a beautiful building and I think the preservation of this building becomes a community effort. But something disturbs me in what Mr. Duffy said, Mrs. Schneider. Because a building is located in an historic district, that qualifies for CPC funding. Okay. So, does that mean, then, that

people who own private homes within an historic district can come to this Town Meeting and ask us to upkeep their buildings? I can spend money for a public building, albeit be it a church, as Mrs. Sacks just said – I think we have similarities there. But it disturbs me, Mr. Duffy, when you gave that explanation, when you said because the building is in an historic district. Are we now going to get private homeowners, Mrs. Schneider, coming in front of us and asking us for taxpayers' funds?

THE MODERATOR: Ms. Schneider, you may answer the question. This comes up at every Town Meeting.

MS. SCHNEIDER: I'm so glad you brought that up. I didn't plant you to do that, but that's perfect. The tag team effect is working.

Coincidentally this, as some of you might remember that following some of our CPC hearings, we had a private party come to us and ask us for money for just that kind of a purpose, and it weighed on all of us, because we felt that this could be a dangerous ground to tread without a policy. And so we rejected that project on the basis that we needed time to study it and come up with a policy, and we actually voted in a procedure and policy at our last meeting, in March, and we will not be entertaining any privately-owned requests. We will take non-profit requests that can

exhibit great public benefit, and at this time that is how the committee will proceed.

So I hope that answers that concern and you can sleep well tonight.

THE MODERATOR: Okay, Mr. Latimer. Microphone to the right.

MR. LATIMER: Richard Latimer, precinct 2, not precinct 5. I think everyone, especially anyone who intends to come to a public meeting to discuss matters which they think impinge on Constitutional rights or Constitutional prohibitions should first read the Constitution of the United States first. And in this context we would be reading the first ten amendments, which set out our Bill of Rights. The 1st Amendment begins with the words, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." Now, this is binding on the states under the 14<sup>th</sup> Amendment.

Now, that's the law of our land. So when we look at this project, the first question we ask is, does this establish religion?

Well, no, not like school prayer, where we're indoctrinating kids in a specific religion and not like teaching creationism as science, where we're indoctrinating them with a religious view of the world. That's happening inside the classroom; the use of public money or

public facilities for that is prohibited by the 1st Amendment.

This is not that; this is saying to everyone, "Look at this beautiful, historic church that was here just about at the beginning of our great American democracy, and it's lasted that long, as long as our Constitution has.

Buildings like this throughout New England were used a public meeting places long before we had town halls and school auditoriums. They were used for meetings like this. That's our history and that's what we're preserving here. We're not establishing religion; we're preserving history. It's got nothing to do with separation of church and state.

THE MODERATOR: Mr. Rodriguez, something new?

FROM THE FLOOR: Question.

THE MODERATOR: With a microphone, please.

MR. RODRIGUEZ: My name is Ray Rodriguez, precinct 7. I'm not against the church or developing or developing a new structure or fixing the structure. However, my question is that what is the responsibility of the congregation. Are they putting in money to repair this and how much?

THE MODERATOR: Ms. Schneider.

MS. SCHNEIDER: Actually, the congregation is chipping in ten percent, and in addition to that, I think it's important

to recognize that this congregation has – I don't know if you did tour this building, but for those who didn't, it is actually a little box.

There's nothing else but this one room in this church. And they have built, as most of you notice as you drive by, a second building which they pay a mortgage on, and that building is used by this Town and by other groups for numerous things, and they cover those – they cover that as a help to all of us.

Those who vote there, like Mr. McNamara, would understand what I'm talking about. So, please don't think that this congregation is bringing nothing. They are chipping in. They've actually covered the expenses up to now of what they've had to do for us in getting very detailed numbers, and so on, to get – and to do this.

So, they're in this. They're part of it.

THE MODERATOR: Okay. I'm at my "is there anything new" mode, because we've been doing this one for 20 minutes. Mr. Anderson, you're next on the list. Mr. Anderson.

CHAIRMAN ANDERSON: Just as a point of clarification, CPC has the statutory – state statutory authority to make the recommendations on all of the CPC articles. However, because they do involve money, the Finance Committee has asked that they present to us – which they did and which they always

have. We either concur or we would note whether or not we'd disagree with their recommendation. However, ours is only advisory. They did present to us, we did have additional questions, and they did come back and satisfactorily responded.

Mr. Shearer may have not been at that meeting where they did respond, but we did get the answers.

THE MODERATOR: Okay, Mr. Lowell, anything new?

MR. LOWELL: I won't touch the Constitution.

My understanding is that the state reimbursement, and you mentioned this, has significantly dropped off recently, and my understanding is that is currently projected to be 29 percent for the next year, is that correct?

CHAIRMAN SCHNEIDER: That is correct.

MR. LOWELL: I question the priority of the CPC on funding this renovation, because we're presented here with a real problem. The revenues are declining significantly. We were 100 percent just a few years ago, state reimbursement. Now we're at 29 percent. So the money that we have that we're spending now is going to be very difficult to replace.

We also have many pressing needs for this money, not the least of which is affordable housing, which will surely be coming up pretty soon pretty strongly.

So we have an issue here: we would like to spend money on affordable housing. We're spending \$190,000 on a – we'd be potentially spending \$190,000 on the church. A very noble, needed purpose. But we also have this incredible pressing need for affordable housing. But coincidentally, with the same forces that are driving the state reimbursement down provide us with an opportunity on affordable housing. Real estate prices have taken a tank, as we all know. That gives us an opportunity to purchase distressed, devalued properties now that this Town could, working with one of the organizations in town, we could potentially purchase some properties, renovate them, resell with an affordable deed restriction, and add to our affordable housing stock. I don't see an opportunity like this coming up again, and if we spend this money now, the opportunity might be lost.

CHAIRMAN SCHNEIDER: May I answer that, please?

THE MODERATOR: Quickly, yes.

CHAIRMAN SCHNEIDER: I'd like to clarify that the Community Preservation Act mandates that out of the total amount, we must every year put ten percent toward historic Preservation. This year, that will be a total of \$270,000 and \$481. So, you can spend some on this project or you can have us come to you in

November and we move it into a reserve where it sits. It is – last night, you all voted \$282,700 into the Affordable Housing Development Fund and tonight we are asking you to clear \$20,000 to help jumpstart the Housing Production Plan that the Town has – the Selectmen have voted in.

We are certainly not ignoring and we press all the affordable housing groups on a regular basis to be looking at the decreasing values of homes and if there's an opportunity, and we keep asking if we can help in any way to take advantage of the real estate market as it is.

This is not going ignored; you aren't able to take this money and use it on affordable housing. So I want to make sure everyone understands that.

THE MODERATOR: Okay –

FROM THE FLOOR: Question, question.

THE MODERATOR: The question's going to come on Article 9, the questions's going to be as recommended. This is to appropriate \$190,000 for the church. 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 and Article 9 passes.

Article 10. This is the previously-referenced \$20,000 for Falmouth's Housing Production Plan. Madame Chairman for the main motion.

CHAIRMAN SCHNEIDER: Mr. Moderator, I move Article 10 as recommended.

THE MODERATOR: As recommended. Is there any discussion on Article 10?

MR. Johnson, are you getting up to speak?

MR. JOHNSON: No.

THE MODERATOR: No, okay. Sorry to call you out, then.

[Laughter.]

THE MODERATOR: Any discussion on Article 10? Hearing none, then the question will come on the main motion as recommended. All those in favor, signify by saying aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The ayes have it.

Article 11. This is to authorize the Board of Selectmen

to purchase or take by eminent domain a piece of property.

Community Preservation Committee for the main motion.

CHAIRMAN SCHNEIDER: Mr. Moderator, I move Article 11 as recommended.

THE MODERATOR: Okay, as recommended. This is also putting on a Conservation restriction under the jurisdiction of the Conservation Commission, therefore it's going to require two-thirds as a purchase and also for the restriction. Any discussion on Article 11? Hearing none, then the question will come on the main motion as recommended. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The Ayes have it and I declare a two-thirds majority.

THE MODERATOR: Article 12 is back to a Finance Committee article. This is to create a revolving fund for the Falmouth Historical Commission Revolving Account for the proceeds of the sale of the Book of Falmouth. Mr. Chairman for the main motion.

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 12 as printed.

THE MODERATOR: So Article 12, the main motion is as printed. Any discussion on Article 12? Hearing none, then 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.

Article 13. Board of Selectmen. This is to accept provisions of Massachusetts General Law 32B, which requires that all retirees, their spouses and dependents who are enrolled in Medicare Part A at no cost to a retiree be required to enroll in a Medicare health benefits supplement plan.

Mr. CHAIRMAN for the main motion.

CHAIRMAN MUSTAFA: Mr. Moderator, I make a recommendation that the town vote Article 13 as printed.

THE MODERATOR: Okay, so our main motion is as printed. Any discussion on Article 13? Hearing none, then 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: Article 14. This is to vote to authorize the Board of Selectmen to petition the General Court for special legislation authorizing the Town to impose a room occupancy tax on vacation rentals not currently subject to such tax.

Madame, well, not Chairman, but Ms. Flynn from the Board of Selectmen.

MS. FLYNN: Thank you, Mr. Moderator. The Board of Selectmen met earlier this evening and voted unanimously to change this recommendation of this article to indefinite postponement. And if I may –

[Applause.]

MS. FLYNN: And I would like to make a few comments on it.

THE MODERATOR: Okay, is there anyone on the floor that would like to place a positive motion for Article 14? Hearing none, the main motion will be indefinite postponement, and if you want to explain why that happened, and then we'll take the vote on IP.

MS. FLYNN: Yes, thank you, Mr. Moderator. Pat Flynn, Board of Selectmen. I would like to make some very few comments about this article.

And you have the PowerPoint, do you? Okay.

You might be aware that in the Town's Local Comprehensive Plan it actually addresses the option that the Town may have of imposing a rooms' tax by local option. And it's – what it really says is there should be a study of the homes or the vacation rentals that may be available on which this type of tax could be imposed, and that the Town should look into that.

And further – next slide, please – so, that in addition weekly and monthly home rentals should also be reviewed for inclusion in the same tax system as hotels and motels. This will level the playing field for all properties and reduce the current system that has become discriminatory to traditional accommodations. So that's already in our Local Comprehensive Plan. That is part of the reason why the Selectmen considered this.

Some basic facts. For this budget year, there continues to be a hiring freeze on eight positions in the town. Seven unfunded police positions, and two unfunded fire rescue positions.

These are the trends in the occupancy tax. I mean, you go back to 2002, you can see where the revenue that year was a \$1,083,427, and in 2008, \$928,736. Well, it doesn't seem to be an enormous amount of difference, but when we look at what's

happened, we see that the number of hotel rooms have actually been converted to timeshares, thus the hotel-motel tax opportunity has actually been decreased. So, while the level of revenue is similar, it would have been much higher had those 215 timeshares not existed.

So, the rental projections on timeshares. If you just take a look at some basic facts. There are 250 units that are not timeshare. If these were rented for 20 weeks per year, that would equal to 5,000 weeks. The tax projections on the timeshare at 5,000 weeks at \$1,000, earning per week per units is \$5 million. That times the four percent room tax would equal to a \$200,000 revenue share for the town.

On short-term residential, the number of second homes: 7,000. A third – assuming, very conservatively, that only a third of those are rented on a seasonal basis, that's 2,333, and the rate of rental at 1.75 weeks per year, the projected rental weeks, then, would be 4,082. And the completion of that mathematical equation is that the projected rental weeks at 4,082 has an average rental price of \$1,500,000. So that \$6,123,000 is the total revenue from all of those rental weeks. But the Town's share at four percent would come to \$244,920.

So, I think what the whole purpose here was to just tell

you what some of the mathematical equations result in in terms of what the local – that local tax revenue would bring to the Town on a very conservative basis. But, in reviewing all of this, and also, more importantly is the fact that under the current legislation the town would have to file a home rule petition to impose this tax.

And in the legislature as we speak, there is another bill moving forward that would allow cities and towns to impose this tax simply by a vote of Town Meeting without having to put through a home rule petition. Some of the complications to the legislation are: suppose a town later on decided that they wanted to rescind the tax, then that tax would be four percent that the Town would no longer impose, but then what happens to the state portion of that tax? Because, as you know, it's 9.75 and the remainder of that goes to the state. Would that mean that the state would continue to get its share?

So, that kind of language has to work into the legislation as well. There has to be language that allows the Town to rescind the tax if it so chooses.

The other piece to this is that the Board of Selectmen have determined that it would not – if this article did pass, and if it was approved by the legislature, that we in fact would not impose this tax until next year. So, keeping that mind, and the fact that this

bill that's working its way through the legislature, hopefully when it ends up and we have some say in how this bill is created, that it actually meets the needs of cities and towns and somehow covers this whole option of the state portion.

We felt that it was better to do nothing at this time and simply recommend indefinite postponement and if at some time later we would see that a revenue of this type might be beneficial to the Town and the Selectmen may want to propose this at a future date, but for now: let's not do it.

THE MODERATOR: Okay. We'll see this one come back at a future town meeting. The main motion now is indefinite postponement. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it and it's indefinitely postponed.

Article 15. This is to authorize the Board of Selectmen to apply for membership in the Cape and Vineyard Electric Cooperative, Incorporated. Mr. Chairman of the Board of Selectmen for the main motion.

