

**Vol. One
165 pages**

COMMONWEALTH OF MASSACHUSETTS

TOWN OF FALMOUTH

SPRING TOWN MEETING

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

MODERATOR: David T. Vieira

TOWN CLERK Michael C. Palmer

Monday, April 5, 2010

7:00 p.m.

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P R O C E E D I N G S

THE MODERATOR: Will all Town Meeting Members please come forward and take your seats. I want to remind all Town Meeting Members that we're being broadcast live on FCTV-13, so please make sure you introduce yourself by name and precinct each time you speak. Don't forget to sign in; attendance will be published in the Falmouth Enterprise.

Our 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.

Okay, folks.

You can't hear me out there? Will all Town Meeting Members present please come forward and take your seats.

Again, our 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 a quorum.

[Pause.]

THE MODERATOR: In the first division, Mrs. Tashiro? I can't hear Mrs. Tashiro. In the first division?

MRS. TASHIRO: 53.

THE MODERATOR: 53. Thank you, Mrs. Tashiro.

In the second division, Mr. Dufresne?

MR. DUFRESNE: 84.

THE MODERATOR: 84? Okay.

And in the third division?

MR. HAMPSON: 62.

THE MODERATOR: 62.

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

Would all present please rise for the presentation of the colors by Boy Scout Troop 42 and the Brian Baru Pipe Band.

[Song by Brian Baru Pipe Band.]

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

[Pledge of Allegiance taken.]

THE MODERATOR: At this time, we'll have the National Anthem, played by the Falmouth Town Band Brass Choir.

[National Anthem played.]

THE MODERATOR: At this time I'll introduce George Hampson for the invocation.

MR. HAMPSON: Heavenly Father, may our meeting this evening not only be an exercise of care and concern for our community and its residents, but also an example of how a community can agree and disagree and still be a community. We ask you to watch over and protect our families, our community, our nation and our world. May your gift of peace become a reality for all. Amen.

THE MODERATOR: Since our last meeting we've had four sitting Town Meeting Members who have passed, and in their honor the Brian Baru Pipe Band will be playing Amazing Grace. From Precinct 1, Katherine Abrams; from Precinct 3, Charles Russell and Elizabeth Marley; and from Precinct 8, Randy Peet. The Brian Baru Band with Amazing Grace in their honor.

[Amazing Grace played.]

THE MODERATOR: Colors post.

The Brian Baru Pipe Band and Boy Scout Troop 42.

[Applause.]

THE MODERATOR: This evening, before we get started with our Annual Town Meeting, I'd like to introduce a group of young men in Falmouth who many of you may have not known until this last basketball season. But tonight with us we have the Falmouth High School basketball team, the Falmouth Clipper team, who just broke a 47 year streak and won the Eastern Massachusetts Championship. And tonight, if we could have the team come down under the leadership of Paul Lundberg. Paul.

[Applause.]

THE MODERATOR: Now, I didn't know Paul until about a week ago, and Paul was sharing a story with me about what's happened over the course of this championship. Paul said, "You know, my family's from up in the Boston area, and when folks went to the game and saw how much community support there was for the young athletes from Falmouth," he said, "it was overwhelming not only to the team but to the spectators from the other teams and other communities." And, under Paul's leadership, some of you may be aware that Paul is the 2010 Boston Globe Coach of the Year. So, Coach, congratulations.

[Applause.]

THE MODERATOR: And, being as humble as he is, he said, "You don't have to mention that when they come down; it's about the boys tonight." So, young men, congratulations, you did Falmouth proud, and we look forward to next season.

[Applause.]

THE MODERATOR: At this time, I'd like to start with the dispensing of the reading of the warrant. Madame Chairman of the Board of Selectmen for the main motion.

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

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

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

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

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

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

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it.

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

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it.

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

MR. VOLOSEVICH: Mr. Moderator, Town Meeting Members, Robert Volosevich, Clerk/Secretary Planning Board. In accordance with Chapter 40A, Section 5, Massachusetts General Laws, and Article 43 of Falmouth Zoning Bylaw, public hearings were held on February 9th and March 2nd, 2010 on Articles 9 through 11 for the April 5th, 2010 Annual Spring Town Meeting and all those who wished to speak were heard.

THE MODERATOR: Thank you. If all Town Meeting Members will go to the back of your warrant book, the back cover, we'll

briefly go over the Rules for Town Meeting.

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

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

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

Our hours of operation tonight are seven o'clock; each subsequent night seven o'clock, and we'll close at eleven o'clock unless Mr. Hampson moves for us to stay late, and then we'll take a 2/3rds vote.

At this time, we'll begin with a blanket vote. On the blanket vote, I'll go through each article in the warrant, give a brief description, calling your attention to the recommendation if it's different than what's written in the article. If you'd like to change what's written in the recommendation, just stand up and yell, "Hold"; we'll hold the article.

I'll run through the entire warrant twice and then I'll take a motion from the Finance Committee Chairman to approve all articles that were not held as recommended as the official business of the Town Meeting. And then we'll go back to Article 1 and take up each article that was held.

Article 1 to choose town officers is a hold. Article 2 to hear committee reports is a hold.

Article 3 to authorize the Board of Selectmen to settle claims and suits.

Article 4, to authorize the Board of Selectmen to apply for and accept state or federal grants.

Article 5, to assume the liability in a manner provided by Section 29 of Chapter 91 of the General Laws. This is for work to be performed by the Department of Public Works of Massachusetts.

Article 6, to fix the salaries of elected officials.

Article 7, to create a revolving fund for the Cultural Council, called the Cultural Council Revolving Account.

Article 8 will be a hold.

Article 9 will be a hold by the Planning Board for its recommendation.

Article 10 will be a hold by the Planning Board for its recommendation.

Article 11 will be a hold by the Planning Board for its recommendation.

Article 12, vote to amend the Town's position classification plan for the Human Services Department by deleting a principal office assistant at 20 hours and a principal office assistant at 18 hours, and adding a principal office assistant at 37.5 hours.

Article 13 is the budget; it's a hold by the Finance Committee.

Article 14 is the Capital Improvement Program, to raise and appropriate the sum of \$1,011,030.

MR. JOHNSON: Hold.

THE MODERATOR: Who's holding this one? Okay, Mr. Johnson.

Article 15, to raise and appropriate the sum of \$650,000 for the repairing of the roof at the North Falmouth and East Falmouth school buildings, and that this be under a Proposition 2 ½ exclusion.

MR. RHODES: Hold.

THE MODERATOR: Who's holding that? Mr. Rhodes.

Article 16, to appropriate \$1,925,000 to repair and expand the main marina bulkhead at 180 Scranton Ave., and that the Board of Selectmen is authorized to borrow.

MR. SHEARER: Hold.

THE MODERATOR: Mr. Shearer.

Article 17, to appropriate the sum of \$1,015,000 to repair and reconstruction of the marine bulkheads at the Tides Landing, Robbins Road and Simpsons Landing in Falmouth Harbor, subject to a Proposition 2 ½ exclusion.

FROM THE FLOOR: Hold.

THE MODERATOR: Article 18, I believe it's a hold by the Community Preservation Committee.

Article 19, vote to appropriate the sum of \$81,318 to fund administrative expenses of the Community Preservation Committee.

Article 20, vote to appropriate the sum of \$295,000 from the Community Preservation Act estimated receipts, to the reserve for the purpose of community housing.

Article 21 is a hold by the Community Preservation Committee.

Article 22, the recommendation is indefinite postponement. This is a sum of money into the Open Space Reserve.

Article 23 is a hold by the Community Preservation

Committee.

Article 24, vote to accept the provisions of the General Laws Chapter 40, Section 22F relative to the authority of the Town to fix reasonable fees for licenses, permits or certificates issued pursuant to statutes or regulations.

Article 25, to see if the Town will vote to amend Chapter 213 of the Code of Falmouth, Vehicles and Traffic, by adopting the following noise abatement bylaw.

Article 26, a hold by Mr. Schmitt.

Article 27, this is – the recommendation is indefinite postponement. It's to see if the Selectmen would roll back the recent 62 percent water rate increase.

FROM THE FLOOR: Hold.

THE MODERATOR: Article 28, to ask Selectmen to revisit the dump issue; the recommendation is indefinite postponement.

FROM THE FLOOR: Hold, hold.

THE MODERATOR: And Article 29 is the funding article. That will be a hold by the Finance Committee.

Okay, I'm going to run through it one more time.

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

Article 3. Article 4. Article 5. Article 6. Article 7.

Article 8 is a hold. Article 9 is a hold. Article 10 is a hold.

Article 11 is a hold.

Article 12. Mr. Shearer. Yes, Mr. Shearer's holding Article 12.

Article 13 is a hold. Article 14 is a hold. Article 15 is a hold. Article 16 is a hold. Article 17 is a hold. Article 18 is a hold.

Article 19. Article 20.

Article 21 is a hold.

Article 22.

Article 23 is a hold.

Article 24. Article 25.

FROM THE FLOOR: Hold, hold.

THE MODERATOR: Sometimes the blanket is quicker.

Article 26 is a hold. Article 27 is a hold. Article 28 is a hold.

Article 29 is a hold.

Mr. Chairman for the main motion.

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

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

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it.

Mr. Chairman.

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

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

Article 1. Article 1 is to choose all necessary town officers. This would be the Finance Committee. I have in my possession the slate of five current Finance Committee members who are completing a three year term and wish to seek reappointment and I'll submit their names to nomination: Gary Anderson, three years; Joseph Drolette, three years; Adrian Dufresne, three years, Gardner Lewis, three years; and Matthew Murphy, three years.

Are there any nominations for the Finance Committee from the floor? Hearing none, the Chair will entertain a motion to close nominations. So moved. All those in favor of closing nominations, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The nominations are closed. All those in favor of the slate as presented to the Finance Committee, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

Congratulations on your reappointment and thank you for the hard work you're all doing on the Finance Committee.

[Applause.]

THE MODERATOR: Okay, Article 2, to hear reports of committees and town officers. Mr. Chairman for the main motion.

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

THE MODERATOR: Okay, as printed. This is to hear reports. I have the Wastewater Plan Review Committee would like to make a report. Ms. Valiela.

MS. VALIELA: Thank you, Mr. Moderator. Virginia Valiela, Precinct 5. I just wanted to briefly inform the Town Meeting Members that the Comprehensive Wastewater Management Plan Review Committee has been set up by the Board of Selectmen, nine members, and we have one

slide – there we go.

We are meeting the second and fourth Tuesdays of each month, as a general rule, and the three highlighted meetings will be large public meetings that will be held at the Morse Pond School. And I'm saying "public" in the sense that we're looking for wide community comment at those three meetings. They will be run by facilitators with the presence of the committee itself.

All of the meetings are televised. We have a website on the town's – we have a web page on the town's website. All of our agenda and minutes are being posted and we are encouraging the residents and taxpayers to gradually become more familiar with all of the wastewater issues – there are many. The decisions on this project will affect all of us for decades to come, and so we are carefully sifting through the information that has been presented so far and encouraging public discussion.

The three highlighted meetings are going to have specific focuses. The one in May will be on design alternatives for treatment and disposal. The second one in July will be a financial analysis and planning, and that will be presented ideas that have been developed by the Committee, particularly Peter Boyer. And the one in August will be our facts and findings at that point in our analysis.

We may need more meetings, but we know at least we will be

holding this many meetings. They're all held in the Selectmen's Meeting Room. They are all televised live, thank you to FCTV.

Please encourage people who do not live here year round to tune in, read in, check in on the website and attend these public meetings. That's where the summer residents and the three season residents will have a chance to learn and to comment.

Thank you, Mr. Moderator.