CHAIRMAN MUSTAFA: Mr. Moderator, I move that

the Town vote Article 15 as printed.

THE MODERATOR: As printed. Any discussion on Article 15? Mr. Rhodes.

If I could have the mic carriers come down to the sign. If I could have both mic carriers come down to the signs that say "Town Meeting Members Only" so we can keep this meeting moving.

MR. RHODES: Scoba Rhodes, precinct 8. This is another one of those articles that I can't believe just popped out of nowhere, and should have been part of a regular warrant. Not something that we deal with as a special issue, because it's not a special issue. It's something that yes, we should belong to, and I'll vote for it, but it doesn't belong in a special warrant. It should be in the regular warrant.

THE MODERATOR: Okay, further discussion on Article 15.

FROM THE FLOOR: [Inaudible.]

THE MODERATOR: Article 15, this is to authorize the Board of Selectmen to apply for membership in the Cape and Vineyard Electric Cooperative. Any further discussion? Hearing none, the question will then 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.

Article 16, this is a – creating a bylaw into the Code of Falmouth for the public consumption of marijuana. Mr. Chairman.

CHAIRMAN MUSTAFA: Mr. Moderator, I make a motion that the Town vote Article 16 as printed.

THE MODERATOR: Okay, Article 16 as printed. Any discussion on Article 16? Mr. MacDonald.

MR. MACDONALD: Thank you, Richard MacDonald, precinct 2. I was called by a constituent yesterday about this article and discussed it with him. As you know, the laws have been changed, the penalties have been changed. Many lives have been ruined by drugs, marijuana being one of the most insignificant of them. I think to change this law now and increase the penalties is wrong. Many lives have been ruined, careers, because of the penalties that were imposed, and I think while I support the chief and have been a peace officer, the Chairman's a former Mass. State Police lieutenant, this is not right, and we shouldn't get involved in it and we shouldn't want to increase penalties.

Mistakes have been made, we all have children.

Everybody has – I haven't, but, everybody's tried marijuana, I guess.

[Laughter.]

MR. MACDONALD: But give them a break and –

[Laughter.]

THE MODERATOR: All right, let's go.

MR. MACDONALD: I was in the wrong generation.

[Laughter.]

MR. MACDONALD: But give them a break and let's not get into this. Thank you, Mr. Chairman.

THE MODERATOR: Okay, folks, come on. Let's go. Ms. Fenwick, you were next on my list.

MS. FENWICK: Judy Fenwick, precinct 1. Also a member of the Falmouth School Committee. I had a question for the Chief, if he would answer. I went and did a little research on the sample bylaw that the Office of the Attorney General prepared after the passage of the – in the recent state election, national election, when we were given the new law on The Sensible Use of Marijuana, I think is the title of the law. I'm curious why the footnote in the sample bylaw that the attorney general put forward states, "The Towns may choose one of three enforcement mechanisms: non-criminal disposition", which is listed in the bylaw you have in

your books, and “criminal indictment or complaint”, which is also listed in the bylaw that we’re going to vote on, “or both, as set forth above”. So, could the Chief talk to why he’s chosen to pursue both the criminal and the non-criminal, since the state voted 65 to 35 percent to de-criminalize possession of marijuana under one ounce?

THE MODERATOR: Chief Riello.

CHIEF RIELLO: Hi, Chief Riello, Falmouth Police Department. This actually, under Chapter 40, Section 21, does not give us the right to pursue criminally. The attorney general’s sample bylaw had suggested that if we did pass something where we would charge them criminally – and it doesn’t explicitly say that. It says if it’s provided by 40, 21, and right now it’s not. So there is no state statute that supports the arrest, bringing the criminal charge for the public consumption of marijuana.

Unlike the open container law that we have in Falmouth: if you were to open a beer publicly, then you could be arrested. But that’s also provided under the statute. We cannot design or develop a criminal complaint here because it’s not provided by statute, and according to the attorney general, it would probably not hold water. The spirit of this is a \$300 fine, which is the maximum we can charge under 40, 21, and the reason this is

being suggested – and this is being suggested not only here in Falmouth but all over the Commonwealth, because what was realized after this 94C, 32L was passed, the decriminalization of marijuana for the possession of an ounce, there was nothing that prevented anyone from lighting up in public; there's no deterrent.

So, the purpose and the spirit of this is to deter and to remind folks that, while it is decriminalized for possession under an ounce, it's not okay to do it. And it's the reason that I put it forward, along with the Town Manager and the Board, is to protect those folks who are wandering downtown and do not want to be subjected to someone smoking marijuana. We wanted a deterrent.

So, there is a \$300 fine if this passes, in addition to the \$100 citation that we would issue under the new law. Which, by the way, we've done several times already. Yes, sir.

THE MODERATOR: Mr. Latimer.

MR. LATIMER: No, I want to speak.

CHIEF RIELLO: Oh, I'm sorry.

THE MODERATOR: Mr. Latimer.

MR. LATIMER: Thank you. Rich Latimer, precinct 2.

I want to make a brief comment and then I want to propose an amendment to this. The comment is this: the state, through an electoral majority, has stated a very clear public policy that the

possession or use of small amounts of marijuana shall not be a criminal act. And that doesn't matter whether you're possessing it in your home, in your car, or whether you're possessing it on a public park bench. Neither possession nor use, that's the logical conclusion, shall be considered a criminal act.

I think when people come in with language like this that all of a sudden want to say, "But we can charge you criminally and put something on your record, for a crime, for a criminal offense," I think what that's doing is just what – well, some members of this meeting have objected to in the past when somebody comes in and wants a resolution on an issue of national importance that determines public policy contrary to what the government has established. Well, this is doing exactly the same thing. This is trying to create a public policy contrary to the policy that the majority of Massachusetts voters passed last November.

Now, I am sympathetic to the concern that the selectmen have and the police have as to for a mechanism for enforcement. You know, of course we need a mechanism of enforcement. And I don't think this provision as far as it goes as far as saying non criminal disposition with a fine as however much you can reasonably impose for it for those prohibited acts, I don't have a problem with that. What I do have a problem with is substituting the

public policy of non-criminalization of this conduct through this kind of local bylaw as contrary to the state policy that our voters have enacted.

So, I would propose an amendment that simply deletes the words after “not limited to” to just say “including” and then take out “but not limited to enforcement by criminal indictment or complaint pursuant to Mass. General Laws Chapter 40, Section 21. And just say – so, it would read, “...may be enforced through any lawful means in law or in equity including non-criminal disposition pursuant to G.L. c40, \_21D, by the Board of Selectmen...” etcetera, period. Just take out that criminalization language and I don’t have a problem with this.

I’m making that as an amendment.

THE MODERATOR: Okay, we have an amendment on the floor. Any discussion on the amendment?

Mr. Putnam.

MR. PUTNAM: Thank you, Mr. Moderator. Brent Putnam, precinct 9. We just heard it from the Chief: you can pop a beer in public and be charged criminally. It is not illegal to drink. I disagree with this amendment because what we’re talking about here is maintaining some semblance of control and order, if you will. It may be decriminalized to use small amounts of marijuana or

to be in possession of it, but that does not mean that we want people walking around Main Street smoking a joint.

Not only could you equate that to walking around Main Street with an open beer can in your hand, the fact of the matter is, and we all know this with cigarette smoke, it imposes on everyone around you. And because it is the smoke which, in the case of marijuana, can get you inebriated, I think we have a duty here to protect the public – who may not want to be inebriated any more than you want to be forcing a beer down someone's throat as they walk down Main Street. Thank you.

THE MODERATOR: Okay, this amendment is just to strike the criminal language, knowing full well that municipalities don't have the ability to create criminal law anyway. So, can we take a vote on the amendment, and then go back to the main motion?

Okay, Ms. Fenwick. On the amendment.

MS. FENWICK: So, Chief, can you tell me, we could still go with every bit of word in this bylaw, including getting that \$300 fine imposed, but without that criminal – by the amendment, take that language out?

CHIEF RIELLO: That is correct, and the way –

MS. FENWICK: Okay, nobody's going to be smoking

a joint on Main Street if we vote yes on this amendment?

CHIEF RIELLO: Well, yeah, if they do, then we're going to fine them 300 bucks, you know.

[Laughter.]

THE MODERATOR: This is what we call revenue enhancement.

[Laughter.]

CHIEF RIELLO: Hey, you know, we've had people call us on a Friday night and say, "Can I pay my fine up front? We're going to smoke pot this weekend." So, you know, we're trying to get away from this. But there would be the fine. That's the intent of this bylaw. It is our sense that a criminal charge, which is contrary to what was passed, will not hold water. Our intent is the \$300 civil infraction in addition to the other. And, again, this is provided as a deterrent.

THE MODERATOR: Okay, Mr. Latimer. Your amendment is going to pass if you don't kill it.

MR. LATIMER: Thank you. The Chief has just made my argument. The Chief has just made my argument for me. The criminal charge will not hold water. Therefore, since it does not hold water and has no substantive effect, all it is is a statement of policy. It's like a

statement of public policy like you don't like to do when we want to say that the war in Iraq is wrong or something; it's a statement of public policy. It's got no basis –

THE MODERATOR: Okay. So the question will now

–

MR. LATIMER: – in the bylaw.

THE MODERATOR: – come on your amendment, Mr. Latimer, to strike the language of the criminal complaint. All those in favor of striking that line, that sentence, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The Ayes have it by a majority. The question is back, discussion on the main motion as amended, taking out the reference to criminal complaint. Any further discussion on Article 16 as amended? Hearing none, then the question will come on the main motion as amended. All those in favor signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: It's the opinion of the chairs that

the Ayes have it by a majority.

FROM THE FLOOR: Count it.

THE MODERATOR: You want to count it? All those in favor of Article 16 as amended, this is to create a \$300 fine for smoking pot in public.

[Pause.]

THE MODERATOR: The vote's different when you have to stand, huh?

In the first division, Mr. Tashiro.

I'm sorry, I can't hear Mrs. Tashiro.

MRS. TASHIRO: 45.

THE MODERATOR: 45.

In the third division.

MR. HAMPSON: 40.

THE MODERATOR: 40.

In the second division.

MR. DUFRESNE: 74.

THE MODERATOR: 74.

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

[Pause.]

THE MODERATOR: In the first division?

MRS. TASHIRO: 2.

THE MODERATOR: 2.

In the second division, Mr. Dufresne.

MR. DUFRESNE: 14.

THE MODERATOR: 14.

In the third division, Mr. Hampson.

MR. HAMPSON: 17.

THE MODERATOR: 17.

By a counted vote of 159 in favor and 33 opposed, the bylaw passes.

Article 17 is the funding article for all of the articles which we've done at the Special Town Meeting. Mr. Chairman of the Finance Committee for the main motion.

CHAIRMAN ANDERSON: Mr. Moderator, I move that all articles approved at this town meeting be funded as voted for a total of \$1,578,135.

THE MODERATOR: Okay, you've all heard the main motion to fund the Special Town Meeting for \$1,578,135. 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.

Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Moderator, I move the April, 2009 Special Town Meeting be closed.

THE MODERATOR: Okay, you've all heard the main motion to close the Special Town Meeting. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it and the meeting is adjourned.

All Town Meeting Members present please rise for the establishment of a quorum for the Annual Town Meeting.

[Pause.]

THE MODERATOR: Okay, in the first division, on the quorum, in the first division.

MRS. TASHIRO: 53.

THE MODERATOR: 53.

In the second division?

MR. DUFRESNE: 94.

THE MODERATOR: 94.

THE MODERATOR: And in the third division?

MR. HAMPSON: 61.

THE MODERATOR: 61.

By a counted vote of 208, we have a quorum and the Annual Town Meeting is back in session.

We adjourned last night in the middle of the budget. We were discussing an amendment to line 243, line 243 or the Falmouth Public Library. We had an amendment to add \$55,520 from Mrs. Botelho and we were looking for the funding source.

Mrs. Botelho, want to grab a microphone there?

MRS. BOTELHO: Thank you, Mr. Moderator. Can you hear me?

THE MODERATOR: Yeah, I can hear you.

MRS. BOTELHO: Hello. Okay. I recommend that we take it from – we take from line 16, \$2,000, which is Out of town travel; we take from line –

THE MODERATOR: Mrs. Botelho, if you could just go slow, because we have to write this down.

MR. BOTELHO: Okay.

THE MODERATOR: Okay, line 16.

MRS. BOTELHO: Line 16 – I have it here for you, Mr.

Moderator, afterwards.

THE MODERATOR: Okay.

MRS. BOTELHO: Line 102, \$1,000 out of that Out of town travel. Line 113, \$500 out of that line item of Out of town travel. Line 150, \$600 out of that one of Out of town travel. Line 160, \$20,000, that is the DPW's Other – DPW's Snow article, Other expenses. Line 255, \$2,000 from the Woods Hole Library Other expense, and the balance of \$29,420 from Certified Free Cash.

THE MODERATOR: Okay, can I have my copy up here, please.

[Pause.]

MRS. BOTELHO: The reason I did what I did, if I may, please.

THE MODERATOR: Yes, go ahead.

MRS. BOTELHO: I am trying to take only a little bit out of certain articles that I think it could come from. I did not want to ask it all out of Certified Free Cash because I know that that's an important article and it's there for an important purpose. And so I tried to take a little here and a little there so that no one would really be hurt, and yet these two branches would keep the present hours for this year and then, well, we're hoping that the recession will, you know, get better and – I have to tell you, the Democrats

are in, so it's going to. And so – and – and –

THE MODERATOR: Okay, let's go.

MRS. BOTELHO: And I just wanted – I didn't want to hurt any one place, any one department, or anything, but I really, as I said last night, I really feel that this is a very, very important thing to maintain, the present hours that North Falmouth has and the present hours that East Falmouth has, and then we'll let next year take care of itself. And I really would appreciate it if you'd all go along with it, thank you.

THE MODERATOR: Okay, Mr. Chairman.

CHAIRMAN ANDERSON: Thank you, Mr. Moderator.

There is a difficulty with one of the line items, and that would be line item 160, which is taking money out of the DP's Snow and Ice Control. The Town has historically voted the bottom line of \$96,750, and I believe that the state law requires that once you fund an amount, that is the minimum amount that must be funded every year, so that amount cannot be reduced.

I would like to make some additional comments here, if I may. During Mr. Whritenour's presentation last night, he mentioned that a lot of time and effort and thought has gone into the budget recommended for Fiscal Year 2010. Actually, the process began over six months ago in October when Mr.

Whritenour, Ms. Harper the Assistant Town Manager, Ms. Bishop the Finance Committee Administrator, Ms. Alwardt the Town Accountant, and each of the department heads held the first of many budget meetings. The process continued through December, after which the Board of Selectmen reviewed the budget and sent it on to the Finance Committee early in January. It is the Finance Committee's job to review in detail all of the line items, to interview all of the department heads and make its recommendation.

From January through March, all 15 Finance Committee members were involved in detailed discussions with the department heads. We asked probing questions about each department's needs and their concerns, and then presented the findings to the full Finance Committee. The presenters were then subjected to additional questions and analysis, culminating in a final recommendation on each budget.

My point in giving you all of this background is that by the time the recommendations reach Town Meeting, these budgets have been very thoroughly examined line by line. And if anybody did go out onto the Town website and check the website and the detail that we have posted out there, you will see that there is a tremendous amount of detail.

The Finance Committee's – their primary concern is

whether the Town can fund all of the requested services. We acknowledge that the revenues and expenses submitted are estimates, which they necessarily have to be because no one knows exactly the future, but an awful lot of thought, effort, and angst has gone into the process. The department heads and everyone involved in the process have agreed that this is likely the best the Town can do at this time, given our resources.

May I have the slide. The budget process over the last two years hasn't been without pain. Many departments have made sizeable sacrifices to make this budget possible. For example, you may not be aware that the Town has 19 positions which have been approved by Town Meeting, but which have not been funded because we don't have the money. Certainly if funds were available, the town Manager, the Board of Selectmen and the Finance Committee would have recommended funding some of these positions which many of us would agree are critical.

As uncomfortable as it may seem from a personal convenience perspective, the reduction of hours at our libraries was a decision made considering many other options, as well as the concessions made by many other departments. From a social perspective, this decision may seem unfair. From a financial perspective, though difficult, it is prudent. It will be a real stretch to

keep the services that are set forth in this budget intact.

We do not believe it is wise to stress the budget anymore. The Finance Committee strongly recommends the Town Meeting say no to the additional dollars requested for the library. Thank you.

THE MODERATOR: Okay, further discussion on the amendment. Mr. Murphy.

MR. MURPHY: Matthew Murphy, precinct 7, member of the Finance Committee speaking as an individual. And I would like to speak in defense of our Administrator, Assistant Administrator, and the other staff. It's almost funny, you know, "Let's cut their out of state travel." These people do a fantastic job. I just got my tax bill; I didn't even see a change. I mean, if you talk to your neighbors in towns like Sandwich, across the Cape, they pay multiples of the land tax that we pay. We get trash pickup, our firefighters, our paramedics. We have a wonderful town that is managed really well.

Warren Buffet, one of his funds was just downgraded. We maintain a double A plus. We save a tremendous amount of money on loans for the work they do. And it's important they get new ideas, that they go out of state, talk to other people, just to get the juices flowing, to see what other people are doing. It is what

Mr. Whritenour said, it is what's the expression, "Penny wise, pound foolish." And it's just obnoxious. It's a slap in their face that they don't deserve.

This is a reasonable cut. I mean, seven kids in East Falmouth can go after school where there's a ton of kids in Hatchville. I mean, it just happens they're there. I mean, we're a mobile society. If we have to cut down and make people go to the main library, I can live with that.

I just object to this. These people work hard, they do a good job; there's nothing you can ask Mr. Whritenour – sorry – about this town that he can't answer.

I mean, I'm on the Finance Committee; you can talk budget lines, he knows just what you're talking about. He knows the history. He knows why those changes were made. They don't deserve this slap in the face. Thank you.

THE MODERATOR: Mr. Shearer.

MR. SHEARER: Dan Shearer, precinct 6. I really believe that the library should be open as much as possible. And I think they can. And I think we can do it with a little bit of work and a little bit of studying without changing any budgets at all.

I want to point out that in 2007 our electric bill for the library was \$31,420. The budget for this year is \$95,664. I think

this can be corrected. We have 98 computers in the library right now. They go on in the morning; they are turned off at night. We can have some of those not running. Computers are very expensive. They use one-third of their power – this comes from the IT Department this morning – when they are on standby or sleeping or however you want to put it.

The lights in the library, if anybody's noticed – and I brought this up to numerous people in town – are one 24/7 because to turn them off you have a computer program which as of now nobody has been able to control or to find out what's happening. They are working on it in the IT Department since I brought it to them six weeks ago or so, five weeks ago or so. And that will save a lot of money.

So, I think it would be my estimation that just working on the computers, the printers and the copiers we could get this \$56,000 without any trouble without changing any budgets. Thank you.

THE MODERATOR: Ms. Zacks.

MS. ZACKS: In the absence of the Chair of our Library Board of Trustees, Ned Nolan, who is at the moment incapacitated, I would like to list what the trustees feel are four principles in the function of the library, and then I would like to have

our director and assistant director, Leslie Morrissey and Lynn Carreiro, address the specifics of budget, electrical use and hours.

I have four principles I would like to share with you.

The Library Board of Trustees recognizes the difficult financial times and we have agreed to work within the budget allotted to us from the Town. We feel that it's only fair if other departments have been cut that we should be no different, even though we think we provide the best services to the Town.

We are dedicated to provide as in professional and equitable a way the library services to all library users throughout the Town. We are dedicated to be respectful of our professional staff and recognize that it is important to retain them all. This meant reductions across the board, but no firing of personnel, all of whom have done a marvelous job even with constraints prior to this crunch.

Finally, we are bound by the requirements not only of the Town budget, but by the rules of the Massachusetts Board of Library Commissioners. This means that we must maintain a certain number of hours open to the public that are not duplicated by any other library in town in order to qualify for the very important state funding. Adhering to this requirement includes all of the

libraries in town regardless of how they are funded.

The library has had a remarkable record of bringing the non-Town libraries into the CLAMS program that has meant great services to many people in Town who are not impacting the main library, and Leslie will share with you now the details, thank you.

MS. MORRISSEY: Good evening, I'm Leslie Morrissey, the Library Director. And first of all, let me say that as the Library Director it's heartening to see that people are upset because their libraries are cutting hours. It's wonderful to see that the libraries have an impact on that community – on this community and that they enjoy such wonderful support.

However, the library and the trustees of the library really are not interested in pitting department against department, library against library in order to increase the hours at the library. We look at this as one community, as one library system and we'll work very – we are working very hard to provide equitable service in all areas.

Now, I know that the East Falmouth Library particularly, many of them have spoken to me and are quite upset about the hours that we are proposing for the East Falmouth Library. Our business is to provide public service, and to do it in a very responsive way to the community. And we really will work to

do that with the East Falmouth people. If they feel that they need additional hours in the afternoons or additional hours in the evening, we will work with them to try very hard to make sure that they get the kind of service that they feel as though they need.

We don't have the funds to increase the hours, but we certainly are able to change the hours around so that they're more equitable.

I want to address Mr. Shearer's about – or comment about electricity. He's correct in that we did increase a number of computers in the main library from a total of 46 to 94, and that's a huge increase. The reason why we did is because we've had – we have that kind of use. We have that kind of need. We have that kind of demand for Internet access, and that Internet access or that demand for Internet access only increases in a bad economy. People give up their private home Internet access and they depend upon the library in order to do their research, to fill in forms for job applications, to search for jobs, to do their email, to keep in touch with their families. All of those things they need and we provide that at the library. Computer use is a huge part of what we do here at the library, which is why we have twice as many computers as we did before.

Those computers are set up on a particular kind of

software which shuts them down automatically half an hour before the library closes, so they're not just sitting there at any time, or almost no time during the day are they just sitting there asleep, waiting for somebody to use them.

We put in a new HVAC system and we sort of introduced the air conditioning to the library in July or June, and they had a difficult time balancing that, figuring out exactly how that was going to work. I think they have that under control thanks to the Facilities Maintenance Department, who has been working on that with their vendor or their consultant for a number of months. And, right now, we believe that will be under control; there will be no more super- cooling. The library was indeed cold in the summer and we were spending a lot of money keeping that cold. Well, it was too cold. And so hopefully that will be – I'm quite sure that will end this summer.

The new building is 25 percent larger than the old building, so – and it's on two stories. So you can expect an increase in electricity use.

We have introduced a lot of new state-of-the-art technology that really works to help the staff work more efficiently with our public and to do their jobs more efficiently, and that would cost money.

We've done some other things as well. With using CPC funds, we have new glazing in the historical part of that library, so that helps the heat loss.

I know that there was a lot of complaint about the numbers of lights that were on all night when the library was closed, and the library staff and the library trustees, we were all concerned about that. And we've been working on that, as well. We didn't have a town electrician, so we didn't have somebody to come in, and this isn't a matter of just switching a switch. You just can't shut those lights off; it just doesn't happen. You can close the switch down and the lights stay on. And it isn't even a matter of using a circuit breaker; it's a special key that you use. And we needed an electrician to come in and help us figure out how that's going to work. And there's a computer program that he is working on and learning about. And if you've noticed that many of the lights in the library now at night are off.

We've worked with the Energy Committee; we've met with them several times. We've talked to them about what is the most effective thing: should we leave our computers on at night or should we shut them off. We actually did a little test with the Energy Committee and we learned that we all – all the staff, now, shuts their computers off because it saves a tiny amount of

electricity, but over a period of time that could amount to some savings.

We participated in an energy study with Cape Cod Light – with the Cape Light Compact, and that was under the direction of the Assistant Town Administrator, and they've made some recommendations that we're looking to implement to save money.

We're looking at going to the MBLC for LEED certification. MBLC is the Massachusetts Board of Library Commissioners. And if we can become certified as a LEED building, which means a Leader in Energy Efficiency – I'm not quite sure what the LEED stands for – but if we can become certified in that, we can receive some funds to help us implement some energy saving –

THE MODERATOR: Okay, are we ready to –

MS. MORRISSEY: I guess I'm [inaudible.]

THE MODERATOR: Okay. Mrs. Botelho, because of the – one of your line items dealt with the Snow and Ice, which we're required by law to minimum fund, would you be willing to just roll that number to the bottom, with the Certified Free Cash?

MRS. BOTELHO: I certainly would.

THE MODERATOR: Okay. So, the Certified Free

Cash number would be \$49,420, and we wouldn't take anything out of 160; you're okay with that?

MRS. BOTELHO: Yes, thank you.

THE MODERATOR: Okay, let's see. Dr. Antonucci. I do have a list; there's five people on the list already. So, Ms. Jones, you're on the list, you can sit down.

Dr. Antonucci. Dr. Antonucci, you were next on my list. You don't want it? Okay.

Ms. Liechtenstein, you were next on the list. Stand up so they know who you are.

MR. LIECHTENSTEIN: Leslie Liechtenstein, precinct 8. I want to thank the Finance Committee and all the departments for the hard work they've done and I am very hesitant to start to tinker with the budget that they've created. And I also want to thank our librarians in town who are professionals and who do a fantastic job.

However, this is a very trying time that we're in right now, and I do have a suggestion: at Town Meeting a little while ago we voted to allow a property tax deduction for senior citizens who would put in so many hours of town service, and I would like to ask the Selectmen if they couldn't implement this and allow some volunteers to help staff the library until the funds get available for

something. I mean, these are bad times and sometimes we have to be a little bit creative. Thank you.

THE MODERATOR: Okay, Ms. Newton. Ms. Newton, Chardell, did you still want to speak?

Yes, microphone up there.

MS. NEWTON: Chardell Newton, Facilities Manager.

I just wanted to address Mr. Shearer's concerns of the lighting in the library to reduce the cost. We've worked extensively with Cape Light Compact. In the construction phase of the library, we were issued a computer program for the lighting; it has since been upgraded.

We were unable to obtain that lighting program from the previous electrician. We have since obtained it. Within the last three weeks, myself and the Town Electrician have worked several nights working on the lighting. As of this morning, we have established that we have cut back to 70 percent of the lighting that will stay on at night, but you need to know that we cannot take all the lighting off. There is night lighting that, under the code, has to stay on. But we have reduced the lighting by 70 percent in the library.

For the HVAC controls, we have the new HVAC control system up and running. You need to remember that last summer it

was very hot out; we had a lot of phase drop from NStar on Main street. A lot of the services on Main Street were taken out. We've had a lot of problems with it. We feel this summer we have it under control and our lighting bills should maybe not go down significantly, but we will see a change in it.