THE MODERATOR: Okay. Any other town committees interested in making a report? Falmouth High School Building Committee.

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

Ladies and gentlemen, members of Town Meeting. Once again, I stand before you on behalf of the Falmouth High School Building Committee to present another status report on our project. I am pleased to report that we are in the final stage of completing this renovation of Houses B and C. We are confident that the project will be completed on time for the start of the 2010 school year.

We will present a brief report on the progress made to date and the final steps necessary for the completion of this project, and at the end we will entertain a few questions as time allows.

Next slide, please. This report includes the topics listed in 13 pictures to demonstrate specific parts of the project included in the current

Phase 2 work. The basic information on the slides are presented in the one page handout. That's the green sheet we were handing out at the door.

Next slide. Overall, the total project expenditures represent about 82 percent of the project budget. The construction account balance of \$5 million represents about ten percent of the job to be completed. The approximate value of the Phase 2 work is \$18 million and we are 75 percent through that phase with a 4.4 million to be completed. We have a separate slide later in this presentation for equipment and technology expenses.

The portable classroom account balance includes three months of rental fees carrying us through the end of this school year and 225,000 for the fixed fee for the removal of the units.

The Contingency Account represents uncommitted funds and includes 450,000 for Phase 2 unexpected items, of which we have a balance, as of the end of last month, of \$212,000 dollars. Overall, the last – after the last meeting's approved requisition, the Committee has slightly less than 12 million remaining in the appropriate account.

The project expenditures are reconciled monthly with the Town Accountant's office.

Next slide. These are the major benchmarks established in a very complex, critical path management schedule for the completion of this

project. The contractor is on schedule to meet these dates and the detailed schedule is monitored closely on a monthly basis and reviewed weekly at construction meeting. The April mediation session is scheduled to resolve pending Phase 2 construction issues. We believe some of the photos you will see demonstrate the status of the schedule. Several of the pictures compare areas from our last report with areas as they looked last week.

Next slide. The amount of manpower on the job has been of great concern. The chart represents total work hours and the average number of tradesmen working on this project since the implementation of the Phase 1 mediation settlement. In other words, our Phase 2 work. It demonstrates the ramping-up in the Spring and the workers on the job by month. As particular trades and subcontractors complete their work, the numbers begin to drop. Examples of completed sections are spray fireproofing, roofing and fire protection systems.

With site work scheduled to start again in the next few weeks, we expect to see a slight increase in the numbers of workers per day. But as the trades complete their work, these numbers will decline by the end of the summer. All the required trades to meet this project and the schedule are on the job today.

Next slide. Exterior work remaining. The major exterior work to be completed includes the items listed on this slide. We are looking at

the front of the school where the metal siding and the new operable windows are complete. Major site work in the front and to the north of the school is scheduled to start shortly. The very left side of the picture shows the auditorium portion of the building, occupied at the conclusion of Phase 1.

This is a before picture, last November. The exterior windows and siding were underway.

Next slide, please. This is the area last week. Major site work is starting in this area and will be completed by the end of the summer.

Interior work. Major interior work remaining includes the items listed on this slide. The next few pictures will reflect the status of some interior work. This is a second floor science lab. This is a first floor science lab, ready for furniture. This is a before slide, from last November.

Next picture. This is the same area last week with the installation of appliances underway. This area is better known to us, probably, as Home Economics or Household Arts.

This is one of three light wells, and it is another before slide looking from the first floor, up. The light well extends all the way to the lower level. And this is the slide this past week. All three of those light wells are actually almost totally complete.

This is the library entrance. The librarian's office is behind the windows on the near left of the picture. The circulation desk that is on

order and will be installed also in this area. Carpeting is scheduled to be applied in this area by the end of this month.

This is the northeast corner of the library. Wooden shelving and library furniture have been ordered. We expect summer delivery and installation.

Next slide, please. This is the main kitchen area. The ventilation hood is the hanging structure in the center. Ranges, ovens, steam kettles and et cetera will be installed in this area this summer. This week, quarry tile is being laid on the floor.

Furniture and equipment are shown on the financial slide with a current budget of just under \$4 million, and the existing balance at three million two. This slide represents the plan for furnishing the final parts of this project. The furniture and equipment and technology ordered and planned to be ordered are within the established budget for these items.

Safety on the job is an important item; TLT and Gilbane are actively overseeing. Since the last report, there were two accidents. One was an ankle sprain and the other was a hammer accident. Both men are back at work. We use Briggs Engineering to test the various products and systems. Weekly visits by the Building Department have proved very helpful in keeping Phase 2 on track and in compliance with regulations. We have had three visits from the Massachusetts School Building Authority during Phase 2 and a fourth visit is scheduled for this

Wednesday.

We recently received notification that the state reimbursement for this project has been increased by \$1.5 million. These additional funds do not change the overall project budget. They go into the Town General budget and are used to offset bond payments.

Next slide. The Falmouth High School project has been a complex one. We are as anxious as you to ensure that the project is completed within the current budget and as we begin the final stages of this project, every indication is that we will meet our goals. We thank you for your patience and continued support.

In the end, the current and future students of Falmouth will be the beneficiaries of a top-notch educational facility which will allow them to pursue a stellar education. Thank you.

THE MODERATOR: Okay, any general questions for the Committee? Okay, microphone to my left, please.

MS. MURPHY: Thank you, Mr. Moderator. Carol Murphy, Precinct 9, through you. How much money to date has been spent on legal fees of this \$8 million, out of the \$86 million? It's on the third line: Management and Legal.

MR. JOHNSON: I could not hear that.

THE MODERATOR: The Management and Legal, the question is how much was legal.

MR. JOHNSON: That area includes the \$2.1 million settlement, or rather judgment, issued by the court for ARCAD.

MS. MURPHY: The \$2.1 million settlement and what is beyond the \$2.1 million settlement and the legal, the legal to date without that amount?

THE MODERATOR: Mr. Duffany.

[Mr. Duffany and Mr. Johnson confer.]

MR. JOHNSON: Yes, about three and a half.

MS. MURPHY: Three and a half million dollars out of the remaining \$6 million?

MR. JOHNSON: Yes.

MS. MURPHY: Is now being spent on legal? Or has been spent?

THE MODERATOR: Has been spent.

MS. MURPHY: Has been spent on legal. Do you anticipate any more money going to the legal?

MR. JOHNSON: We are in the final stages and this last set of mediation we're hoping will solve the few issues that remain with Phase 2 and will make it so that we do not have a lot of legal fees at the end of this project.

MS. MURPHY: So, do you anticipate that going –

MR. JOHNSON: Essentially I think we're going to hopefully

be within the budget as it's shown.

MS. MURPHY: Mr. Moderator, do they anticipate going over that \$400,000 that's left?

THE MODERATOR: Do you anticipating running over the budget?

MR. JOHNSON: No.

THE MODERATOR: No.

MS. MURPHY: Thank you.

THE MODERATOR: Mr. Woods.

MR. WOODS: Mark Woods, Precinct 4, of Falmouth Finance Committee speaking as a Town Meeting Member. Question would be: I noticed that the numbers indicate that all approved change orders are in that math. Are there any change orders that are not approved out there? And if so, what are they? And if they are in question, could we know what those are?

And then the second part of the question would be do you have enough funds now to complete this project as we expect it, or as the Town is expecting? Do you see or have that vision at this point?

MR. JOHNSON: Yes, we do. There are change orders that are still being negotiated, and that is one of the reasons for having that mediation session, to come to agreement on the actual dollar amount with the general contractor.

THE MODERATOR: Okay, any further questions?

MR. JOHNSON: We expect to be well within the budget.

THE MODERATOR: Okay, Mr. Finneran.

MR. FINNERAN: I don't know if this is true, but I've been told and it's my understanding that along the way through numerous phases of the construction there were such things as water damage, mold and mildew, and I've heard the prediction that this is going to have a negative effect on the longevity of systems and such. Do you anticipate any of that and do you have any extra money to take care of it when and if it happens?

MR. JOHNSON: We have had the areas that we know tested, and in some cases we have had – the contractor has gone back and removed sheetrock and replaced the areas, and there is currently an area in which the walls are going to be totally cleaned. So – and we continually wherever we see any instances of that, we have it tested. And we know the dollar amounts are not very large on this.

THE MODERATOR: Okay, anything else on the high school?
Okay, thank you, Mr. Chairman.

MR. JOHNSON: Thank you.

THE MODERATOR: Any other committees like to make reports to Town Meeting? The Finance Committee? Mr. Chairman.

CHAIRMAN ANDERSON: Good evening. I'm Gary

Anderson from the Finance Committee. A few weeks ago, one of the columnists from the Falmouth Enterprise pointed out that I might benefit from some lessons in joviality.

[Laughter.]

MR. ANDERSON: My happy range has been described as going from gloom and doom to Chicken Little to an upper range of almost smiling. Mr. Clarkson, I'm afraid the needle on the jovial meter won't be moving much tonight.

So, here's a recap. These last 12 months, our Town has had to deal with one financial struggle after another. Reductions in state aid and shortfalls in local receipts revenue, last year and this year, have resulted in painful but necessary budget cuts affecting nearly all of our Town employees.

Additionally, at last fall's Town Meeting, we were forced to spend down Free Cash and Stabilization Fund to fix last year's deficits so we could set the Fiscal Year '10 tax rate. I wish I could say I see a light at the end of the tunnel, but I can't say that just yet. Tonight and tomorrow night, we'll have to make some hard decisions and absorb some more bleak financial news.

Can you back up one? Sorry.

Over the last four months, the Town Manager and the Finance Committee worked together to carefully craft solutions to help us get

through our financial predicament. The Town Manager analyzed historical data, local receipts, and many other critical factors affected our collections and forecasted a shortfall of these revenues for Fiscal Year '10. When his analysis confirmed the Finance Committee's earlier projections, we took quick action to recommend adjustments to the Fiscal Year '10 budget and reduced the Fiscal Year '11 revenue estimates and budgets accordingly. Those recommendations are in the warrant tonight.

We met several times, educating each other, arguing a little bit, negotiating a lot and finally arriving at mutually agreed upon positions to establish reasonable and achievable fixes to the Fiscal Year '10 budget and put forward a rational Fiscal Year '11 budget. The next step was to get help and buy-in from the department heads. I know it was difficult for them to have to go to their employees and tell them they have to do their jobs with fewer resources. They're pitching in and we appreciate their commitments.

But even with these painful budget reductions, we still run the risk of ending this year with a deficit. There are still too many unknowns for us to declare with certainty that we are out of harm's way.

About five years ago, my son from Minnesota came out to visit us. Now, we both enjoy hiking in the mountains, so we drove to New Hampshire to climb Mt. Lafayette. One of the routes to the top is across a Franconia Ridge. And I don't know if any of you have ever been there, but

it's also known as The Knife Edge because of the shear drops on either side of the trail. Well, as luck would have it, a very thick fog set in just as we were starting our trek across that ridge. We couldn't see ten feet in front of us. My son stopped, picked up a stone, and tossed it off to the left.

Everyone knows the eerie quietness you feel when you're enveloped by fog. We listened, but we never heard that stone hit bottom. As you can imagine, we were much less cavalier about our steps as we continued on that trail.

We're walking a figurative Knife's Edge tonight with our Town budget. Any missteps, even though well intentioned, may push us over the precipice into deeper financial trouble. There's danger in deviating too far from our narrow financial path. Tonight and tomorrow night you will hear some requests for additional funding in certain departments. Although these petitioners may present appealing arguments, a stark reality is that Falmouth is still in deep financial distress, and we're likely to remain there throughout Fiscal Year '11.

Our Town cannot afford to take on additional expenditures without asking other departments for even more budget cuts, or finding other ongoing revenue sources to pay for them. Although difficult, we must hold the line on spending.

We will eventually climb out of this financial abyss. However, as we begin to see improvements in revenue, the Finance Committee

strongly advises that the first appropriation of those funds be made to rebuild our reserves, that is the Stabilization Fund, rather than initiate new spending. We absolutely must restore our savings.

By reestablishing this key financial pillar, we will contribute to the security of our bond rating and create a cushion to absorb future financial blows which undoubtedly and unexpectedly will arrive. With the recommendations in this warrant, we've started to take some positive steps that will get us back on solid financial footing. But beyond these short-term solutions, we must also consider decisions and actions which position us for afford-ability of Town and prosperity in the future.

So what are some of the strategies for future fiscal stability? First, as consumers of municipal services, taxpayers in our town must weigh the question of whether we are burdening our Town government with requests for services that we're financially unable to meet given our current level of taxation.

Do we honestly know what services we really need? Or are there some services that a few of us simply want? How much are we willing to pay for them? And what of those who are less able to pay?

Second, in conjunction with answering those questions, our taxpayers deserve to know what our services cost. This means looking deeper, beyond just the bottom-line budget in each of the departments. We need to look at the programs that are embedded and supported within

each department and understand what they cost. By measuring costs and productivity at this level, and comparing them to other municipalities, we will gain insight into whether our residents are receiving fair value for the taxes and the fees that they pay.

Last, the Board of Selectmen needs to provide clear direction for the Town Manager, the Finance Committee and the departments by establishing financial policies regarding the funding of operating and capital budgets. They must also determine affordable and sustainable ways for taxpayers to pay for all the services and to maintain our Town's infrastructure.

But it's not enough to just make policy and set strategy. The Board must also create a mechanism to follow-up to ensure that the policies are adhered to and that the strategies are properly executed.

We've started down the road to recovery from the financial malaise inflicted on us by the recession and by our own spending. The medicine described in the warrant may seem bitter to some, but it is necessary. We need to fix our spending now. But we also need to plan for tomorrow. It is the responsibility of the taxpayers to determine what level of services that they want our government to provide now and in the future. It is the responsibility of town leaders to assess and determine the value of those services and re-think how we should pay for them.

Leaders recognize that they can't please everyone. True

leaders make decisions that are right for the given situation, knowing full well that they won't always be liked. And great leaders make tough decisions in difficult times, accepting the knowledge that what's good for many may disappoint a few.

If our town leaders and Town Meeting take these bold steps, I can see financial stability for Falmouth in the future. But it'll take focus, hard work, sacrifice and decisiveness for all of us. Our town has never shied away from challenges before, and I'm confident that we will continue to make the right choices into the future. Thank you.

THE MODERATOR: Okay. Any questions for the Finance Committee? Any other town committees who'd like to make reports? Hearing none, the question will come on the main motion to accept the reports. 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're done with the reports.

Article 8. Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 8 as recommended, with the following changes. Under item a., the Code of Falmouth Revolving Fund, if you go up to the – it's the third line that starts

with B and go all the way over to the far right. The word “may” should be changed to “shall”. And the same would hold true in items B, C, D and E, where you see the word “may”, that should be changed to “shall”.

THE MODERATOR: Okay, so the main motion is as recommended, changing each of the subsection B’s, the word “may” to “shall”. Any discussion on the revolving accounts? Hearing none, then the question will come on the main motion. All those in favor, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it unanimous.

Article 9. Mr. Chairman of the Planning Board.

CHAIRMAN LATIMER: Mr. Moderator, Richard Latimer as Chairman of the Planning Board. I apologize for not sitting with the other board chairmen, but I have a hearing problem and I just can’t hear when I’m up there, which is why I had to stand down the last time after the Planning Board articles.

And I apologize for that, but I really hear a lot better out here, so that’s why I’m here. There’s nothing else going on there.

The Planning Board moves that Article 9 be passed as recommended.

THE MODERATOR: Well, the recommendation is that you'll make a recommendation, so.

CHAIRMAN LATIMER: Do you want me to read the recommendation?

THE MODERATOR: As printed? Well, the recommendation says you'll give me a motion when you get here.

CHAIRMAN LATIMER: I believe you have the recommendation in the package.

THE MODERATOR: Yeah, it says, "The Planning Board will make its recommendation on Town Meeting floor." As printed?

CHAIRMAN LATIMER: No, not as printed in the booklet. As printed as the recommendation.

THE MODERATOR: Okay, this was an insert? This was the insert that was given out with the warrant booklet?

CHAIRMAN LATIMER: Mr. Moderator, I will read the recommendation. I was under the impression that it had been distributed. Here is the recommendation that the Planning Board is –

THE MODERATOR: Does everyone have an insert from their blue booklet that has Article 9?

FROM THE FLOOR: [Various answers.]

THE MODERATOR: Okay, most have it, but I'm hearing some no's. So, if you can read it –

CHAIRMAN LATIMER: Just to make sure everybody hears it, I will read it.

THE MODERATOR: Yes.

CHAIRMAN LATIMER: Anything to the contrary in the zoning bylaw notwithstanding, the residential use of two or more dwellings on a single lot shall be deemed a pre-existing, non-conforming use if commenced prior to May 19, 1959, and may only be altered, extended or modified by special permit pursuant to this section, provided the Board of Appeals finds through a preponderance of credible evidence that said use commenced prior to May 19, 1959 and has not been abandoned or not used for a period of two years or more.

In approving any alteration, extension or modification, the Board of Appeals shall require that the number of dwelling units shall be limited to the same as in existence on May 19, 1959.

That is the Planning Board's motion. Thank you.

THE MODERATOR: Okay, presentation on the motion?
Yes.

MR. MCNAMARA: Thank you, Mr. Moderator. My name is Matt McNamara, Precinct 7 and Chairman of the Zoning Board of Appeals. This first slide shows the Planning Board's recommendation which Mr. Latimer just read. For those of you who may not have it as the insert in the warrant booklet, this is it for your edification.

Next slide, please. This slide also shows the Planning Board's explanation for their positive recommendation.

Why is this article necessary? This article is in response to a June, 2009 Land Court decision that stripped the property rights of many Falmouth property owners, leaving them with all of the consequences of owning what is now deemed illegal dwellings. A dwelling is defined as a Building or portion thereof used exclusively for residential occupancy, used for living, sleeping, cooking and eating; in essence, someone's home.

The Land Court judge re-wrote the Falmouth Zoning Bylaw retroactively. Approximately 230 properties and the dwellings thereon that legally existed prior to 1959 were made illegal by the court order. Under the current court order, multiple homes, many of which are rented, would be removed from Falmouth's housing inventory.

Next slide, please. This slide shows the actual court order. As you can see, the court made all dwellings when there were more than one on a single lot, illegal. It is important to know what the legal position of the Town has been.

Next slide, please. This is a summary of the legal position. Not until May 19, 1959, were multiple dwellings on a single lot explicitly prohibited. In essence, they were allowed.

Like the Red Sox last night, if you don't make it in the first inning, you keep trying. At last Town Meeting, an article was presented

that in part attempted to correct the court's error. The article was defeated. Upon reflection, the article was too complex and perhaps too broad. The main motion tonight on Article 9, which is the Planning Board's recommendation, is written simply to restore the property rights that have always existed in this town.

Further, at last Town Meeting, the Planning Board recommended indefinite postponement, due to the fact that the Board of Appeals had appealed the Land Court order and the Planning Board was hoping to have a decision from the Appeals Court. Nearly ten months after the court order, there has been no decision. Nor is there any indication of when the appeal will be heard.

Meanwhile, property owners are left with illegal dwellings that are difficult to sell, rent, finance for repairs, insure, are ineligible for permits and are of less value. A reduction in value will mean less tax revenue.

It is important to note that at this Town Meeting, the Planning Board recommends this zoning change with the unanimous concurrence of the Board of Appeals.

In order to have a better understanding of the scope of this problem, I personally reviewed the Assessor's records and discovered what I believe to be 230 affected lots. The next several slides will show 130 streets, located all over town, that have impacted parcels. Next slide, please. Next slide, Bob. Next, Bob. Bob's moving me right along, here.

But hopefully you'll get an idea of them.

All right, you will hear or you have already, that this proposal is without any regulation or protection for neighbors or neighborhoods. This is not true. The goal is again simply to restore what always has existed in Falmouth, by making the bylaw explicit. That is, not open to interpretation by a judge. But don't just rely upon the goal of the Planning Board and the Board of Appeals. Look at the actual language of the amendment and the bylaw that it amends.

This section of the bylaw deals with pre-existing non-conforming structures and uses. The existence of multiple dwellings on a single lot prior to 1959 constitutes a pre-existing non-conforming use. Why? Because it existed before 1959. That's when they were explicitly prohibited. As you can see, the bylaw already demands a special permit for pre-existing non-conforming structures or uses. A special permit requires notification to abutters and public hearing and a determination of the Board of Appeals, which is a five member board appointed by the Board of Selectmen that no change be more detrimental to the existing neighborhood than the existing non-conforming use.

Next slide, Bob. This is the actual amendment that Mr. Latimer read. This slide shows you the amendment regarding the 230 properties. Please note the further protections that are added. Not only would these property owners require a special permit for any changes, but

they would also have to prove that the use existed prior to 1959 and never have been abandoned for two years or more. A critical restriction is also imposed, and that is that the number of dwelling units can never be increased from that in existence in 1959. Further protections already exist in the bylaw.

Next slide, please. This slide shows the guidelines and standards used by the Board of Appeals.

Next slide. This slide shows the built-in protections.

Next slide. Further, the Board of Appeals must determine that any change will not have adverse effects on either the neighborhood or the town.

Next slide. This slide shows what the Board of Appeals must consider before approving a special permit.

Next slide, please. The slide shows further consideration that the Board of Appeals must make.

Next slide. Further considerations.

The next slide shows even more considerations.

And the next slide, please. You have heard that this proposal amounts to a blank check to out of town developers who will condominiumize these properties. It is important to note that the Mass. Supreme Judicial Court has ruled that condominiumization is a form of ownership, not use, and therefore cannot be impaired by a zoning bylaw.

As a consequence, this amendment neither promotes nor prohibits condominiums. In fact, the only place you will find the term “condominium” in our zoning bylaw is in Section 240; 240, which is the Business Redevelopment District, where in fact we actually promote condominiums.

But even if the ownership of these 230 properties were changed, the same rigorous standards would be applied. The use would still be pre-existing non-conforming. It is also important to recognize who owns these properties. Not evil developers, as they’ve been called, but your neighbors, many of whom are here this evening.

Furthermore, when the time comes to sell your home, it might actually be to somebody from out of town. Should that be prohibited?

It has been suggested by one individual that these 230 parcels and their dwellings become affordable housing under certain conditions. What I can’t understand is why these particular property owners are being singled out. It’s as if we should extract a price from these property owners for them to simply get back their property rights.

Please note that both the Planning Board and the Affordable Housing Committee continue to plan for the affordable housing needs of this town. The Planning Board has already rejected this individual’s proposal. As you know, I have made presentations to nearly all of the precinct meetings. One member asked if this proposal made any

properties legal that were illegal prior to the court order. The answer is: no.

Next slide, please. This slide shows a picture of one of the 230 parcels. I'm sorry it's not as clear. This Town Meeting has the ability to correct the court's error like any legislative body. I urge you to do so, and restore our bylaw to our own interpretation and restore the property rights of your neighbors. Should this article be approved by you and the Attorney General, the Board of Appeals will withdraw its appeal and put an end to the continued legal fees. Thank you.