THE MODERATOR: Okay, Ms. Jones and then Mr. Putnam.

MS. JONES: Megan Jones, precinct 1. I'd just like to take this opportunity to explain how important the Woods Hole Library is to the town of Falmouth. The name of the library in Woods Hole is the Woods Hole Public Library. Its services and programs are open to everyone and all you need to take out a Woods Hole Library book is a Falmouth Library card. That library is heavily used by residents throughout Falmouth, and last year its circulation was 42,000. It is the only library in Falmouth that is open Monday night.

Another asset for the Town is that the Woods Hole Library is open 30 hours a week, which Falmouth adds to their hours for state certification. The Woods Hole Library, then, is essentially a branch library, without the Town having to pay for resources, the staff and the maintenance of the building. The requested amount for this year for \$20,300 is primarily to cover the

cost of CLAMS, which allows library cardholders to access books from all the libraries on the Cape and is a great asset to Falmouth residents. However, I'm sure that people from Woods Hole Library would be very happy to support any effort to open and extend the library hours both in East Falmouth and North Falmouth. We work as a venture group and we work together and we shouldn't be competing one library for another.

So, I don't know that the \$2,000 is going to be a breaker at Woods Hole, but I just want to take this opportunity to explain to Town Meeting that the Woods Hole Library is not a little private library that nobody else uses except a few people from Woods Hole. It is a very important library for this town.

THE MODERATOR: Okay, Mr. Putnam.

MR. PUTNAM: Thank you, Mr. Moderator, Brent Putnam, precinct 9. I'd like to address the question of the employees, because nobody disputes the efforts of our employees or department heads. But very clearly if cutting travel is suggested to be some sort of a punishment, then it's obviously a luxury that perhaps we can do without.

You know, most of you are pretty well aware that I've proposed more significant cuts in the out of state of travel than what Mrs. Botelho has this evening, and I consider these pretty modest.

The question that needs to be asked is if there was no out of state travel at all – and remember there’s still a significant amount in the budget even after this change – would there be any change to the Town’s services. Would any Town services be cut if we eliminated out of state travel? And the answer is a resounding No. But what we have right now is cuts in Town services that really effect the individuals out there that we represent.

The down economy, parents may be working longer; libraries are a sanctuary.

I grew up spending a lot of time in a library because my parents were working. The resources in the library are very necessary to those who might be looking for a job or furthering their education to survive and get ahead under these sorts of economic conditions.

So, I would hope that you all vote in favor of this amendment. There’s, again, a need for these services and no need for out of state travel.

THE MODERATOR: Okay, Mr. Murphy, something new? And then we’re going to make this choice.

MR. MURPHY: Yes, Mr. Moderator. I wanted to make a comment. For those of us who attended the budget

meeting with all of the department heads – and unfortunately Brent was unable to attend that day because of a conflict – it was a sobering moment. It was probably one of the most sobering moments I've ever had as a Selectman. You could hear a pin drop in that room, because every department head in this town knew the reality of the situation. They knew that they wanted to spare as many jobs as possible.

Folks, are we going to micro manage a budget here because if we give the library some extra money here and take it from other departments, what are we going to say to Chief Riello who has – we saw seven positions. Four of those are new positions, but he had three retirees and as a good department head he said, “You know, I can keep this department together without funding those three positions.” What are we going to say to the folks in the Department of Public Works? Are you going to stand up here?

I commend the library for saying – being part of the team, because it is a team. We all know that our families are hurting out there, and you know what? A little selfishly we all want that pet thing that we all want, but unfortunately we can't always get it. It's tough times right now.

I want to commend the departments in this town for

being able to hold the line and being able to say, "I'll do more with less." There wasn't one of those Department heads who stood up at that meeting and complained. They all knew the reality of this situation.

And you know what, folks? In regard to out of state travel, this is a 108 million dollar business. You know, if you're lower down in the food chain, you don't go to the conference. But when you're at the head of the food chain, you're the guy who goes. Because you know what? You get to learn some things.

Let me tell you that I, while I have been a Selectman, that have been brought back from that managers' conferences. Citizen surveys, where they actually go out and try to find out what the citizens think of government. 360 reviews. Benchmarks for how government performs. Things that the Finance Committee have asked for and they've been able to learn how to do. Performance standards.

And you know as well as I do, folks, if you watched the video of Town Meeting, you wouldn't get the same flair of Town Meeting as being here. That's the difference. It's going downstairs, talking to people before, after, and during the break. Do we want our managers to be good managers or do we want them just to be able to go along?

You know, there is – we're talking small, small percentage in this travel. It's important and, I'll tell you what, I take my hat off to the department heads in this town and it goes all the way down to the employees. I take my hat off to the School Department. We know that I've been one that has always commented on overspending, and I'll tell you what: we're doing more with less this year. And if we open the gates for one department, we're going to open the gates for every department in this town. Thank you.

THE MODERATOR: Okay, we have the Botelho amendment, which is to take \$2,000 from Out of state travel Selectmen/Administrator, \$1,000 from Out of state travel Police, \$500 from Out of state travel Fire, \$600 from Out of state travel DPW/Admin/Engineering, \$2,000 from the Woods Hole Library and \$49,420 from Certified Free Cash to be applied to line 243. All those in favor of the amendment, 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 and the amendment does not pass.

Further discussion on 243, the Falmouth Public

Library?

Cape Cod Regional Library – oh, you’ve got another one? Okay, microphone for Mr. Johnson.

MR. JOHNSON: Leonard Johnson, precinct 5. We’ve heard tonight about significant savings that appear to be on the horizon in the Operating Expenses, the other expenses from the library. So I have a technical question: if they do indeed save \$50,000 in that line item, can it be applied to the previous line item, salary and wages?

THE MODERATOR: Town Meeting is going to have to vote to move within those line items, correct? Yes. I mean, we can come back here and to that at another Town Meeting, but. There you go, Mr. Rhodes, there’s your Special Town Meeting.

All right, any further discussion on the Falmouth Public Library?

Cape Cod Regional Library. West Falmouth Library, Mr. Shearer.

MR. SHEARER: Dan Shearer, precinct 6. The West Falmouth Library and the Woods Hole Library for years and years since I’ve been here have always gotten the same amount of money. It was changed when the Woods Hole Library got CLAMS, and that is expensive, it’s more. The West Falmouth Library at that

time was also a private membership library.

Since then, and I believe this is the third year and I'm not sure it may be the fourth, West Falmouth Library is an open library to anybody in town or anywhere else, it's a free and open library. We do have CLAMS set up. We do have a large use of that library. It's the only building, really, in West Falmouth where we can hold meetings, have precinct meetings, have harbor meetings, and it goes on and on and on, and I think our president of the library is going to speak about that. And I think at this time it's right that we should probably equal both libraries.

So I'd like to make an amendment that we add the \$7,500 for West Falmouth and the \$20,330 for Woods Hole and give each library \$13,915. That does not change any figures on the budget, it does not do anything, it just makes that.

I'd also like permission to let Rita King, who is the president of the library, speak about West Falmouth Library, who is not a Town Meeting Member.

THE MODERATOR: Okay, the amendment is to strike out the West Falmouth Library and Woods Hole Library appropriations, combine them, divide by two so that each library gets \$13,915. And where was the individual that you wanted to recognize? Where's the person that you wanted to have speak?

Oh, up there, okay. Microphone on the left.

MS. KING: I'm Rita King, president of the West Falmouth Library. I think Dan has a very interesting point. I'm not certain that this is the time to do it. I think the most important thing, and I really applaud what Megan Jones said and what Marilyn Zacks said: we're libraries; we want to work together; we want to provide services for everybody in this town.

The West Falmouth Library is now open to the public, free, with no membership fees. Our circulation has grown by I think it's 23 percent since we've open to CLAMS. So that we really are serving the needs of the Falmouth community, not just the West Falmouth community. I think that's very, very important for us all to realize.

THE MODERATOR: Okay, let's vote on this amendment whether or not to combine the two.

Go ahead. Something new. Go ahead. Let Mr. Latimer speak.

MR. LATIMER: I want to speak against this amendment and I just want to posit two rhetorical questions which some people may not like, but I think they're germane. The first rhetorical question is when did the Woods Hole Library sell valuable real estate to a private developer –

THE MODERATOR: All right, all right, Richard, sit down.

MR. LATIMER: – which the 200 Committee was –

THE MODERATOR: Richard, you're done. Sit down.

MR. LATIMER: Well, no, it's a political question. And I think –

THE MODERATOR: That's right, and we're going to vote on the budget.

MR. LATIMER: – it's significant.

THE MODERATOR: Richard, you do not have the floor anymore.

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 and the amendment fails. Any further discussion on the West Falmouth Library? You can write a letter in the Enterprise, if you want.

Woods Hole Library. Mrs. Tashiro.

MRS. TASHIRO: Mr. Moderator, Charlotte Tashiro,

precinct 4. Town Meeting Members. I fail to see why we have to cut hours at the main library, at the East Falmouth Library and at the North Falmouth Library, but we do not have to cut hours at the Woods Hole Library. And we are sending them exactly what they got last year. The main library's not getting what they got last year.

And I would like to see some of this money removed from their budget and returned to the main library.

I leave that up for discussion. I'm not prepared to make an amendment at this time, but I would like to see something done to make it more equitable. After all, this is a privately-owned library, it is not funded overall by the Town of Falmouth.

THE MODERATOR: Okay, further discussion on the libraries?

Recreation Department. Beach Department. Mr. Dufresne.

MR. DUFRESNE: Adrian Dufresne speaking as a representative of precinct 2. I notice that the Beach budget is level-funded and the Department of Public Works is level-funded. And it came to my attention a couple of weeks ago that the bathroom facilities at Manuhant Beach, the newly improved project at Manuhant Beach was not going to have the same services that they've had continuously over the last five, six or seven years. In a

conversation with Mr. Whritenour and I thank him publicly for his extraordinary effort in finding an omission in the budget process which eliminated that service at Manauhant and he found the money through working with the Department of Public Works, and again I'm going to thank him publicly for this year that service will be restored.

However, in the balanced budget of the Beach Committee and the Department of Public Works in Article 2 of the Special Town Meeting under Contractual Services, there was a transfer of contractual monies from the Department of Public Works which is responsible for providing the leasing arrangements for the portable toilet facilities at Manauhant Beach. At the request of some of the people of East Falmouth, I would like to bring to your attention that that money in this little budget is not being provided for, and there's – I would like some guarantee from Mr. Whritenour that the contractual monies that are being taken out of the budget in Article 2 of the Special Town Meeting would be used for the rental of the services in the Year 2000 – 2010.

What a lot of people don't realize is that the Beach Committee operates in two fiscal years. They have a 14 week season, so we've asked the Beach Committee through their appointments to fund – to manage a three-quarter of a million dollar

business which gives the Town of Falmouth a return of approximately a quarter of a million dollars over their cost of operations. I think the amenity that was granted several years ago by this town meeting, when we voted a 67,000 appropriation for decent toilet facilities for one of our three paid beaches, Manuhant Beach, Silver Beach and Surf Drive, are beaches that the traveling public who comes to the Town of Falmouth, if they want to go, they pay a fee which contributes to the three-quarter of a million dollar amount of money that the Beach Committee takes in.

Again, I feel that, you know, some of us stand up when we go to the bathroom, but I know that a lot of people don't like to go into porta-johns, and I really feel –

THE MODERATOR: All right.

MR. DUFRESNE: I really feel – I'm sorry. I really feel that it's a service that has been granted to the people in the East Falmouth area and it should not be denied them –

THE MODERATOR: Okay.

MR. DUFRESNE: – because of an appropriation of approximately six or seven thousand dollars. Thank you and I would ask Mr. Whritenour to comment on that.

THE MODERATOR: Mr. Whritenour.

MR. WHRITENOUR: I think everyone here is aware

of the – a vast amount of investment that's gone into Manauhant Beach in the last two years alone with the acquisition of an adjacent parcel to extend the beach with beach nourishment, a project that we recently completed this year for 2009. The beach will be serviced by the temporary trailer as in the past for those facilities. I thank the Department of Public Works and the Beach Committee and Don Hoffer for their leadership in making sure that happens.

We are working toward a more semi-permanent type of solution, recognizing the extreme environmental sensitivity of that area. The trailer has really been more of a stopgap measure. We hope to be back in front of town meeting for a better solution. Hopefully for next year, but I don't see any threat for Manauhant Beach, I think it's received a lot of attention this year. Thank you.

THE MODERATOR: Okay, further discussion on the Beach Committee.

Bikeways Committee. Long Term Excluded Debt. Long Term Unexcluded Debt. Short Term Excluded Debt. Short Term Unexcluded Debt. Stabilization. Retirement. Unemployment. Health Insurance. Life Insurance. Medicare benefits. Other employees benefits. Court judgments.

Any further discussion on the Fiscal 2010 Budget?

Hearing none, the question will then come on the main motion as printed, with the changes outlined in the revenue sources and expenses by the Finance Committee Chairman last night on the overhead.

The main motion as printed with the changes presented last night. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

We have a budget and we'll have a 15 minute break and we'll be back here – yes.

[Whereupon, a recess was taken.]

[Whereupon, the meeting reconvened.]

THE MODERATOR: Okay, folks. The next article we have was held by Mr. Shearer, who graciously asked to have his hold removed. He had his questions answered, so we'll be taking up Article 20 as soon as everyone comes forward.

Okay. Town Meeting Members please come forward, take your seats. Let's go.

We did have some questions during the break about when do we come back. For those that didn't hear my

announcement or may have not been at the beginning of the meeting, if we do not complete the Town Meeting tonight, we'll be back next Monday at seven o'clock.

All Town Meeting Members present please stand and the tellers return the quorum count.

[Pause.]

THE MODERATOR: In the third division, Mr. Hampson.

MR. HAMPSON: 59.

THE MODERATOR: Mr. Dufresne, we got a temporary one.

In the first division.

MRS. TASHIRO: 47.

THE MODERATOR: And in the second division, Mr. Jones. Or, Mr. Dufresne.

MR. DUFRESNE: 84.

THE MODERATOR: 84. By a counted vote of 190 we have a quorum, and we're back in session.

Mr. Chairman of the Finance Committee.

CHAIRMAN ANDERSON: Mr. Moderator, last night I served notice of reconsideration of Articles passed under the blanket vote. Today we did discover a scrivener's error on Article 6,

which was passed under the blanket vote. Therefore, I move reconsideration of Article 6.

THE MODERATOR: Okay, Article 6. This is the salaries of elected officials. There was an error in one of the line items, so we're asking for reconsideration to open it up and fix it. All those in favor of reconsideration, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The Ayes have it by a majority.

[Laughter.]

THE MODERATOR: Mr. Chairman.

Mr. Moderator, I move Article 6 as recommended with the following change. Under Town Clerk, the corrected number is \$69,735.

THE MODERATOR: 735, okay. We had to adjust that number in the Town Clerk's line item. Any discussion under Article 6? The number that the Finance Committee Chairman just read to you is what is worked into the budget when we had that full salaries and wages line item for the budget. So. All those in favor of the main motion signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

Okay, Article 20 was our next one. You're telling me  
19; I don't have a hold on 19.

I don't have a hold on 19.

Article 20 was held by Mr. Shearer. He has removed  
his hold. Community Preservation Committee for the main motion.  
Dr. Schneider.

CHAIRMAN SCHNEIDER: Mr. Moderator, I move  
Article 20 as recommended.

THE MODERATOR: As recommended. This is to  
appropriate \$255,000 from the Community Preservation Fund  
Fiscal Year '10 estimated receipts for the purpose of exterior  
rehabilitation of the School Administration Building. Any further  
discussion on Article 20? Hearing none, the question will then  
come on the main motion as recommended. All those in favor,  
signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it.

Article 30. Article 30 was also held by Mr. Shearer.

This is the amendment to the Charter to have the Board of Appeals with a term limit for no more than two consecutive five year terms.

Mr. CHAIRMAN of the Board of Selectmen for the main motion.

CHAIRMAN MUSTAFA: Mr. Moderator, I recommended that the Town vote Article 30 as printed.

THE MODERATOR: As printed. If Town Meeting does vote this, this requires a two-thirds. It will be on the ballot for the May election a year from this May.

MR. JONES: Point of order.

THE MODERATOR: Point of order? Go ahead.

MR. JONES: I believe the annual Town Meeting wording is incorrect. It should be the Annual Town Election.

THE MODERATOR: That is correct: Annual Town Election. Thank you, I did mention that the other night when we did the blanket.

So, to submit to the voters at the next Annual Town Election. Mr. Shearer, you held this one. Mr. Shearer, you held this article. Do you – microphone down here.

MR. SHEARER: Dan Shearer, precinct 6. I'd like to make an amendment to this that would add the words, "unless no

other person can be found to fill the vacant position.” We have all kinds of committees in this town at the moment that are short members. A lot of them can’t meet because they don’t have a quorum. So, my idea would be that if nobody applied for the job, the Selectmen could re-appoint someone for one more term. Or one more three year period. Thank you.

THE MODERATOR: Okay, an amendment to add the words, “Unless no other person can be found to fill the vacant position”? Is that the way you want it to read? Okay.

MR. SHEARER: “Unless no other person can be found to fill the vacant position”.

THE MODERATOR: Okay, that’s what I said. Any further discussion on the amendment just proposed by Mr. Shearer.

Mr. Lynch.

MR. LYNCH: Kevin Lynch, precinct 3. I happened to go to the Charter Committee when they were discussing this, and I think the reason for this change is to make it legal according to the state, so I wouldn’t put an amendment like this on it.

THE MODERATOR: Yes, Mr. Duffy.

MR. DUFFY: I’d like to remind you that there are alternate members on the Board of Appeals who can step up and serve, so it’s not that we’re going to have quorum problems.

MR. SHEARER: [Inaudible. No microphone.]

THE MODERATOR: Yes, this amendment would be inclusive of everything, because it's Section H, so this would be for all Selectmen-appointed committees.

Mr. Duffy.

MR. DUFFY: I didn't understand where Mr. Shearer wanted to put his amendment.

THE MODERATOR: Tack it right onto the end. So, "No member of an appointed board shall serve no more than three consecutive three year terms except for Members of the Board of Appeals, who shall serve no more than two consecutive five year terms; provided, however, that an appointment of a member to fill an unexpired term of another member shall not be counted in determining this term limitation, unless no other person can be found to fill the vacant position." It might not read exactly right, but that was the intent, right? All right, any other discussion?

Ms. Jones.

MS. JONES: Megan Jones from precinct 1. It's very difficult for us to hear, back here, what you're saying. So I was wondering if Mr. Shearer would again explain what he's trying to do.

THE MODERATOR: He's trying to say that if the

Selectmen can't find somebody to fill a vacancy and they've hit the term limit, then they can re-appoint him.

MS. JONES: For just the Board of Appeals or for everything?

THE MODERATOR: No, for the whole Section H. So, all of those committees.

MS. JONES: Well, what do you think, Mr. Counsel, Town Counsel?

MR. DUFFY: Well, I think he can make the amendment and we'll just see if anybody wants it.

[Laughter.]

THE MODERATOR: Ms. Shephard, did you?

MS. SHEPHARD: Susan Shephard, precinct 1. I think for clarity the amendment should come after the words "consecutive five year terms" and before the word "provided".

[Pause.]

THE MODERATOR: Yeah, the word-crafting is difficult.

MR. DUFFY: Then it would apply only to the Board of Appeals, right?

THE MODERATOR: If we put it after the semicolon –. I don't know. Unless no other person can be found.

FROM THE FLOOR: Before the sentence.

THE MODERATOR: Yeah.

MS. SHEPHARD: I don't care, actually.

[Laughter.]

THE MODERATOR: No, it's a good point. It's difficult to wordsmith on the floor.

Yes, go ahead. Do we have a mic down here.

FROM THE FLOOR: We all know what Dan's trying to ask. Just put a sentence at the end. A clear sentence that says, "If no one can be found to fill any of these Town boards, then you can re-appoint somebody who's had three consecutive terms."

THE MODERATOR: Well, that's what he was trying to do with the wording he gave us. That's what he did. Yes, Mr. Murphy.

MR. MURPHY: Carey Murphy, precinct 7. I would ask Frank, this is a Charter change; I would imagine you'd have to go through the Charter Review Committee to make this change, legally. I might be wrong.

THE MODERATOR: No, it's not –

MR. DUFFY: This is proposed by the Charter Review Committee, which is not the same as the Charter Commission. So I think the amendment is in order, it can go on the floor, and just vote

it on its merits.

THE MODERATOR: Yes, Mr. Moreland, and then Ms. Lowell.

MR. MORELAND: Benjamin Moreland, precinct 4. Mr. Moderator, how is these advertised for openings to, you know, for people that would like to serve but don't know that the opening is even there? I mean, could they find some way to get the word out to more people that they need these vacancies filled so that they would have more people available?

THE MODERATOR: Okay. I think it's Enterprise and website, right?

MR. DUFFY: It's in the Charter that you have to publish it.

THE MODERATOR: Yes, it's published in a paper of general circulation, which is the Enterprise, by the Charter requirement, and I believe they also put it on the website.

MR. DUFFY: There are provisions in the Charter for publishing vacancies on these commissions; it's part of the Charter already, it's there.

MR. MORELAND: And could they put another article in somewhere that would spur that on -- of course, I'm speaking for a lot of people that don't read the Enterprise or even don't take a

paper. So, is there some way to get the word out? That's what I'm trying to.

THE MODERATOR: Okay, let's focus on the Charter amendment, but it's a good point. Let's work on a public relations campaign with that.

Ms. Lowell and then Ms. Flynn.

MS. LOWELL: Vicky Lowell, precinct 1. I think this -- I'm in sympathy with this proposal, but you -- when we talked about a zoning bylaw and what the vacant would be left undefined because it might -- it's hard to actually define vacancy on land use totally. When you say no other person can be found to fill the vacant position, you'll have to set up some policy to say how long it will be before you don't find another person, because I think one of the reasons term limits was put in -- I've never been on the Charter Commission -- was in some boards where they get into more controversial situations, it can be difficult -- was proving difficult to actually replace an incumbent who wanted to continue.

So, this could be awkward.

I just think it might be better to be discussed by the Charter Revision Committee. It seems very simple on its face, but there could be boards where the person really wants to serve and sort of can intimidate other people from applying. I'm not -- I'm not

saying this would happen often, but I think it's something that deserves some thought and it's not as simple as it seems. Thank you.

THE MODERATOR: Okay, further discussion here, I've got Ms. Flynn and then Mr. Murphy.

Ms. Flynn. Oh, it was Mr. Putnam, sorry.

MR. PUTNAM: Thank you, Mr. Moderator, Brent Putnam, precinct 9. Town Meeting should be aware of the fact that Selectman Flynn and myself as a subcommittee of the Selectmen, we've been meeting a few times in the last few months and are continuing to do so. There's a process that last year, when the Selectmen met to review the five year -- the Selectmen's five year plan, that one of the things we recognized is that there are some deficiencies in the way that the committees and the boards and the commissions that we appoint, there are some deficiencies in the oversight, if you will. This is certainly something that we can bring into that discussion. But I would caution against making changes to the Charter, given that right now this really is just meant to address the changes that were recently done with respect to the Zoning Board of Appeals and if the Selectmen feel as we discuss the oversight of the boards, commissions and committees that it is a

serious issue in terms of finding vacancies and that it may be a viable option to consider re-appointing incumbents who may have reached that term limit, then we will be discussing that in one of our meetings and talking about the potential ramifications and coming back to you folks if it requires a Charter change.

THE MODERATOR: Okay. Mr. Murphy.

MR. MURPHY: I just want to remind Town Meeting why we're here in discussing this article is because last year we did something on the fly. We changed the Zoning Board of Appeals on the fly without realizing the ramifications of the term limits. The Charter is a very, very special thing within our government and it is in fact the way we run our government. To be able to change the Charter on the fly, I don't think it's wise for Town Meeting.

I don't disagree with part of what Mr. Shearer is saying, but what I do disagree with is there needs to be some detail with it. In other words, is the position held until we find a replacement? And then what happens if we find a replacement in three months? There's some ramifications there. We just need to work that out. And I suggest we go back to the Charter Review Committee.

Remember, the reason we're here tonight for this is to create -- correct a deficiency that happened when we changed the Zoning Board of Appeals from five to seven members: it conflicted

with the Charter. If you want to see the Charter changed, there is a way to do that. I think we've heard tonight that there's some concern there. I think it would behoove Brent and Pat as well as the Charter Review Committee to be able to sit down and look at this. I don't think you want to do this on the fly. Thank you.

THE MODERATOR: Ms. Jones.

MR. JONES: Megan Jones, precinct 1 and a member of the Charter Review Committee. I would agree with Selectman Murphy that this is not the way to change this Charter Amendment. We worked on it very, very long and hard, and it's taken a great many hours as well as taken a great deal of time. And we can't even get this now on the April ballot because it has to go to the Attorney General, and he can't do that within the time that it goes on the May ballot. So, we have to wait until next year if we're doing that.

However, I just want to tell you that the Charter Review Committee is still in business. The Selectmen have agreed to keep us together until the next Charter Review Committee, which is in seven -- well, 2012, I guess it is. So, if you would like us to review this as a suggestion, we would be very pleased to do that.

The Chairman of our Committee is not here tonight and so we have no chance to talk about it, but I think I'm speaking for

the committee enough to say that we would prefer not to have this kind of an amendment made on the Town Meeting floor.

THE MODERATOR: Okay, further discussion on the amendment? Dr. Antonucci.

DR. ANTONUCCI: Bob Antonucci, precinct 6. Can we just vote on the amendment, turn it down and then approve the article? I don't think we should be micro managing a delicate legal issue like this. It's been studied, it's been monitored. I understand Dan's point on this, because he wants to keep the vacancies filled, but I think we've got to leave it up to our Selectmen to use their good judgment in how they fill vacancies. The Charter is just a guide to what they do, so let's vote the amendment down, let's vote the article positively, and let's move on to the next article.

FROM THE FLOOR: Yeah.

THE MODERATOR: Okay, the question will come on the amendment, adding the language: "unless no other person can be found to fill the vacant position." All those in favor of the amendment, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: It is the opinion of the Chair that

the No's have it.

Any further discussion on the main motion, Article 30, as printed.

MR. LYNCH: Mr. Moderator.