THE MODERATOR: Okay, further discussion on Article 9? Okay, Mr. DeWitt. We've got Mr. Dewitt first and then Mr. Finneran.

MR. DEWITT: Good evening, Town Meeting Members, Ed Dewitt, Precinct 1. I am the other party in the Appeals Court zoning appeal. I did not ask to go to the Appeals Court; the Zoning Board of Appeals asked to go to the Appeals Court.

What is the status of the Appeals Court case? Mr. McNamara pointed out that he didn't know when we would get a decision. In fact, last month the court placed the case on the non-argument list. If I could get the next slide. What this means is the case is basically over. There are no more costs. The only thing that is going to happen is: within 130 days, the case is going to be decided by a panel of the Appeals Court. There's not going to be oral argument, it's been taken off the oral

argument list, and the reason it's been taken off the oral argument list is because the issues aren't controversial. There's no question of law that's in controversy, or the judge has made a plain error, and that's the Zoning Board of Appeals point, that they believe that the judge made a plain error.

How the case is going to come out, no one knows. It would seem to me that you might want to wait to do that, because I think although the article before you tonight is an improvement, I think that there's a little bit more to the story.

Mr. McNamara went through a very long list of inquiries and fact-finding that the Board of Appeals is required to make. Well, those are the exact inquiries that my neighbors asked the Board of Appeals to make in the zoning case that we won in the Land Court.

But I know last Town Meeting there was a lot of criticism from a number of you about what the Land Court actually decided. If I could get the next slide.

Okay, so the decision from the Appeals Court will be out this summer. There will be plenty of time for the Fall Town Meeting to come back and actually get this article right if that's what you want to do.

If I could have the next slide. What did the Land Court actually decide? Okay, there's a number of interesting issues that the Land Court decided that have not been pointed out. The first and foremost is the ZBA cannot ignore or overrule Town Meeting. Town Meeting is the

one that sets the Zoning Bylaw, not the Zoning Board of Appeals. That's what the judge said. I know that's got you out of your seat, Andy, that Town Meeting trumps the Zoning Board of Appeals. And I'm sure that has a lot of people in outrage.

The second finding that the Court made was that the owner of the property failed to produce either a building permit, showing the cottage was a validly constructed residence, or a certificate of occupancy showing that the cottage use was converted to a dwelling, which would trigger either the six or ten year statute of limitations period prescribed in 40A, Section 7.

The majority of properties in the 200 or so property list Mr. McNamara went over are probably already protected. Can you imagine going 50 years and not putting a roof on a building? I think you're going to have some roofing issues for discussion later on tonight, or tomorrow night. Roofs don't last that long; you need a building permit to get a roof. And building permits protect these types of buildings. That was a critical finding that the Land Court made in this case which distinguishes the facts in our neighborhood from the facts in every other neighborhood. Every one of these is different and there needs to be a factual determination.

If I could have the next slide. The owner was attempting to condominiumize it, because one of the things that happens when you turn these into dwellings like this, there's a difference between principal uses

and accessory uses. This no longer became an accessory use, it became a principal use, and that allowed – and Mr. McNamara is absolutely right – that allowed the developer of that property to condominiumize it by right.

Let me give you a little bit of history of what happened, there. Property went on the market, it was a nice bungalow with a garage; \$440,000, okay. They got into a bidding war and a developer ended up prevailing, paid \$525,000 for it, fixed it up, and he marketed the one, the old bungalow at \$550,000 and the garage at \$450,000. So, a nice million dollars for the house that was originally on the market for \$440,000. So when someone says that this is – do you want that garage next door to you to be a condominium complex, this is the way to go, is to vote for this tonight.

More than one principal dwelling on a lot has been illegal in Falmouth since the advent of zoning. I'm going to talk a little bit more about accessory uses later on. But that's what ended up with the Zoning Board of Appeals not making any of those findings that Mr. McNamara said, and the 1959 change simply made what was clearly implicit in the bylaw explicit. And even the bylaw itself says that. That wasn't something the judge came up with. If you read the 1959 bylaw, the note from the Planning Board says, "This was always the law. It was always implicit in the bylaw. We're simply making it explicit now." Because something is implicit in law doesn't make it different than explicit, it just makes it clearer

and less unambiguous in terms of that.

If I could have the next slide, please. The 1959 article that went from implicit to explicit was a housekeeping article, and that was how it was presented within the warrant. Interestingly enough, it passed on the blanket vote.

Second time the blanket vote was used, Mr. Moderator. Bet you didn't know, 1958 was the first time that a blanket vote was used.

It passed without debate and controversy because it had always been the zoning bylaw in Falmouth about having two principal residence.

Can I have the next slide, please? Accessory use. This is how the 1959 bylaw defined accessory use: a use of land or building customarily incidental but secondary to a permitted use. The garage next door to us had been made into an apartment if you could call it that, because the daughter was pregnant and needed a place to live. And that's how it happened. It was part of the family, it was accessory to the family, and that's what went on. And I believe in the 1950's that most of these conversions were made to be accessory to the primary use, not the principal dwelling or a second principal dwelling on the lot, or a third principal dwelling on the lot. And there's no mention of accessory in anything that has been done here, and I think that that's one of the important distinctions.

I'm not opposed to protecting people who have lawful accessory second dwellings, cottages on their property, garage apartments, or whatever. What we're opposed to is streamlining a procedure to turn these into condominiums and go on. I think that Mr. Latimer, who's been passionate on the Planning Board about affordability and condominiumization is right. But there probably aren't going to be 200 condominiums in Falmouth tomorrow, but I bet you within a couple of years there's 50 or 60 of these turned over.

If I could have the next slide, please. Article 9 gives principal use status to the pre-1959 properties arguably having more than one dwelling, provides for condominiumization by right. Mr. McNamara is right that ownership is not something that's subject to zoning. So, if you've got two principal dwellings, you can condominiumize the property by right. And that's why it's a condominiumization bylaw.

If I could have the next slide, please. There's some myths associated with Article 9. The first and major one is that any such properties are illegal under the Land Court decision. The 200 properties impacted, well, if you got a Building permit, if you got a zoning permit, you're not impacted by the Land Court decision. It requires a case by case analysis. Mr. McNamara was correct on that. But not all of these 200 properties are illegal, and I would say the majority of them are probably legal because of a building permit, whether properly or even erroneously

granted.

There is a recent case in Falmouth where someone ended up with a multiple dwelling on Brick Kiln Road because a building permit had been erroneously issued. You get the statute of limitations protection whether the building permit was properly or erroneously granted. So those properties are protected.

If I could have the next slide, please. The Land Court overturned 50 years of precedent. And that was actually an argument made by the Zoning Board in the Land Court. If you look at the court filings, the first time that this came up in terms of a use to condominiumize the property was 2004, when local attorney Bob Ament wrote the Building Commissioner and said, "I've got this property down in Woods Hole. There's two dwellings on it and I want you to agree that it's two dwellings." And that's when it began: 2004. Not 50 years of precedent.

Can I have the next slide, please. That's on the ZBA's filings; that's not on anything that I'm saying.

Article 9 protects conscientious citizens. It protects people who didn't get building permits, it protects people who didn't get zoning permits and it protects people who have never paid taxes on their dwellings. How do you pick up things on the tax records? You get them there by building permits, and that's how they're on there.

So, it's not that Ma and Pa who are out there. People who

have been conscientious are already protected. You can give them more protection; this needs more work; it's not ready.

Can I have the next slide. We're all set.

The last thing I want to say is I have no – I don't gain anything on this. I already won. I ended up out of this process with probably having the best neighbor that you can imagine. The developer, believe it or not, went under. The property was foreclosed and sold by the bank and I ended up with if you were going to design a neighbor and person that owned the property, it would be the person who lives next door to me: young professional. I mean, I just came out of this, you know, ahead much more than where we thought we would be. I have nothing to gain in this except I would like to see this done right.

I would like to trust the Board of Appeals that they're going to do the job that Mr. McNamara said that they would do. But, in our case, when we tried to introduce the evidence that he's talking about in terms of the findings on that particular property, they said, "No, no, no, no, this is about a dormer. It's not about zoning use. We don't do that kind of thing."

We allege 12 mistakes in the Land Court. We had the case decided simply on this issue of law. I could have had all 12 of those issues decided. We didn't do that. We agreed to have final judgment enter and then the ZBA took it up to the Appeals Court. The expenses for the case are over, unless of course the ZBA takes the course to the Supreme

Judicial Court for further review. Thanks.

THE MODERATOR: Okay, Mr. Finneran.

MR. FINNERAN: Yes, Mr. Moderator, through you to Mr. McNamara. I have a neighbor who spent tens of thousands of dollars battling a situation similar to Mr. DeWitt's. It was on 209 and 209A Trotting Park Road. Can someone tell me how this would affect that property?

THE MODERATOR: Mr. McNamara, are you able to answer that?

MR. MCNAMARA: Mr. Moderator, I'm sorry, I can't. I'm not familiar specifically with that parcel.

THE MODERATOR: Okay, actually, Mr. McNamara, you were next on the list. And then Mr. Latimer.

MR. MCNAMARA: Thank you, Mr. Moderator. Just a couple of corrections. I don't want to leave you thinking some things that Mr. DeWitt left you with.

First of all, this idea of a seven or ten year protection. One of the things I mentioned was the Land Court talked about multiple dwellings on a lot is a use. There is no such protection for uses. The protection Mr. DeWitt mentions is protection for an illegal structure that may have existed for seven or ten years. We're talking not here about a roof on a building, we're talking about a use, so there is no protection.

Mr. DeWitt suggests that the ZBA ignores Town Meeting.

Why do you think we're here? Why do you think we came here last Town Meeting? We don't ignore what the bylaw says.

Mr. DeWitt suggested that you can turn a garage into a dwelling. No. If you looked at the bylaw and the recommendation, not unless you can prove that it's been a dwelling continuously used as a dwelling prior to 1959.

Mr. DeWitt said the 1959 bylaw said, "We're just making explicit what had been implied." Well, if that's the case, if you read a little bit further in the note from the Planning Board, it says, "And all uses prior to this date will be protected and grand-fathered."

Next, there is no benefit if you simply get a building permit or a special permit. The Land Court retroactively said anything prior to 1926, whether or not you got a special permit, whether or not you got a building permit, is now illegal.

And lastly, I think the important part is that, even if you instead of thinking back to when this appeal was, looking at the amendment right now and we've said we've put in additional protections, anyone who falls into this category must prove continued use since 1959. Thank you.

THE MODERATOR: Okay, Mr. Latimer.

MR. LATIMER: Thank you, Mr. Moderator. I'm Richard Latimer of Precinct 2 and I'm speaking here as a Town Meeting Member from precinct 2 and not on behalf of the Planning Board. I would like to

make that clear. Just to clarify the record I was the dissenting vote on the Planning Board. This was not a unanimous Planning Board recommendation for this article.

And I also want to make something clear: I have never used the term evil developers. That was Mr. McNamara's classification. Developers are not evil. Developers are businessmen. Businessmen do a lot of good for their communities. But businessmen can also do a lot of harm. And when we get into a situation where you have businessmen properly working according to the laws that we provide for them, and of course in their own self-interest -- which is not evil. Which is, you know, a basic principal of our economy, here. But when they do things like convert pre-existing rental cottages or in-law apartments into condominiums, they do things that have evil effects on this town.

One thing is it cuts into our stock of affordable housing when they sell condos at market rate, increasing the market rate condos. It affects affordable rentals when they take an existing rental off the market, and that means that, that the law of supply and demand, prices for rentals go up.

So, that's one evil that's accomplished by businessmen who are not evil, but what they do has evil effects.