THE MODERATOR: Yes, Mr. Lynch.

MR. LYNCH: Kevin Lynch, precinct 3. I just want to note that that says boards, and there was a couple of Town Meetings ago, we had an article that would better identify boards, because the whole Charter is very, very ambiguous on what's a board or a group of people put together, appointments. I think that should be corrected in the future, when they do do this.

And, as a former member of the Bikeways Committee, if I was still on the Bikeways Committee, I would like to report that the Bikeway extension to North Falmouth is ahead of schedule, under budget, federal money --

THE MODERATOR: Okay, here we go.

MR. LYNCH: -- and it will open on July 4th. So, it's going to be beautiful.

THE MODERATOR: Okay. The question will come then on the main motion, Article 30, this amendment to the Charter. If you vote yes by two-thirds, it will go on the ballot a year from next month. All those in favor of Article 30 as printed, signify by saying

Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The Ayes have it by the two-thirds majority and I so declare.

Article 31, this is the Falmouth Historic District Commission petition to the legislature; it was held by Mrs. Vidal, Chairman of the Board of Selectmen for the main motion.

CHAIRMAN MUSTAFA: Mr. Moderator, I would request that the Town vote Article 31 as printed.

THE MODERATOR: Okay, the main motion is as printed. Ms. Vidal.

MS. VIDAL: Pam Vidal, precinct 9. Through you, Mr. Moderator, I have quite a few problems with this article. The inhabitants of the Historical District of Falmouth are by and large dedicated to the preservation and enhancement of their homes and neighborhoods. This upkeep comes with a cost. The article proposes to increase the costs by requiring bonding of projects.

Additionally of great concern is the wording of the proposal amendment to this law. It is vague and arbitrary. Section

5 is already closely monitored.

There's a lot that I could say on this, but I just want to open it up for discussion, thank you.

THE MODERATOR: Okay, discussion on Article 31.  
Ms. O'Connell.

MR. O'CONNELL: Maureen O'Connell, precinct 4.  
I'm following up on what Ms. Vidal was speaking of. I draw the Town Meeting's attention to Section 9, part A, the first line: "As part of its decision the Commission may require that construction or other authorized site..." and so on. So, first we have they "may" on some jobs, they may not on others, require certain consideration and expense and burden by the person desiring to modify or renovate or repair a home.

There is no spelling out here of what would spur the Commission to require what is in Section A (1), "a proper bond or deposit of money sufficient in the opinion of the Commission to secure performance". Well, there's the expense of the bond, and then again there's an ambiguity of what amount of money may be sufficient on one job but not sufficient on a job three doors down, and these are the kinds of ambiguities that I think would undermine the good work and -- that the Commission has done over time, and the willing cooperation of people in the Historic Districts around

town, which I think is evident merely by taking a drive in the neighborhoods affected by this law.

And I think I'd leave it at that. I would encourage the Town Meeting -- well, let me conclude by saying that Section C already exists in the Acts of 1975, which is the whole of the law referenced here, and there is quite a stiff offense for not doing what was agreed to. And this is since 1975: \$500 for each offense, and, "Each day that a violation continues shall constitute a separate offense." This is a pretty stiff law and I think again that there's been a tremendous amount of compliance around Town.

And finally, when we were at the precinct meeting at precinct 4, the gentleman -- one of the gentlemen from the Historic Commission was asked how often there was a problem in enforcing the Acts of 1975 and the Falmouth Historic District Commissions rulings, and the answer that he gave quite candidly was "very seldom". So, I would encourage the Town Meeting to at this point vote this down and at least request that the language be cleaned up so that it's more specific and so that this -- if this were to be voted in at some point, it would be something that would be equally applied by situation. Thank you.

THE MODERATOR: Okay, further discussion on Article 31? No. Okay, hearing none, the question will come on the

main motion, Article 31 as -- oh, somebody in -- oh, okay, in the aisle.

MR. ROSS: Nathaniel Ross; I'm the Chairman of the Historic Districts Commission, and I want to try and clarify the thing that we're trying to put through tonight a little bit and maybe get to your questions, although I'm not the best when it comes to legal language, so I'll just -- let me just try and explain in layman's terms what this is all about. And the easiest thing for me to get the gist of this article is to start with the B part of the article, and that's requesting that the Building Commissioner be authorized to enforce the decisions of the Historic Districts Commission.

Currently, as was mentioned before, the only part that appears in the special act for the Historic Districts Commission is this part C at the bottom, and that's the only enforcement language or vehicle that the Board is able to use to enforce their decisions. And, quite frankly, it's a court situation and it's not ideal. I think it would be much better for the applicant and for the Board to be able to work these things out right here in town, though the Building Commissioner -- or, through us, by using the Building Commissioner as our agent to enforce the decisions.

As far as the bonds and the covenants go, the bond and the covenant would always be -- the choice between the bond

and the covenant would always be that of the applicant. That's not going to be the Historic Districts Commission saying we're going to put a bond on this project or a covenant on this project. That will be chosen by the applicant. And the best way to explain that part of the article would be that it's exactly the same process that is now currently used by the Planning Board, the Conservation Commission and the Zoning Board of Appeals. We're not trying to re-invent the wheel, we're just trying to be like all the other regulatory boards in Falmouth and have a vehicle that is consistent with the other boards and actually will benefit the applicant in the process.

The way it will benefit the applicant is let's say the applicant has a project going and it's February and they can't finish their landscaping plan or do their painting, and they want to move in, they want to have occupancy or they want to sell the house or they want to rent it, that's not possible without compliance to what they've agreed to with the Historic Districts Commission. With this bond, or the covenant, whatever they choose, that becomes possible. And I think it will make it better for everyone.

If you have any other questions, I'm right here, feel free. Otherwise, maybe I'll direct you to someone else if I can't. Thank you very much.

THE MODERATOR: Okay, further questions? Yes,

Mr. Duffany.

MR. DUFFANY: Michael Duffany, precinct 6. I appreciate what Mr. Ross just gave us as an explanation for this, because I was concerned that they would be imposing this up front, and it was explained to me by Mr. Gore that the intention was to give the applicant a mechanism, if you will, in order to get their compliance. And so, as long as that's where it's going and that you won't impose it up front, that if I felt that I couldn't get my house painted in February because I didn't want it peeling in March, that I could post a bond for the cost of the painting and I'd be able to proceed and get my use and occupancy and so forth. Is that -- that's I think what you just told us.

MR. ROSS: [Nods.]

MR. DUFFANY: So, with that, I'm good with this, so thank you.

THE MODERATOR: Okay. Further discussion on Article 31? Hearing none, then 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.

[No.]

THE MODERATOR: It is the opinion of the Chair that

the Ayes have it by a majority.

Article 32, this is to authorize the Board of Selectmen to enter into a lease agreement for the purpose of developing work force housing on two of 16-plus acres of Town-owned land at 419 Woods Hole Road. The recommendation of the Board of Selectmen is indefinite postponement, and this article was held by Ms. Kozens-Long. Are you going to put a positive motion on the floor?

MS. KOZENS-LONG: I held this article, Mr. Moderator, Cheryl Kozens-Long, precinct 8, as their petitioner is not a Town Meeting Member. I would like to put a positive motion on the floor for Article 32 with an amendment. The amendment to strike the words "Workforce Housing" and replace with "Affordable Housing as defined by the Department of Housing and Community Development". And I believe Mr. Finneran would like to speak to this article this evening.

THE MODERATOR: Okay, the main motion is as printed, striking the word "Workforce" and inserting "Affordable Housing as defined by DHCD". Mr. Finneran.

MR. FINNERAN: Good evening. I have a disk presentation.

THE MODERATOR: Okay.

MR. FINNERAN: There we go. Good evening, I'm Mark Finneran from precinct 6. I've lived in this town for the last 25 years. I have three adult children and as of last Friday I'm the grandfather of three. My mother and stepfather --

FROM THE FLOOR: Can't hear him.

THE MODERATOR: Yeah, can you just lean in a little more.

MR. FINNERAN: Sorry. I -- okay. I have three adult children and as of last Friday I'm the grandfather of three. My mother and stepfather live in this town and have decided to live their lives out here. My family has owned property here for 70 years. I care about my town and the people in it. They are my friends, they are my neighbors.

There's also a personal connection here a few of you probably are unaware of. My father was the State of Vermont's version of Bob Murray when I was young growing up in the early to late '60's. He was Chairman of the State Housing Authority as well as the Director of the Counsel on Aging. He was in charge of all aspects of these programs, as well as administering new programs from Johnson's Great Society.

One particular program my father championed was called Self Help Housing. Through this program, and in particular

the way he ran it, he was able to build more houses in tiny Vermont than any other state in the Union, using this program.

I'd also further like to add that I'm a plain-spoken person. Oftentimes this offends people; it is not my intention.

I know of the great need for affordable housing and I believe in this proposal. That's why I and others put it on the warrant. If passed, also I would love to be involved in this project. I have ideas and energy, both of which I believe can be used.

For my presentation I would like to enlist the help of Selectman Brent Putnam. He has a larger grasp of some of the aspects of this and has been a great help to me in preparing my presentation.

THE MODERATOR: Mr. Putnam.

MR. PUTNAM: Can we have the microphone. Next slide, please.

Good evening, ladies and gentlemen, this evening we're going to be presenting this article and you've heard these objections, and I'd just like you to keep them in mind. As we go through this presentation, I think we're going to address all of these concerns.

Next slide, please. You're all familiar with the parcel, and tonight we're going to use the term "Webster Woods"

interchangeably with “419 Woods Hole Road”. I think you all are pretty familiar with the fact that I tend to be pretty plain-spoken as well, and we’re not going to mince our words here. A rose is a rose, and everybody has a label for this parcel. Some people know it as Webster Woods; some people know it as 419 Woods Hole; we’re talking about the same thing.

It’s Town-owned land, donated for municipal development, 16.2 acres total. As we know, 70 percent of this parcel cannot be developed; the state has dictated as such.

There is, on this parcel as you know, a fire station that consumes about one acre; that leaves about 3.86 acres available for other potential uses.

MR. FINNERAN: This proposal is for 14 rental units, two to three bedrooms each. It’s only going to use two acres and it’s going to be in the level area next to the fire station.

FROM THE FLOOR: Turn the microphone on.

MR. FINNERAN: Oh, I’m sorry. This program will affect few of the large trees. I believe the number was 18, and I also believe that number could be reduced.

Basically, it’s a long-term land lease and will be bid out to construction and the management, and it progresses. If voted

on.

MR. PUTNAM: And if you could just go back real quick. We're going to explain why rental versus ownership as we go through the presentation, but it's also worth noting the reason – and, remember, last time you saw this, there were several different options given for locations. The reason why this was chosen was because, of all of the parcels, the property immediately adjacent to the fire station is the most level. The Board of Selectmen did receive a letter from the 300 Committee. Not endorsing this particular project, but simply telling us that if the Town goes ahead with this, that they would prefer we go ahead with this particular area, because it would have the least disruption, the least disturbance, and be likely the best of all the possible scenarios.

Next slide, please.

MR. FINNERAN: Well, the people that this would serve would be in the income guidelines, the median income would be \$46,000. Who? There would be teachers, firefighters, police officers, retail, just working people. Also I'd like to add that this location would be an ideal spot for children to live and grow up.

It's also on public transportation. This would reduce the traffic, greenhouse gas emissions, and I would also like to add that it's very close to the bike path, which also would alleviate some

of those problems.

MR. PUTNAM: And I would note this is a la David Letterman with apologies to him. Obviously we don't have the kind of comic – I forget the word for it, but. Moving on.

Reason number nine: money's available. A lot of questions have been raised about how this would be financed and there is obviously a lot of different programs that are available, folks. In fact, we've talked and just last night the CPC, the Housing Development Fund, we added more than \$200,000 to that. There is in there now more than \$700,000, in that development fund. So there are a lot of funds available to make this and other affordable housing projects happen.

Next slide, please.

MR. FINNERAN: Okay, our reason number eight is: costs are down. The construction industry is hurting for work. The Town band shell bid came in at less than expected. Modular units are near an all time low, and material costs are down.

Further, if you were to purchase these modular units, you can buy them any way you like.

Can you go back to the other one, first?

We could purchase these things rough and unfinished on the inside, therefore local labor could be used in the finish and

construction of them.

I have friend who's in the solar business and I went to a two-day seminar about solar and gas combination heating. I'm familiar with some systems that save about 30 percent and I mean, that's green; that's what everybody wants.

Let me see what else I have here. Also, there are ways, perhaps, that we could reduce the amount of trees that are taken down and the amount of land that is disturbed. Some of this can be by only having partial basements and building on a slab. Numerous other things.

Currently, the price of a three bedroom ranch modular unit is somewhere in the neighborhood of about \$72,000. And, on the high end, you can buy a 3600 square foot colonial for about \$160,000. These prices just are historically low and they can't ever be matched by purchasing any property in town.

MR. PUTNAM: Next slide, please. Reason number 7, we have to build. The hard, cold truth, ladies and gentlemen, is that we're not going to get through this issue of affordable housing by simply buying, and it was suggested earlier tonight. I'll tell you, it's something that personally I thought was a great idea. You sort of a get a two-fer if you can buy an affordable house or, excuse me, a market rate house, turn it into an affordable. The concept is a

great idea. You can take one house out of the market rate inventory and add it to the affordable inventory all at once. But in concept it's great, in theory it's great; in practice, it doesn't really work out. We need, according to the affordable housing plan that we have recently approved that the state has recently accepted, we need to develop 72 units each year for the next five years. 360 units.