It affects our affordable housing stock, another evil, and this is an even -- we are faced with massive problems with wastewater treatment

in this town. We are perhaps going to be facing sewerage this town in the not too distant future. I know we've heard from wastewater management people that it's going to be necessary. For every one – whether it's 230 or only 60 additional principal dwellings that we allow to exist in this town, whether they're condo or whatever, that's going to add to that burden.

And the tax rate doesn't meet that demand. If the tax rate met the demand, well, we had just – before 2008, the collapse of the bubble of 2008 which was just the most recent real estate bubble that collapsed, before that, we were increasing the number of properties, people were building condos, people were building houses quite legitimately, a lot of them, because they were on single lots. But if the demand for those – the demand on services that those units created were covered by the extra taxes they paid, why in hell, excuse me, are we having to cut services in this town? Why does the fire chief and the police chief have to come in and look for overrides to meet operating budgets?

No. When you increase those units that way, you don't meet the costs.

MR. FREEMAN: Point of order.

THE MODERATOR: Mr. Freeman.

MR. LATIMER: Excuse me, Mr. Moderator, I'd like to be heard.

THE MODERATOR: Mr. Freeman.

MR. LATIMER: You simply do not –

THE MODERATOR: Mr. Freeman has a point of order.

What's your point of order, Mr. Freeman?

MR. FREEMAN: As Mr. Latimer, Precinct 2, is lobbying up there, please remember that the Planning Board are all voted members by our town, and it was a unanimous vote that this thing be recommended on Town Meeting floor.

THE MODERATOR: Okay, that's –

MR. FREEMAN: Town Meeting floor.

MR. LATIMER: Mr. Moderator, this is not a point of order.

THE MODERATOR: Mr. Freeman – Mr. Freeman –

MR. LATIMER: This is an argument, Mr. Moderator.

THE MODERATOR: I am speaking, Richard.

MR. FREEMAN: Thank you.

THE MODERATOR: Mr. Freeman, a point of order is a procedural call –

MR. FREEMAN: It's procedural. He's taken the position --

THE MODERATOR: Yes, so, you're next --

MR. FREEMAN: -- that he was a dissenting member.

THE MODERATOR: Mr. Freeman, I have the floor.

MR. FREEMAN: Sorry.

THE MODERATOR: I don't expect Town Meeting Members

to talk over me when I'm rendering a decision on a point of order. Okay? The point of order would be if procedurally at this meeting I did something wrong with the procedure. If we don't like what Mr. Latimer is saying, I'll put you next on the list, which you are because you waved to me, to be able to counter what he's saying in his debate. But a point of order means that I did something procedurally incorrect running the meeting, okay?

So, Mr. Freeman, you are next on the list if you'd like to counter what Mr. Latimer is doing, but that is not a point of order.

MR. FREEMAN: Okay.

THE MODERATOR: Mr. Latimer.

MR. LATIMER: Thank you, Mr. Moderator. Again, I apologize for speaking out of turn myself, but what I was saying was exactly what you were saying, was that Mr. Freeman's comment was not a point of order having to do with procedure, it had to do with argument.

In any case, I will continue and finish up in short order here by simply pointing out that developers are not evil, but they do create real problems for this town, and what this particular bylaw amendment that the ZBA wants to see will only add to that problem, will only add to those problems.

I want to say something here, that no single permit that would come into this bylaw would, by itself, you know, create a problem. But that's a principle that we know as the tyranny of small decisions. Oh, well,

we've got 60 out there but they're not all going to come in at once. No, but they'll come in one at a time, one at a time, one at a time, and they're never going to pay for themselves; they never do.

So I would urge everyone to simply vote indefinite post– vote against this article, thank you.

THE MODERATOR: Okay, Mr. Freeman, you have the floor, now. And then Mr. Hampson.

MR. FREEMAN: Thank you, Mr. Moderator. I'm sorry if I imposed upon you by using the wrong term. All I'm saying to this board, to this group, rather, is a very simple thing: the Planning Board are the ones who make their recommendations to Town Meeting for amending our zoning bylaws. It's the Planning Board. The Zoning Board of Appeals acts against or for these articles as cases are presented before us. Mr. Latimer is only one of the many people on the Board that voted to recommend this article. He was the only dissenter, as he said.

What I am saying is that people have to understand what this article is doing for our town. I think it's a positive thing for the town regardless of what Mr. DeWitt is lobbying for as well, or a situation that he faced many years ago. But, all I'm saying is please listen and understand what this article represents: these are our taxpayers, our townspeople who own land, and they were ruled by Land Court as being operating their property illegally, which is not the case. And we, the Town of Falmouth,

have every right to override that objection. Thank you.

THE MODERATOR: Mr. Hampson.

MR. HAMPSON: George Hampson, Precinct 5. I find ourselves in the position like we were the last Town Meeting. I hear knowledgeable attorneys speaking their point and we're here to decide. And apparently Mr. Duffy cannot speak, but I'll ask him again, as I did last time: Mr. Duffy, do you have any comments on this issue for Town Meeting?

THE MODERATOR: Mr. Duffy.

MR. DUFFY: I haven't taken a position on this article; as I explained the last time, Mr. DeWitt was an associate and colleague in my office at the time and I can take no position on it. However, the Town Meeting is free: if they want to act on this, they can. Just because a matter is pending before the Land Court does not necessarily mean that you're not allowed to amend the bylaw. But I'd have no position on the amendment.

MR. HAMPSON: In other words, are you saying that it would be proper or the Town Meeting can act on this tonight favorably?

MR. DUFFY: Either way.

MR. HAMPSON: Okay, the thing that bothers me here, Folks, is that there are people who are trying to rent their places for the summer, as they have done in the past, and I find, personally, an

obligation to do something for them, to give an answer. And I don't think we want to go on for another Town Meeting to resolve this. And even if it takes a postponement of this article, to table it for another night, if it takes that, but I just don't – I don't think any of you appreciate this. It's difficult to understand. There's people that I really respect that have come here tonight, and it's hard for me to make a decision.

So, either – I'd recommend tabling it to come up with a solution. And if you don't go for that, then vote for it, okay? That's what I'm suggesting. Thank you.

THE MODERATOR: Okay, I have someone in the back, here, in the center Section.

MR. SHERMAN: I am not a Town Meeting Member, Mr. Moderator, but I am an affected property owner; is it permissible to speak?

THE MODERATOR: Yes.

MR. SHERMAN: My name is Richard Sherman; I live in Precinct 2. I've lived at 163 Shore Street for the last 31 years. My two daughters were born in Falmouth and raised here, graduated from Falmouth High School, moved away and came back to the town that they love. They now live in East Falmouth. Some day I hope they get to inherit the property that we bought under an existing law at the time. The law has been changed by a single judge in Boston acting arbitrarily and has changed the rules in mid-stream.

There are 230 folks that are going to really be hurt by this. Property values will be hurt unless this is not fixed. Not only our property values, but your neighbors. If your neighbor has to rent in an affordable way, as Mr. Latimer had suggested at the Planning Board, although he has not now, if that comes forward, then that's going to affect many property values.

The alarmist approach that both Mr. DeWitt and Mr. Latimer have made regarding condominiums is totally unsubstantiated and completely speculative based on one experience that Mr. DeWitt had.

Has anyone seen condo values lately? We went shopping recently for friends from Connecticut. There are condos out there for 200,000 and there's a glut. So don't worry about developers coming in and making all these properties into condos. Most of them are going to pass them on to the next generation. These are family properties, just as mine and many folks – I could point fingers, sitting in here, Town Meeting Members, folks in the back that have never been to a Town Meeting before, called me. People went to Town Hall, literally in tears, "Oh, my goodness! What's going to happen?" They grabbed anyone from Town Hall they could speak to. There's a lot of very upset people because they bought their homes under one rule and some judge in Boston has changed the rules.

Town Meeting can fix this with a simple yes vote on Article 9

and I ask you to please do so. Thank you.

THE MODERATOR: Okay, Mr. Putnam. Mr. Putnam, you're next. Mr. Latimer, you're on the list. You're on the list, Richard. Mr. Putnam. You're on the list.

MR. LATIMER: Oh, I'm on the list. I thought you – oh.

THE MODERATOR: No, Mr. Putnam.

MR. PUTNAM: Good evening, ladies and gentlemen, Brent Putnam, Precinct 9. Mr. DeWitt said there were two conditions under which a property would be protected, and that is a building permit or an occupancy permit, but then it raises some questions in my mind, because not too long ago I asked to see a contract that the Town had. It was only a ten year old contract. It was about this thick and it turns out that the only copy that could be found was tucked away in a drawer somewhere next to the Planning Department. A two inch contract that the Town had just ten years ago. I imagine that it would be very hard to find occupancy permits for a lot of buildings prior to 1959.

And, as far as building permits, say a new roof was an example given, I don't know that we're necessarily protecting people who didn't pull building permits, because a lot of the current owners may still have roofs that were built or repairs 20 or 30 or 40 years ago. And maybe it was Cousin Joe who did that roof on the dwelling out back and no building permit was pulled. Or, if a building permit was pulled, is it still

there, accessible, find-able? To almost not find a two inch contract that's only a decade old, I find it hard to believe that we're going to rest the protection of 200 some-odd properties on the potential of finding documents that are more than 50 years old. Thank you.

THE MODERATOR: Okay. Gentleman to my right. Yes, Mr. Medeiros. If you can use that, yes.

MR. MEDEIROS: Hi, my name's Kenneth Medeiros. I'm a member of the Planning Board, and I'm here specifically to talk about this article. There's been a lot of confusion, I think, thrown out about this. This is pretty simple. This Article is only here to restore the property rights of 230-plus homeowners. What has happened is a judge said, just like Mr. Sherman got up and said, took their rights away. These people and properties have paid taxes since 1926 on these homes. What this is saying is that they now have rights just like anybody else in this room that owns a house in this town.

This is not about condominiums. It's not about affordable housing. I think it's getting spun-up about that, but I want Town Meeting Members to know that this is purely and completely only for those 230 people. It's to give them the rights, just like you, so you can get a mortgage, so you can sell your property, or you can transfer your property to your children.

What this has said is it's illegal. So that also means – think

about this: if that property is illegal, then the Town cannot assess them legally for what they've been assessing them for the past 84 years. So this should be a simple vote.

And as a Planning Board member, we indefinitely postponed this in November because we were confused when Mr. DeWitt got up and spoke and Mr. Latimer spoke and they thought we should wait to fix this. But now I understand that we, as Town Members, don't have to wait. This is the fix. It will fix everything and you won't have to hear about this again.

All those 230 members can sleep easy at night. We had several of them come to our Planning Board meeting and they were upset. They were purely upset because they lost the rights that they have as taxpayers. And I would advise everybody to please vote for this and pass this so those people have their rights back. Just like I was told, I'm a member of an elected board and so are you, please fix this for those taxpayers, thank you.

[Applause.]

THE MODERATOR: Okay, let's go. Okay, anything new?
The gentleman in the back?

MR. MCGRATH: My name's Mike McGrath, I'm a registered land surveyor, and I just want to assure Town Meeting that I have dealt with these situations many times. The majority have been in very high

value areas. In fact, Jeff Whitney, who was the Chairman of the Planning Board in 1959, when that amendment was written that explicitly prohibited two houses on one lot, he had four principal houses on his house at 43 Church Street, and I don't think Jeff Whitney thought that they were illegal.

So, I would urge you to pass the Planning Board's and Zoning Board of Appeals' recommendations because the overwhelming majority of the circumstances when I've run into this have been on Penzance, on Quissett Avenue, and only occasionally in the historical sections of the villages and I do not think that the speculative impacts of condominiumizing these units will ever happen. Thank you.

THE MODERATOR: Something new, Mr. Wilber? Mr. Wilber?

MR. WILBER: Judge Wilber, Precinct 8. I have some ambivalence about this bill. I was inclined to support it initially, but I respect Mr. DeWitt's experience and opinions on this a great deal. He obviously is the person that is most knowledgeable about the process.

I am inclined to support it for one reason. This is another one of these top-down decisions imposed on a Town that takes away more of our rights of self-governance. We've had unfunded mandates come down from the state. We've had the anti-snob zoning bylaw with the 40B snafus. These are all taking away from our primary right to self-govern. And this

is a meeting, this is a Town Meeting that's still in existence, and one with a long and distinguished history of local self-governance. And I would then speak in support of this now, just to clear this up and also take back some of our local Town self-governance. I really am disturbed by more and more top-down decisions that come without funding into towns like ours and then we have to hash it all out with legal fees and all this time spent on Town Meeting floor.

So, I am in agreement with the Planning Board and the Board of Appeals that we do this now, protect the rights of these citizens, and move on.

THE MODERATOR: Okay, Mr. Duffany, and then Mr. Dufresne.

FROM THE FLOOR: Question, question, question.

MR. DUFFANY: Thank you, Mr. Moderator, Michael Duffany, Precinct 6. I'll be brief, but I want to share a personal experience I have because I work for probably half a dozen of these property owners and I will tell you that, with no question about it in the last two years, three of them helped keep us alive, and none of these properties are currently occupied as, you know, both dwellings as we speak. Only one of them, the people do come down with their family in the, you know, in the off season and have a couple of holidays here. And the only thing that I see that's being built in these properties is a lot of memories. They are

cottages that go with main structures and so forth, and as long as they can't condominiumize by right, I'm certainly fine with the bylaw giving them back the rights that we took away, and I heard from a lot of them this past year about, you know, the fact that they've been paying taxes and it's been taken away.

But anyway, just from a personal standpoint, I can tell you that three of these kept us alive the last two years and I'm working on one of them as we speak. So, thank you. They're good people.

THE MODERATOR: Mr. Dufresne, you can use the one down front.

MR. DUFRESNE: Mr. Moderator, as a representative of Precinct 2 and a member of this legislative body, I would like to call the question.

FROM THE FLOOR: Yes! Yay! [Applause.]

THE MODERATOR: The question will come on ending discussion. This requires a two-thirds vote to end discussion. All those in favor of ending discussion, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[No.]

[Laughter.]

THE MODERATOR: It is the opinion of the chair that the

Ayes have it by the necessary two-thirds.

The question will come on Article 9, Article 9 the main motion as it was presented by the Planning Board and as it was written in the little handout, the insert to your warrant booklet. The main motion on Article 9, this requires a two-thirds vote. All those in favor of Article 9, 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 the two-thirds. Is there a challenge to the Chair?

[Applause.]

THE MODERATOR: Hearing none, I declare a two-thirds majority. Okay.

Article 10. Article 10, this is to change zoning up on Route 151. We have a recommendation from the Planning Board, Mr. Chairman.

CHAIRMAN LATIMER: The Planning Board moves indefinite postponement.

THE MODERATOR: Indefinite postponement on Article 10; is there any one who would like to place a positive motion on the floor?

Hearing none, the Chair would entertain indefinite postponement as the main motion. All those in favor, signify by saying

Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it.

Article 11, the Planning Board will make its recommendation.

CHAIRMAN LATIMER: The Planning Board moves indefinite postponement on Article 11.

THE MODERATOR: Okay, Article 11, the recommendation is indefinite postponement; any positive motion? Mr. Duffany.

MR. DUFFANY: [Without microphone:] I'd like to place the positive motion on the floor.

THE MODERATOR: Okay.

MR. DUFFANY: [Inaudible.]

FROM THE FLOOR: We can't hear you.

THE MODERATOR: Okay. We've got a positive motion here. It's as printed?

MR. DUFFANY: As printed, but I would like to have Laura Moynihan speak to this if I could, please.

THE MODERATOR: Ms. Moynihan a resident of the town, taxpayer, all that good stuff?

So, Article 11, the main motion, will be as printed.

MS. MOYNIHAN: Thank you, Mr. Moderator and Town Meeting Members. For the record, I'm Laura Moynihan; I am a resident and a taxpayer of the town. I represent Mr. Minasian who's the property owner in question, here. This property is 28 Nathan Ellis Highway. It's in very close proximity to the County Road, Route 28A intersection, across the street from the Beach House restaurant, which many of you are likely familiar with; near the House of Pizza, Silver Square, that commercial area of North Falmouth. It's currently zoned Residential. My client is requesting the rezoning in this case so that he can use the building that's partially constructed on the property. I would say substantially completed at this point for a medical office, business office, or medical clinic. He has voluntarily agreed to restrict the use of the property to those uses: medical offices, professional offices, business offices – excuse me, medical clinics. That's been submitted to the Town.

So, if Town Meeting is in favor of the B3 zoning tonight, then the commercial uses on the property would be limited to those uses only. Again: professional offices, business offices or medical clinics. That's a voluntary restriction.

Here, the zoning is very appropriate for the neighborhood, I would submit. The property is identified up here on the slide with the hashmarks. The white property adjacent to it is the parking lot for the Beach House restaurant. So that property has an existing commercial

use. The property across the street is the Beach House, which is B2, and then you can see for yourself the various areas in red and orange which are the nearby existing business zoning areas.

So this is what I would consider a fringe type of zoning, the B3 zoning, as you branch out into the more single residence areas.

Here, although we do have mixed uses, there are multifamily dwellings that are approved by special permit across the street on Beaman Lane. There's a record in the Board of Appeals Office of a home occupation at the corner that you see there, the two lots over from the hashmark lot, I think that's Old County Road – yes, 40 and 50. So, we have a very well- established mixed use neighborhood.

Some might claim this is spot zoning; I don't think it is. I mean, clearly spot zoning is when you have a unique request, for example a business property within – solely within a residential neighborhood. This property compliments and is consistent with the zoning that's already there.

The site plan review would apply from the Planning Board for this building. So the Planning Board would be reviewing access, circulation, buffers to adjacent property. The office and the medical type use is typically a daytime use only –

MS. O'CONNELL: Mr. Moderator, point of clarification, please.

THE MODERATOR: Go ahead.

MS. O'CONNELL: [Inaudible.]

THE MODERATOR: If you could speak into the mic.

MS. O'CONNELL: Maureen O'Connell, Precinct 4. It was, I thought, and please correct me gently if I'm wrong –

[Laughter.]

MS. O'CONNELL: [Laughs] – that we already went through the medical – it seems to me that the speaker is referring to Article 10 that we already indefinitely postponed when she refers to medical offices being built on that site and so on. We are now on the bank –

THE MODERATOR: We're on Article 11. This is a residential B District to B3 district –

MS. O'CONNELL: And the speaker is referring to medical offices and so on and that article –

THE MODERATOR: Okay.

MS. O'CONNELL: – has already been passed.

THE MODERATOR: Good point. Ms. Moynihan, are you referring to the language of Article 11?

MS. MOYNIHAN: What I am referring to actually is the B3 zoning, which is Article 11.

THE MODERATOR: So your reference to medical offices is?

MS. MOYNIHAN: The reference that I made to the medical

clinic, business offices and professional offices, that's not included in the article. As I said, that's a voluntary restriction that the property owner has submitted. Although I can't make a motion on Town Meeting floor, I would – my suggestion would be that this Article 11 be amended to just simply say that it be rezoned to Business 3, and leave out the rest of that article because I think it was drafted without the benefit of counsel. But, I'll leave that to you.

In any event, it needs to be clarified, okay? And with the reading with restriction to bank, computer center, rental, restaurant, market, it's not clear. So it needs to be clarified.

MS. BOTELHO: Mr. Moderator.

THE MODERATOR: Is it a point of order or?

MS. BOTELHO: It's a point of information, here, on this. If she –

THE MODERATOR: Into the microphone, please.

MS. BOTELHO: If she installs something that they're voluntarily doing or whatever, isn't that expanding the article?

THE MODERATOR: No, she's actually talking about taking it out, but she can't make that motion because she's not a Town Meeting Member.

MS. BOTELHO: That's correct. But even if she got a Town Meeting Member to do it, wouldn't it be?

THE MODERATOR: No, it's shrinking the scope, because it's taking out a portion that's already in there.

MS. BOTELHO: No, I think it would be expanding it.

THE MODERATOR: Well, it would be expanding the rights on the property, but it's within the scope of the article. You're correct, it would allow –

MS. BOTELHO: That's what I wanted to clarify, thank you.

THE MODERATOR: That's correct, it would allow additional use.

MS. MOYNIHAN: It would clarify, just to be clear, that it would be a B3 zoning, but as I said there would be a restrictive covenant recorded against the title that would voluntarily restrict the uses to the business or professional offices and the medical clinics only, as Town Meeting has seen in years past with rezoning articles.

So, I think that that just makes it clearer for you and actually it's more restrictive than even if it was an outright General Residence rezoning.

So, I think that we understand that the Planning Board is going to be looking at this 151 corridor. I would submit that the time is really now to make this change here; will have an immediately benefit to this neighborhood.

If we do wait for the fall, I suspect that that rezoning

proposition for the 151 corridor is going to be very involved. It's going to involve many property owners and many issues. It may take more than one Town Meeting. And that's really the concern here, is if you adopt this rezoning tonight, there would be an immediate benefit to this neighborhood by having this property and this structure become viable again and of economic benefit to the neighborhood and to this corner in particular. Thank you.

THE MODERATOR: I've got a question for Mr. Duffy. Mr. Duffy, this article appears to me to be an article that was at a previous Town Meeting. Is this in violation of Chapter 40A, Section 5?

MR. DUFFY: Well, Mr. Moderator, Chapter 40A, Section 5, I just happen to have a copy here, says, "No proposed zoning bylaw which has been unfavorably acted upon by the Town Meeting shall be considered by the Town Meeting within two years of the date of such unfavorable action unless the adoption of the proposed zoning bylaw is recommended by the Planning Board."

Now, the Planning Board has recommended indefinite postponement here, and this looks to me like a very similar article. So perhaps someone can explain why it's different and why it's even here.

THE MODERATOR: Ms. Moynihan, can you tell us why this is not in violation of the Chapter?

MS. MOYNIHAN: Well, I went through the prior zoning

articles; I think that first of all the Mass. General Laws requires a final action. The vote has always been indefinite postponement on the three prior articles.

Aside from that, the prior articles requested different zoning districts, and we had -- in November, 2008, the article was for a, quote, special permit business, 28 Nathan Ellis Highway. Again, these were drafted without the benefit of assistance by legal counsel. Also, rezoning abutting properties on 151 from 28A to Falmouth-Mashpee town line. April, 2009, Article 14, request for a B-1 zoning. November, 2009, Article 13, request for a B-1 zoning. November, 2009, request for a business redevelopment district. And I would submit to you, Mr. Moderator, that it is not a repetitive petition; that the variations in the zoning bylaw themselves for those different zoning districts differentiate the proposal. For example, in B-1 and B-2 districts, you could have builders, carpenters, masons, plumbers, similar contractors. You could have theaters, bowling alleys, skating rinks, motor vehicle service stations, sales, rentals, parking for a fee, fast food restaurants, nursing homes. None of those you could have in a B-3 district.

In a B-1 district, you could have certain types of restaurants. You can't have those in a B-3 district. So --

THE MODERATOR: So none of the previous petitions were B-3?

MS. MOYNIHAN: Correct.

THE MODERATOR: Mr. Duffany?