There are currently, some of you may know, my wife is a real estate broker here in town. I asked her for some statistics, and the number of homes for sale, for example. And there are currently on the market in Falmouth 407 homes for sale. One – one is priced at what would be considered an affordable rate.

There are four foreclosures. And there, you know, the price is pretty low. We could buy those, we could turn them over, we could make them affordable, deed restrict them. There's been talk, for example, that we can get or we may get \$4 million for buying distressed properties, foreclosed properties. The problem is that we can have all the money in the world, but if there aren't any foreclosed properties, we can't buy them. Which is what brings the question up here: how many foreclosures can you buy with \$4 million? Well, in the Town of Falmouth right now you can buy four. This is a piece of the puzzle, ladies and gentlemen, but it's not

going to get us there, which is why we say that we're going to have to build.

Next slide, please.

MR. FINNERAN: Reason number six: rentals are needed. These figures aren't up to date, but they're as close than – the most recent we could find. And you can see between 1990 and 2000, Falmouth lost 125 units. That's down 3.9 percent. And the rental vacancy rate fell from 8.3 to 5.7. We have an Affordable Action Housing Plan in Falmouth, now.

Massachusetts still continues to have the fourth highest median monthly rent and that's from the Massachusetts Housing Market authority.

One of the reasons that Falmouth has so few units available and the prices of properties stay so high is because there's so much property in trust, as well as a large amount of open space. This makes some of the – Falmouth some of the most expensive real estate on the Cape.

MR. PUTNAM: Next slide, please. Reasons number five: every units counts. This is the cover of the Affordable Housing Production Plan that we talked about earlier. We have to reach a goal of 72 units a year. And so when we talk about how we're going to get to that goal, you may recall from the earlier slide when I

talked about the objections, and I asked you to consider those and we'll try to address those.

One of those objections that we've heard a few times is that we'll never do 72 units a year, it's not possible. In fact, it is. And you have these particular projects, these three projects which have – there's been discussion that there either/or involved, and some folks, myself included, have said we should do them all. And this is why: the Pennikese is four units. Oshman Way, I talked to Bob Murray, he told me he plans 14 units there, if possible. Webster Woods tonight, we're suggesting 14 units. In total, this gets us to 44 percent. That's almost half of our goal for just this first year, ladies and gentlemen. And there are other projects in the pipeline. There's the Teaticket project, there's the potential for Atria. All of those permits in total, ladies and gentlemen, will get us to our first year. And then there's the next and the next and the next.

Every unit counts, which is why we should be doing every unit we possibly can.

Next slide, please.

MR. FINNERAN: Reason number four: we're going to build here anyway, past and present leaders agree. Selectmen Bumpus and Murphy had plans to use this for municipal use. With

this plan there's still 1.86 acres available and it's still open. I mean, you can use it for whatever you want. Ball fields, a desalination plant, but that's unlikely from my understanding of these things are now on like ships and barges, it's more efficient. And, in 30 years from now, you can tear it down and restore it.

MR. PUTNAM: And that's worth noting too, folks, because right now the immediate need that we have is for affordable housing. And if in 30 years the affordable housing issue has been resolved either through this or other means, we may be able to redevelop the parcel. And if we need a desalinization plant, we could do that. In fact, we've got the Bartolomei parcel that was purchased – or, we approved the purchase just a few moments ago. There's a house on that parcel which we are removing in order to make that open space according to the definition of the law.

So, there are options if we go ahead into the future. We have to address the issues we face now.

Next slide, please. You know, there's that old saying about seeing the forest for the trees, and believe it or not, folks, this is an environmentally friendly project. What we're proposing here is a cluster development in that we're going to be putting seven units per acre on two acres. Relatively dense and, in the scope of a

larger project, it would sort of boggle the mind. But here what we're doing is in addition to making a relatively dense cluster project, we're setting aside, at least with this article, we're proposing 80 percent. 80 percent would be set aside, folks, for open space. Two acres will be used for development. Your typical 40B, if you want to get 14 affordable housing units, the same thing that we're doing here, you would have to accept 42 market rate units as well. At an average of a quarter of an acre for each unit, you're talking 14 acres. So, in the context of either/or, when we talk about how do we resolve this issue of affordable housing, what is the best way of dealing with this issue, what is potentially the least environmental impact, a project such as this, which could be a model, something that when somebody comes to us with a 14 acre parcel and they want to put a 40B, we could say, "Folks, look. Look at what we did in Webster Woods. We set aside 80 percent of it as open space and built a cluster housing development." And this is the sort of thing that we can point to and say, "This is the way we should be building affordable housing. This is the way we should be building any housing, because it's a two-fer." You know, we talk about those two-fers, getting two things for the price of one. We'd get the open space and the affordable housing.

Next slide, please.

MR. FINNERAN: Reason number two: we don't have an open space crisis, we have an affordable housing crisis. That's a quote from the Falmouth Board of Selectmen. If you can see, the goal of open space is 25 percent; we already have 23 percent; we're at 92 percent of the goal. I mean, that deserves a grade of A. Affordable housing, the goal is ten percent; we're barely over five. That really deserves a grade of F.

MR. PUTNAM: And reason number one –

MR. FINNERAN: They got my good side.

[Laughter.]

MR. PUTNAM: Control our own destiny, folks. You know, for a long time we've wrestled with the issues of 40B's, and we've got for example Little Pond Landing is still out there, and it's still a thorn in our side. The reality is is that we can take charge of this situation. We can the proverbial take the bull by the horns. And we can develop affordable housing as a town. As a town. And it's almost scandalous. In the last six years, folks, this town as a town, as a government, we have developed three units of affordable housing. Every other unit of affordable housing in the Town of Falmouth has been done by some private developer or some private organization, be it for profit or non-profit. We, as a town, have built three units in six years.

Tonight, we can do this project. We can take the bull by the horns, we can take a leadership role and develop the affordable housing and get the job done.

MR. FINNERAN: I got an award the day that picture was taken, for being outstanding in my field.

[Laughter.]

MR. FINNERAN: That's not me.

MR. PUTNAM: Who is that?

MR. FINNERAN: That's my friend Mike.

We gave you the ten reasons. I mean, we believe it's a good compromise. All the villages in this town should be in this together and we should work together for the common goal.

MR. PUTNAM: One Town, folks. You know, there's all this talk about village versus village and realistically that's why, when we stand up here tonight, we're calling this Webster Woods, we're calling it 419 Woods Hole; a rose by any other name. What we need to do here is address an issue, and the issue is affordable housing. We need to work together to address this issue. From this day forward. And we're asking for your support and your vote for this article. Thank you.

THE MODERATOR: Okay, Mr. Murphy.

MR. FINNERAN: Thank you very much.

THE MODERATOR: Mr. Murphy.

MR. MURPHY: Thank you. If we can get rid of his slide, though, I'd appreciate it.

[Laughter.]

MR. MURPHY: Before we get going, folks, you know, I often use analogies about dogs, but this dog is getting tired of this fight. And that's what it is. It is being very divisive in our community, this particular project. And in my mind it is because of the location. It is because of some resentment which is not typical of people who live in Falmouth. Falmouth does not exemplify what this is all about.

If I go through some points to you, and I don't have an elaborate PowerPoint tonight, because we've all been through those. I will say that a lot of what was said tonight about affordable housing was true, but not on this site and not in this location.

The disparity that is here is the fact that a community, meaning a village -- and that village could have been any part of this town. You know, I believe in term limits; that's why I'm stepping down. You may see me again, but I'll surely be sitting in your seat next year as well. But we're a community working forward and I have always and I will always support folks in each and every individual village in this community.

Our village system is as strong as Town Meeting. And if you're going to be part of the problem, get out of the way, but you need to be part of the solution. And that's what brought about the alternative to 419 Woods Hole Road. If you say that we can have both, yeah, you could have both, but you'd betray the folks that actually came up with an idea and an ideal and worked their butts off to create that to come up with an alternative to save what was near and dear to them.

Near and dear to me? Not necessarily. But, you know, my needs and my wants ultimately will come back around because what goes around comes around. If I allow this to happen to people who worked hard to come up with an alternative in their village, what will happen the day that I want it in my own village? That I want it in an alternative? And I work hard and then they pull the rug out from under me? I will say that the community got together and come up with that alternative.

Part of the process, the village people, the 300 Committee people all think that this property is good enough and has historic significance as well as the fact that it's open space. I personally would like to save this property and not put a conservation restriction on it because I don't foresee us building on this property but, you know what, in 20 or 30 years, when I'm not

here, someone else might want that opportunity in our government. They might want another school there, I don't know.

One of the issues that they showed you was that their project would go right around the fire station. That would eliminate any expansion of that fire station. And although I do believe both the folks that spoke tonight are noble, they surely are not developers, and their concept of how to put something in the ground is in fact that: just a concept.

What we're proposing in the alternative – and when I say “we”, I have just tried to be a facilitator in this and listen to these folks. What is being proposed is that we would get affordable housing units on the ground, and much quicker than normal. The Oshman Way property is a reality. And we have continued to move through, not be deterred by the fact that there is a parallel track to try to continue to develop 419 Woods Hole Road at this time. Why? Because we're trying to take the high road. We're trying to show you that there is a commitment there and these folks say that this commitment won't end just on developing the Oshman property and the Pennikese property, they'll continue to try to develop additional affordable housing in Woods Hole on the books. That's the difference, whether it's on the books or not.

The Oshman property – pardon me, the Wise project is

already through the Cape Cod Commission. The Wise project has already gone before the Planning Board and it is my understanding that they will be rendering a decision next week. I understand – and I know there has been no formal approval of this – that the process has gone very well. The Historic District Commission has approved the project conceptually; they're just waiting for that project – for the written determination. And the last step for the Wise project would in fact be the Zoning Board of Appeals. That being said, they have worked together with Mr. Wise who wants to help that village save what is important to them, which is 419 Woods Hole Road.

I do have one slide that I'd like to show you, and it's a letter from Mr. Wise that surely will help make you understand that this is a little bit of a reality. And if I could read the letter to you.

“Dear Kevin, I'm pleased to advise you that recent negotiations in the Oshman property have been successful. An April 30<sup>th</sup> closing date has been scheduled for the Falmouth Housing Corporation to take title of the property. They can then move forward with the development of the project independent of our schedule for my facility.”

Folks, that's how much commitment is there. They're going to move forward with this project on the Oshman Way before

the permits are in the ground. Before everything is there. And folks, this is a gallant effort. Mr. Murray will be taking control of this property after April the 30<sup>th</sup>. We won't be having to use and find and bid and try to go out and find a developer for the property; we have one in place who can in fact make some affordable housing a reality in Woods Hole.

I don't want to beat a dead horse. We've been through this. This is roughly 14 units there. The mitigation would be another five units on the Pennikese property. That won't happen until after the permits are in place and that won't happen in fact until after the project's developed. But in the act of good will, we're moving forward the additional affordable housing units that would replace or supplement or be the swap for 419 Woods Hole Road.

The alternative. You know, folks, things like this can be divisive. But if we work together, we can do things like this, come up with alternatives, get them on the ground, get affordable units going forward.

Now, I'd like to dispel some of the things that were said to you. There is first of all there is no way that this community is ever going to get to ten percent. I'm sure most of you know it in the back of your mind, but if you talk to the Planning staff, you talk to anybody, ultimately we will never be able to build our way or buy

our way to ten percent affordable housing.

The Affordable Housing Action Plan just helps us have some control of our destiny.

I won't pick apart their entire – their presentation, but if we're going to tear down a project we're going to build in 25 years, how great is that project going to be? I built my house here in Falmouth 25 years ago and I love it as much today as I did then. I surely don't want to build something that we're going to consider tearing down in 25 years.

Thanks, folks. I hope that we put this to bed tonight and make sure that we can continue to allow the folks who want to find an alternative in this village and every other village in this town. Give them the idea and the ideal that if you ask them to do it, if they provide it for you, you won't continue to give them that cow. Thank you.

THE MODERATOR: Mr. Duffany.

FROM THE FLOOR: Question.

THE MODERATOR: Mr. Duffany. Where's the microphone?

MR. DUFFANY: Michael Duffany, precinct 6. I just want to say quickly that the feasibility study brought out a lot here. I've said this before. It's brought out a lot more than you'd ever

expect for 40,000 or so dollars. It's actually helped to bring a community out to find a viable alternative, which we can do now, and isn't going to cost us any money. We can always come back to this at another point in time if we need to. As Kevin said, we don't have to really move on it at all at this point in time.

And I'd like to say that that to me is part of what makes Falmouth as great as it is, that together we can and this has proven it here with Christopher Wise and the Oshman property and all of the involvement from so many people that have sought an alternative to this site, because one of the things the feasibility study did point out is this might not be the most ideal site. And so I would urge you to vote this down and to let the Oshman property come to fruition. We can always visit it again.

And, in closing, I just want to say let's not any of us kid ourselves about affordable housing in the Town of Falmouth. Affordable housing, for what's on the books, is what is deeded as affordable housing. And I think that most people in this room know that there is so much more affordable housing in the town of Falmouth that's not being counted, you know, just because of that. So I just want to – I don't want to keep hearing that because that is a misnomer, if you will. And would urge that we vote this down.