MR. DUFFANY: Michael Duffany, Precinct 6. I actually held this article. As the saying goes, I have no dog in the fight. This is really about what the proper thing to happen there, and the time frame, it's way overdue. And I don't understand why we haven't done something up to now for this. And, again, it's not to grant this particular person any kind of relief, and I don't know the man, I haven't spoken to the man. But I asked to hold the article because I really feel that it's time, it's way overdue to address this.

My feeling was that it should be a general residence district with a professional use overlay like there is coming into town on Palmer Avenue, like where we relocated because it keeps homes looking like homes and yet you can go home at night, it's a business. And I don't think anyone here would cherish the thought of living in that as a dwelling, next to the parking lot on a Saturday night. And it's no reflection on the business; it's just the way it is. So, I think that the best use for this property is to come up with something that allows it to look like a house but run like a business during the day.

This gentleman has asked for the B-3 with a restriction on it that he won't have the uses and the rights that I was going to recommend under General Residence. He's really handcuffed himself, but to the

benefit of – I think, to the benefit of the Town. And the Town could still come back and rezone this property later on for General Residence with the proper overlays and so forth, but it really is time to move forward on this. It's been way too long and I think everyone will agree: it's overdue. This thing needs to be completed and let's get on with it and do what we need to do to make it work because, you know, with all due respect, the Planning Board has not brought us a solution to date. Thank you.

THE MODERATOR: Okay, Ms. Johnson. And then Mr. Latimer.

MS. JOHNSON: I'm Patricia Johnson; I live in North Falmouth. I am familiar with this property and very familiar with that entire corner. I'd like to correct one thing that Laura Moynihan said. She said there was a commercial use on the abutting lot, which is the one that has all the polka dots on it and is presently a parking lot for the Beach House across the street, because they don't have any parking lot. It is not zoned any business district. It is a residentially zoned lot with a special permit on it.

I'll also inform you that I think her word, using this as "fringe" use, in other words changing it to Business 3, is not fringe to me, it is commercial creep, and we see commercial creep everywhere in this town. I wouldn't mind if the Planning Board came back with this as General Residence, even though I think that's somewhat of a commercial creep. I

do not think it is wise for this Town to grant this as a B-3 with maybe or maybe not some memorandum on it that none of us have seen.

So, I would recommend indefinite postponement for this for those reasons.

THE MODERATOR: Okay, I've got a couple more. Mr. Latimer.

MR. LATIMER: Richard Latimer, Precinct 5, and I am speaking as Chairman of the Planning Board now. We have recommended indefinite postponement of this. We have also voted recently that we want to take a look at this corner, there, 151 where it comes into Route 28A. Perhaps to come up with even a new kind of zoning that would maybe benefit this particular developer. He's a fellow who came from somewhere, saw a distressed property, bought it and thought he'd just come in and get us to rezone for him. Well, that's not the way it works.

But we will probably come up with a rezoning for this corner. We have committed to doing that. And it's not necessarily going to be General Residence. We might be talking about something like a new kind of transitional zone that might work there.

So, I think that to say that we can just rezone this now and then let him come back later and rezone it appropriately is putting the cart before the horse.

I think Mr. Curry may have some more specific points to make with regard to Ms. Moynihan's presentation. Okay, I misspoke on that. Thank you.

THE MODERATOR: Okay, Ms. Kozens-Long.

MR. LATIMER: I guess I covered what he was going to say.

THE MODERATOR: Go ahead, Ms. Kozens-Long and then Mr. Young.

MS. KOZENS-LONG: I'd like to remind Town Meeting Members that a zoning change is a Zoning change and it doesn't really matter that this is different. This is still something that the Planning Board has decided that they don't want to do yet; that they want to take a look at for the whole town. To do this now for a single property owner, that's going to affect a lot of areas of town. I don't care if it's one, two or three, it's a zoning change; I don't understand why we're hearing this again in front of this body.

THE MODERATOR: Okay, Mr. Young.

MR. YOUNG: Bob Young, precinct 5. I wanted to speak in favor of this article, but I know it's not going to pass; there's too much confusion. But we have driven by this house for five to ten years. This gentleman is the third owner, I believe, who's trying to do something. And I'd like us to consider that and possibly in the fall come up with some other type of zoning or transition, but something has to be done with that

property.

Nobody in this room wants to live in that house next to the wonderful Beach Club. But we do have to think about this for the future and in the fall I'd like to get something done with that property.

THE MODERATOR: Okay, Mr. Netto.

MR. NETTO: Joe Netto, Precinct 9. I have a question for the Town Planner, because I'm thoroughly confused, a little bit, here.

THE MODERATOR: Okay, Mr. Curry.

MR. NETTO: Mr. Moderator, through you, now Mr. Curry, we have heard the attorney for the applicant here say that there are voluntary restrictions that they want to place on zoning. My question to you is I've never heard any applicant in all my years of Town Meeting ever mention voluntary restrictions to zoning. Is this legal?

THE MODERATOR: Through a covenant.

MR. CURRY: You can always put a restrictive covenant on your property, Joe, if you wanted to. I have a five bedroom house; I might put a restriction on my property that I'll always have a de-nitrifying septic system. So, of course you can always restrict your property and that's what this gentleman is proposing here. We just haven't seen or given much thought to the covenant and at this point in time the Planning Board doesn't have a position on it.

MR. NETTO: Thank you. But what bothers me – I do not get

involved in zoning issues, that's not my bailiwick in Town Meeting; I let others decide that. But what I don't like about this article – and I know this gentleman has been in front of us numerous times and as Mr. Duffany said maybe we should do something. But as a Town Meeting Member we're always reminded by you, Mr. Moderator, that it's what's written in our warrant book. And we're talking – the applicant here, through their spokesperson, is talking about Article 11, and if you look at your book, it's written on Article 10, which we defeated. And, I'm sorry, and that's where the restrictions are actually written in the warrant book. And that's what I'm going to go for. I'm sorry, I will vote not to pass this article because I don't think it's clear.

If you want us to do something, be clear in your presentation. And here it's kind of hit or miss: well, I'll try B – you know, I'll try B-2 in that one article and now I want to try B-3. In this case, I think we should just wait a little bit longer, defeat the article, and let the Planning Board bring us something which is zoning for our Town. Thank you.

THE MODERATOR: Okay, Ms. Moynihan, do you want to address the covenant?

MS. MOYNIHAN: Thank you, Mr. Moderator. As I mentioned in my presentation, with respect these articles were drafted by the property owner on his own. We apologize. I know they're confusing. Tried to make the best with what is there. People don't always have the benefit of being

able to hire somebody to assist them with this. When it became evident that that really was necessary for this process, then Mr. Minasian retained me.

So, I guess what I'm saying is to try not to hold that against him. He made an attempt to offer in the articles what he thought was the appropriate way to do this. That's why I suggested with Article 11 the simplest way, if Town Meeting is in favor of adopting this, is to simply amend it to say that they would adopt a B-3 zoning, knowing that a restrictive covenant has been submitted to the Planning Board. It was presented at the Planning Board public hearing. It's been signed and it's in the office of the Town Manager and able to be recorded at the Registry of Deeds if the zoning is adopted.

So, there's been ample opportunity, I think, for the town to see it.

And, with respect to the Planning Board, this has been going on now since around 2007, 2008. It's time to do something and that's why Mr. Minasian is here once again. Thank you.

THE MODERATOR: Okay, Mr. Lowell, you're next on my list. You're all set. Mr. Wilber, next on the list.

MR. WILBER: Jude Wilber, Precinct 8. And I was involved in this property way back when I was on the Planning Board, and nobody could figure out why they wanted to put a house there, anyways. So, I'm

ambivalent on this because Mr. Minasian seems to be fully invested in this project, now, and so nobody wants to hold up his return any longer.

However, it seems like Mr. Minasian has put the cart before the horse in obtaining that property and then redesigning it for a specific use; not a residential use. And now he wants our Town Meeting to grant him that use.

The proper way would have been to get the zoning done first and then invest in the structure and its purpose.

So, I have a great deal of confidence in the Planning Board to look at this corridor and to come up with a good plan. This has happened before by the Planning Board in a number of instances, and in fact if Mr. Minasian can hang on until November, I'm sure action will be taken and that action may in fact benefit him more than this request that he has here tonight. Thank you.

THE MODERATOR: Okay, the question will come on Article 11. Article 11, the main motion is as printed. This requires a two-thirds vote. 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 by a majority and there is no two-thirds.

This meeting will stand in recess for twenty minutes.

[Whereupon, a recess was taken.]

THE MODERATOR: Okay, all Town Meeting Members please come forward and take your seats so we can re-establish the quorum.

Article 12 was held by Mr. Shearer. Mr. Shearer tells me he'd like to release his hold. So, as soon as we establish this quorum, we'll get a main motion on the floor. Okay, folks, let's go.

Okay, folks, if you're a Town Meeting Member, please come forward so we can get a good count. If the tellers could just hold on one minute; I want the rest of them to come forward.

[Pause.]

THE MODERATOR: Okay, all Town Meeting Members present please rise for the establishment of a quorum and the tellers will return a count.

In the first division, Mrs. Tashiro.

MRS. TASHIRO: 56.

THE MODERATOR: 56. We picked up three in the first division.

In the third division. Third division, Mr. Hampson?

MR. HAMPSON: 58.

THE MODERATOR: 58

And in the second division, Mr. Dufresne?

MR. DUFRESNE: 96.

THE MODERATOR: 96. We have more than we started with. By a counted vote of 210, we have a quorum; I'll call the Town Meeting back into session.

Article 12. Article 12 was held by Mr. Shearer. Mr. Shearer wanted to release his hold. Mr. Chairman of the Finance Committee for the main motion.

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

THE MODERATOR: Okay, Article 12 as printed. Any discussion on Article 12? 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.

Okay, now, we're going to get into Article 13. Article 13 is the budget. We will have a new main motion, so there'll be some number changes that we're going to hear from the Finance Committee. So you'll get a main motion on the floor and then we'll have a presentation by the administration on the budget, and then we will go into the budget line item

by line item. It won't be a blanket; we'll just go into it line item by line item and if you have any discussion or changes or anything, we'll go it at that time.

Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Moderator, I move Article 13 as recommended with the following changes. If you go to page 3 of the blue pages in the center of your book, line 140, the School Department Budget, go to line 141, Salary and Wages, the new number is \$32,322,898.

Line 142, Otherwise Unclassified, the new number is \$8,067,255. Line 143 remains the same: \$40,390,153.

Line 144, Upper Cape Vocational School, budget 01301. If you go to line 145, Operating Expenses, the new number is \$2,590,502. Line 146, the Capital Program, the new number is \$112,872 – it went up a dollar. Line 147, the new Total, is \$2,703,374.

Then go to page 7 of the blue pages. The budget under line 304, Short Term Unexcluded Dept. Lines 306 and 307 should just be reversed. In other words, line 306 Principal Payment – excuse me. I'm sorry, 307, the CPA Fund Interest should be \$35,000. Line 308, Interest Payment, should be \$39,785. Line 309 does not change, the Total remains \$74,785.

If you then turn to page the final – the Funding page, the last

page of the blue sheets. If you go to Item I, Appropriate from Community Preservation Fund Estimated Receipts, voted by Community Preservation Committee, the date is changed to April 5th, 2010. The new dollar amount is \$1,939,247.

Item J, Raise and Appropriate under the Estimated Fiscal Year 2011 Levy Limit and apply to all other remaining balances under Article 13. The new number is \$103,979,843, for a Total Operating Budget of \$107,905,894.

THE MODERATOR: Okay, we have the main motion. Mr. Whritenour.