THE MODERATOR: If you'd just pass the mic to your

left, there, thanks.

FROM THE FLOOR: Mr. Moderator, as a Town Meeting member, I find a contradiction in terms immediately on this article. We have the second speaker, a Selectman, as a proponent, the third speaker, a Selectman, is opposed to this article. As I read the article, it says "To authorize the Board of Selectmen," and then if you read further down the recommendation of the Board of Selectmen is indefinite postponement.

We're split on this. I'd like to ask you or ask the Chairman of the Board of Selectmen through you what is the position of the Selectmen on this article?

THE MODERATOR: Mr. Chairman.

CHAIRMAN MUSTAFA: Mr. Moderator, at our meeting, we voted indefinite postponement.

THE MODERATOR: Okay, Mr. Freeman.

MR. FREEMAN: Four years. 19 – excuse me. 2004 this 419 Woods Hole Road became before us. Four years of nothing but contentious, controversial discussions and hearings. There is a solution to this. The solution is we need affordable housing. There is no question. The Little Harbor Road – which people call Pennikese building – Oshman Property and 419 Woods Hole Road are all needed. And we can solve the problem and our

commitment for the 72 or 73 units that were required. We right now have 5.32 percent of affordable housing of the ten percent that goes back to 1969 that we were supposed to have.

First of all, Oshman Way, the 14 units that can be put there by Bob Murray, that's a must. The four units that are in the Pennikese Building is a must, and the 14 units at 419 Woods Hole Road is a must. Those put together, makes up the difference. We'll have 72 or 73 units that we're supposed to have. Bob Murray, on Teaticket Highway, by the old VFW building, is putting in 39 units. That's a done deal. That has been approved. You add the 14, 14 and 4, okay, for 32 more units and we've met our goal.

The comment that was made, if everybody takes a look at the map, on the I'll call it the southern portion of that, is where the fire station is. Takes about one acre. The acreage that's going to be needed for the 14 units is up in the northeast corner. Nowhere near imposing upon any expansions should it be necessary for that fire station.

FROM THE FLOOR: [Inaudible talking.]

THE MODERATOR: That wasn't –

MR. FREEMAN: What is the problem?

FROM THE FLOOR: Question.

THE MODERATOR: That is an incorrect statement, I

believe. Mr. Putnam, do you want to address that? Is it the northeast corner or is it near the fire station, as you said?

MR. PUTNAM: No, Mr. Freeman, what has been suggested tonight is to build next to the fire station on what is probably the – it is a level area with fewer trees than in the northeast corner which created some –

MR. FREEMAN: That was my misunderstanding, then. Is there any problem with having those units built near the fire station? Is it right on top of the fire station? Through you, Mr. Moderator, can he answer that question?

THE MODERATOR: Mr. Putnam.

MR. PUTNAM: There should be no problem. Every other fire station in the Town of Falmouth has houses directly adjacent to them. In fact, we managed to somehow expand the downtown fire station like that, so.

MR. FREEMAN: Okay. Well, the plan that I had seen some time ago, I mean, there's been so much going on in the last four years, I thought it was on the other side. But it doesn't matter –

THE MODERATOR: Okay –

MR. FREEMAN: – there still will be no interference with expansion of the fire station. This will make us solid for this year for the 72 or 73 units that we are required under the new

housing plan. Thank you, Mr. Moderator.

I would suggest strongly that we vote this as amended, positive. Thank you.

THE MODERATOR: Okay, Mr. Murphy.

MR. MURPHY: Carey Murphy, precinct 7. Everybody in this room at this point knows where I stand on this issue. There's been some very good points made tonight. There's some statistics, there are some parallel projects moving forward with Kevin Murphy's group and others with Mr. Wise, and I think we all appreciate that. But I don't think there's a Town Meeting member here that hasn't got his mind made up about this issue tonight and so I would ask through you, Mr. Moderator, that you call the question please.

[Applause.]

THE MODERATOR: This requires a two-thirds vote for the question and the main motion to authorize a lease is a simple majority, is that correct, Mr. Duffy?

MR. DUFFY: Yes.

THE MODERATOR: Okay, so the main motion would be a simple majority, but a two-thirds majority to close discussion. All those in favor of closing discussion, signify by say Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

THE MODERATOR: The opinion of the Chair is that the Ayes have it by a two-thirds and discussion is closed.

The question will now come on the main motion for Article 32 as printed, striking the word “workforce” and inserting “affordable” as –

MR. JOHNSON: Point of order, Mr. Moderator.

THE MODERATOR: Mr. Johnson.

MR. JOHNSON: We voted this article last year –

THE MODERATOR: Yes, and you put a conservation restriction on it; that’s why it was a two-thirds vote.

MR. JOHNSON: The town is giving up a lease that –

THE MODERATOR: No, the reason why we had to vote two-thirds last time was because the main motion had a conservation restriction in it. Mr. Duffy, do you want to answer the question if they don’t believe me?

[Laughter.]

MR. DUFFY: The situation was different; the question was different last year.

[Laughter.]

MR. BOYER: Mr. Moderator.

THE MODERATOR: Mr. Boyer.

MR. BOYER: Mr. Moderator, Peter Boyer, precinct 5.

Is this not disposition of land and therefore requiring a two-thirds vote, it somehow is exempt from that definition?

MR. DUFFY: Well, this article doesn't really tell you much about what they're going to do. They simply ask the Selectmen to enter into a lease; it doesn't say for how many years. It doesn't define the property. You know, if you were asking it for a much longer period of time, say 50 years or something, that may have something to do with it, but this could be 11 years, I don't know. So, I think a majority is enough right now.

THE MODERATOR: What we'll do here is we'll take a counted vote on this so that if we find something else in the future, you've got a number to work with, okay? We'll do it that way, even though all my legal advice is that this is a simple majority.

So, all those in favor of Article 32, the main motion, signify by standing and the tellers will return a count. All those in favor of Article 32, signify by standing and the tellers will return a count.

FROM THE FLOOR: [Inaudible.]

THE MODERATOR: There is no amendment. The

main motion is as printed. Mrs. Tashiro, could you come back to the front, because we can't seem to get it right. Everybody sit down.

There is no amendment. The main motion as placed on the floor by Ms. Kozens-Long is as printed, striking the word "workforce" and changing it to "affordable", and then after the word "housing" saying "as defined by the Department of Housing and Community Development". That is the main motion. You either want to do it or you don't. If you do, please stand, and the tellers will return the count.

[Pause.]

THE MODERATOR: In the third division, Mr. Hampson.

MR. HAMPSON: 16.

THE MODERATOR: 16?

MR. HAMPSON: One, six.

THE MODERATOR: In the second division, Mr. Dufresne?

MR. DUFRESNE: 36.

THE MODERATOR: 36.

And in the first division, Mrs. Tashiro?

MRS. TASHIRO: 33.

THE MODERATOR: 33.

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

[Pause.]

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

MRS. TASHIRO: 16.

THE MODERATOR: 16.

In the third division, Mr. Hampson.

MR. HAMPSON: 45.

THE MODERATOR: 45.

And in the second division, Mr. Dufresne.

MR. DUFRESNE: 58.

THE MODERATOR: 58.

By a counted vote of 85 in favor and 119 opposed, there is no majority. Article fails.

Article 34. Article 34, the recommendation of the Board of Selectmen is indefinite postponement. This is to vote to require as part of the publication of the warrant for all Town Meetings the inclusion of a table itemizing all capital exclusions, debt exclusions and overrides. Someone on the left held this. Ms. Finnell? Okay.

Can we get a microphone over here. Can I get a microphone down here on my left, please.

MS. FINNELL: Margo Finnell, precinct 8. I'd like to make a positive motion for this article and if Mr. Bailey is still here, I'd like to ask him to speak to this. Is Mr. Bailey still here?

THE MODERATOR: Yes, he's out back there.

MS. FINNELL: Thank you.

THE MODERATOR: So your motion is as printed?

MS. FINNELL: Yes, positive motion as printed.

THE MODERATOR: Okay, as printed.

Mr. Bailey.

MR. BAILEY: Sure you want me to do this?

[Laughter.]

MR. BAILEY: I'm not really sure why I'm being asked to speak to this article, because I'm in favor of the indefinite postponement.

[Laughter.]

MR. BAILEY: Ms. Finnell and I have talked quite a bit about this article, and it's the position of myself and I think members of the Board of Selectmen that the warrant is not the place for this information to be placed. The information's too complicated. The warrant just doesn't seem to be the correct place.

We have, as an alternative, tried to develop a website where we can deliver the complete information that will help Town

Meeting Members make an informed decision. I think Heather's got a PowerPoint with a little bit of the information, you know, some of the stuff we've been working on for the last couple of weeks since this article has come to light.

One of the items – I'm not sure what order this PowerPoint is in. Do you want to just run it?

This is the information that would be on the – in the warrant booklet. There are only two overrides currently in effect, anyway. Those aren't going to change in the near future, so that part's easy.

The next slide. There are I believe 13 debt exclusions. Those do change, and that's where it becomes complicated because these debt exclusions are – well, it's hard to explain how complicated these become. We've got 13 debt exclusions, but we've got about five pages that we deliver of information about these debt exclusions every year to the Department of Revenue in setting the tax rate. They're multiple bond payments on each debt exclusion. They change from year to year depending on how much we get for reimbursement on each item. They are – they do not lend themselves to a very simple explanation.

This is the simple explanation but it's a bit deceptive. For example, the library, at \$564,000, that's a I believe a 25 year

bond. But, next year, that figure's going to be 225,000, maybe 250,000, something like that, because we're getting reimbursements on that money.

The New Silver Wastewater Treatment plant will be paid 70 percent by the abutters to the project. There's all sorts of money that comes and goes to offset this debt that is not easily explained. I won't try to explain it any further here.

We have, as I said, developed a website where we're going to work with the various departments. This is a little bit of the website that's up there right now. We've developed a tool to help people calculate the impact of debt exclusions or any other budget item on the tax rate and on their individual tax bill. You can input whatever budget item you want, hit "calculate", it'll come up, tell you the effect on the tax rate. Put in the value of your home, hit "calculate", it'll tell you the impact on the value of your home.

This is up there right now. It's sort of in a rough stage. As I say, we've only had a couple of weeks to work on it, but it's a nice tool. The budget is up on the website. You can also look at the budget itself. You can put any item you want on this tool.

Is there another slide? Good, no.

[Laughter.]

MR. BAILEY: What we would propose is to get

together people from – someone from the Selectmen’s Office, maybe somebody from the FinCom, Town Meeting Members, a small committee, and develop this website in a way that it’ll be a useful tool to the members of the Town Meeting. As I say, I don’t think anybody’s got anything against the concept of putting this information in the warrant, it’s just that we don’t think it’s going to help you. And it could do more harm than good.

What it has been is an impetus for us to really get moving to get this information out there. We understand that there’s a need for it. We just think there’s a better way to get it done.

So, between now and the Fall Town Meeting, as I say right now we’ve got probably five pages of information that’s sort of hidden at the bottom of the Assessor’s page right now, but we’ll expand upon that. We’ll make it better once we get better minds working on it than mine.

And that’s all I’ve got to say about it. Is that okay?

FROM THE FLOOR: Question, question.

THE MODERATOR: Okay, further discussion on Article 34?

Looks like we’ve made some progress on some transparency and we’re going to develop that website. I know at

our briefing last Thursday morning we had heard from a lot of the precincts questions about particular line items in the budget, and I recommended that we post the entire Finance Committee's budget on the website, and that went up that afternoon. So, I want to thank the Falmouth IT Department for being able to do a quick turnaround and meet that need. And we'll continue to develop these forms of outreach for Town Meeting Members to have all the information before the meeting.

Hearing no further discussion on Article 34, the question will then come on the main motion as printed. All those in favor of the main motion as printed to require that this be published in the warrant, 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.

Mr. Chairman, Article 35.

CHAIRMAN ANDERSON: Mr. Moderator, I move that all articles considered in this Town Meeting be funded as voted for a total of \$108,274,628, and that the Board of Selectmen be requested to place a question on the May, 2010 Town Election

ballot as voted in Article 30.

THE MODERATOR: Okay, you've all heard the main motion: \$108,274,628 and we put the Charter question on next year's ballot. All those in favor of the main motion, signify by saying Aye.

[Aye]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it unanimously.

Before we leave, I want to thank Don Drew from the School Department for painting these walls. We were thinking about another coat to get a more reflective picture, and I want to thank all petitioners for actually following the guidelines that were set forth by the Town Meeting Members at the last Town Meeting.

At this time, I'd recognize the Chairman of the Planning Board for – of the Board of Selectmen for notification of the next Town Meeting.

CHAIRMAN MUSTAFA: Mr. Moderator, I recommend November 9<sup>th</sup> for the Annual Town Meeting. November 9<sup>th</sup>.

THE MODERATOR: Okay, the Board of Selectmen has set for the Fall Annual Town Meeting November 9<sup>th</sup>.

Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Moderator, ladies and gentlemen, I move the April, 2009 Town Meeting be closed.

THE MODERATOR: You've all heard the main motion to close this meeting. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it and we are dissolved.

[10:45 p.m. Whereupon, the meeting adjourned.]

C E R T I F I C A T E

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 audiographic recordings taken in Falmouth Town Meeting, April 7, 2009, to the best of my knowledge, skill and ability.

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

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