MR. Whritenour: That looks great, doesn't it? I've noticed that when you take a picture of our new turbine from an airplane, it looks a lot shorter. From now on, we're going to have all photographs taken from airplanes of that.

See if we can get the next slide, please. Just a shot of some of our Town services being performed. This is in the Library Department and it's story hour, so one of the best programs that we offer for the young kids, and I thought it would be appropriate to kick off with story hour.

If we could jump right in here. In terms of the fiscal year '11 budget process, you know we all know and we've discussed this, that our major issue here is coping with some of the impacts of this global recession that continues to dog both our region and our nation, and this

recession is literally changing the way we do business as a government. We are continuing to face a contraction of our local revenues. Because of economic factors, the amount of money generally that we have to spend has been shrinking. And what we face now is the challenge of adopting what we're terming a resilient approach to successfully adapt to this change in a way that enables us as a community to rebound stronger than we were when we entered into the recession, and that's really quite a tall order.

And what it's all about at this point in our history now is trying to sustain our service levels, but with stable and available revenues, not hopeful revenues.

Now, there's an organization that's a national think tank on local government, called The Alliance For Innovation, and they conducted a national study very recently called Transforming Local Government. And through this study, what they've done is they've documented responses to the fiscal stress that's been caused by this very recession across the country. And I wanted to take a little bit of time to go through some of these issues because I think it provides a very good structure and some context for us to use to evaluate our efforts currently. And what we've learned through this study is organizations, city and town governments, in all of the states that have successfully coped with the fiscal stress caused by the recession, exhibit many common characteristics that have helped

give them the ability to adapt to these changes and also take a much longer-term viewpoint.

And I want to go through, if you'll indulge me, a couple of minutes and look at what some of these key factors of success are in communities and how they've addressed the fiscal stress that is very similar to what we're under right now. And the first key factor here is the ability to both recognize and then adapt to the important economic trends that are going around us.

And if we could get the next slide, I'd like to talk a little bit about Falmouth and the economic trends that we need to recognize and adapt to. And if you take a look at this chart, it's an absolute mess and it's the state revenue picture from 2002 to 2011, so it's ten years of state revenue. And it think what it really shows is you can take any of these high amounts back in 2002 or even 2008 and pretty much discount them completely. When you're dealing with a revenue source that vacillates just so much, what you need to do is take a look more at kind of a regression type analysis in the middle, here, in terms of analyzing where these revenues will be. What we can see is that the most important trend here since 2009, we've seen some very precipitous declines in the state aid and based on this we're forecasting, moving from 2010 into 2011, that these revenues aren't going to level off, these revenues aren't going to pick up. We're going to continue to decline at roughly the same rate of decline that

we saw for the previous year. That's an important trend. We have to recognize it and we have to adapt to it.

If I could get the next slide. A little bit even more of a problem for us are what's called these Local Estimated Receipts. And again taking a look at the ten year's history. These are the issues such as the Motor Vehicle Excise that we talk about: water rates, sewer rates, all of our local charges that are non-property tax-related. And what you see here is a story of very intense growth over the first, you know, seven years of this program, followed by a graph that if you took in isolation would look just like the state revenue graph: it goes haywire with the economy. And I think what we're seeing here is a trend for really the first time that these local receipts aren't being fueled by the way they had been fueled in the past.

And, I'll be perfectly honest with you, ladies and gentlemen, looking at these numbers here today tells me that it was really in this 2008 to '09 time frame that we probably should have taken stronger action at lowering those estimates. It was difficult I think for any of us to know the extent to which they would decline and how this decline would be so uneven since that. But if we were a little slow to react to this fundamental change in these Local Estimated Receipts, I put it to you now that I think we've caught up with a vengeance, and I think as a community that we understand now and are adapting better, stronger, quicker to the economic trends that are around us.

The Chairman of the Finance Committee mentioned our detailed analysis that went back to every single one of these independent items, and I do want to thank the Finance Committee for their work. They were very strong participants in mapping out a strategy.

Maybe let's go to the next chart. I don't want to spend too much time on this, but it does show you some of the work that we've done in adapting to these changing economic trends in the 2009 collections for what really amounts to be 85 or so percent of these local receipts. You see the collections: 17 million in 2009, and we had originally had 19 million for 2010 and we make adjustments, you know, down to the 18.5 range. In the 2011 budget, it's the same that what we're trying to do by making these estimates down to 17,480,000, it's much closer to that '09 level, and we do have documented increases.

So what we feel, moving forward, in this budget for 2011, these are stable revenues. We're not out of the woods yet in 2010. You know, we still have a lot that's up in the air, but we feel moving forward that we've taken strong, decisive action to try to lower the estimates that we have, to try to deal with these issues.

Now, another one of the key success factors that was identified by the Alliance is the need to reassess community priorities and to have a public process to do that. To this end, this year we are in the midst of a massive effort to both limit expenses and prioritize Town

services and expenses. We saw \$2.1 million in budget reductions earlier in this fiscal year. We're going to see at the Special Town Meeting an additional nearly 900,000 to close budget gaps as much as possible during this fiscal year. And this is an historical note to put it in this context: I think this is the first time we've seen budgets actually decrease since the inception of Proposition 2 ½. That was a very difficult process to go through, Prop 2 ½, but since 2 ½ came in, we've seen small growth every year. Now we're dealing with an actual decrease in revenues that we have to adapt to.

Now, I want to point out all of our Town departments have been involved in very much a strong team approach. I want to thank them for what they've done for accepting me, for accepting the Finance Committee and all of our ideas and coming forward with the specific prioritization and the cuts to help reduce expenses.

If we're to be successful in moving forward and reassessing all of our community priorities also, the support of the Finance Committee and the Board of Selectmen is going to be absolutely critical to our public process to determine what these priorities are going to be for our new service levels.

A third key factor that was shared by all of the successful communities in the study was very simply to take action to fix structural deficits. Now, for our community, the structural areas that we find

ourselves in a problem with when the revenues begin to decline are the costs of the labor. It's a very much labor intensive organization that we have. The costs of the employee benefits that are associated with that labor, and also the debt service that we have inside Proposition 2 ½ that if it gets too high can compete with the costs that we need to actually provide the services.

I want to point out we're working very closely with our Town's entire work force on proposals that are out there to use some furloughs in the short term to help lower labor costs and avoid layoffs that would have a tremendously negative effect on reducing all of our services levels.

We've also eliminated a great many positions in the Town's budgets, especially over the last three years. It does put a lot of stress on the Town's services, but you have to eliminate these structural issues that plague the budget and make it so that you run deficits.

We've also, on the employee benefit side, another structural problem that we've had, we've identified some very specific ways to control health insurance costs while also preserving the comprehensive benefit levels that we enjoy, and we're rolling out these programs; there's a tremendous amount of negotiations and discussions that we need to provide health insurance that is sustainable moving forward, but we have the programs and we have the discussions in place and that I think is some specific examples of how we're going about addressing some of the

structural deficit issues that we face.

Another one of the key elements for success in dealing with this fiscal stress is the ability to try new ideas, to reorganize some of the functions of government in order to save costs. Some examples we're in the midst of that right now, we're adopting Town and School common financial software which will streamline many of the financial functions that are so labor intensive right now. We're done some studies of the organization of some of our financial functions and we've developed some ideas to potentially consolidate some of these functions, moving forward, which will do the job better than we do it now and also save money.

We've had some very good success hiring with grant funds. Town Meeting approved our energy coordinator that's working directly with Town departments today to save thousands and thousands of dollars in energy costs.

We've also had some success under the leadership of the Planning Department combining historic preservation duties with Community Preservation in a way that shares the costs and keeps those costs down.

Another key element of towns that are successful in dealing with this stress is to advance technological solutions that help push the Town forward, and this gets to the point of emerging as a better organization than when we went into this. And, as you saw by our first

slide, we've had some tremendous success in the renewable energy field. We have a highly talented project manager, Heather Harper, at the front, here, that has just done such great work in speeding up our ability to get these systems online. They will generate, Wind Turbine Number One and Two, hundreds of thousands of dollars a year in direct cost savings. That is probably, you know, one of the most fundamental financial impacts that we'll see. The financial software, again, will help streamline a lot of our functions.

We're supporting wholeheartedly the Open Cape Broadband Network, which will provide additional fiberoptic communications between our key Town facilities and also help make that financial software worth its weight in gold. So the technological solutions are also very, very much a part of the process, very important moving forward.

Now, it's not all going to be easy. A very important characteristic of the successful communities has also been the ability to increase revenues to meet those very priorities that have been set by policymakers in an open, public forum. That is easier said than done. We've struggled mightily in terms of being able to address some of the revenue issues and get it so that the revenues are rebounding and coming back up, and it's never easy. It's never easy to address those problems when you identify the priorities but there's a lack of funding for them. Action is needed to address those items. We're not starting blank from it.

We have a set of detailed recommendations from our independent auditors who have reviewed the Town's finances and have some ideas for looking at potential revenues.

We have local option revenues to evaluate, just different service models for potential fees for the service, to take a closer look at those utilities. But it is very difficult. I know even later on in the meeting there's an article to roll back water rates in the face of massive deficits in that very department. And, as I said, this is going to be a lot of work and it's going to be extremely difficult. But in the study we've seen how communities that have successfully adapted to the challenges of the fiscal stress have shown management flexibility to consider new options and also a public openness in decision-making and the ability to debate, make some decisions and move on. And that is exactly what we're going to have to do right here in Falmouth. We're not going to escape that.

To give you a sense of some of the power that you're dealing with in your organization, I want to point out it's the property taxes that really fueled this organization throughout both of these recessions. Which, there was one in 2004 and one in 2008-'09. The property taxes have been strong, have been sustainable, have been growing. The property values are high in this community and they have not been susceptible to the economic fluctuations that we've seen in our other revenues.

If we can look at the next slide, I want to give you a little

context. If you take a look at the composition of the revenues that comprise your budget, you'll see that those property taxes which are still strong and stable represent 72 percent of your budget. That's what floats the Town of Falmouth, that's what will continue to keep the Town relatively safe in some of these down economic times. The problems that we're facing deal with the state aid, which is six percent of your budget, and those non-property tax local revenues, which are approximately 22 percent of the budget.

So, the part that's at risk is roughly the 28 percent piece. Luckily, we've got a strong property tax base that continues to power our community. And the thing that I want to remind you: regardless of the decisions that we make on this budget, regardless of any actions that we take in July, these beaches are going to be packed and our town will be full of visitors and we need to make sure, just moving forward, that we take the right actions that are capable to meeting the needs of not only these many visitors to our towns but the local residents that live here annually and we do it in the wisest way possible.

We could take a look at the next slide. I want to just give you a couple of highlights overall of the money that's in the budget we're asking you to look at. Some of the structural items that I mentioned, I want to show you. We've conducted – this is a five year analysis of some of these major budget items. And if you take a look at the health insurance

piece, you see how much it's grown. And we've made a commitment to that health insurance and we continue to commit to it. This is raising, out of the funds that we have, 828,000 for FY '11 is going just to maintain our health insurance programs. And I want to say that we've identified ways that we can save 828,000 without hurting the level of benefits that we have for health insurance. And that's a key area that we need to address. If health insurance is going to continue to be sustainable, and we're not going to kill the goose that laid the golden egg by not controlling costs in this large part of the budget that, as you can see, is over \$10 million, we need to control health insurance costs in a way that is positive and protects our employees. I'm just saying is the status quo for this line item is not sustainable. It is a structural item that must be addressed by this community if we're to move forward, and I think there's ways to do that.

Looking at Retirement, you see some steady growth here. Now, Retirement is up \$248,700 for Fiscal Year 2011. Now, unfortunately that's an item that falls into the category of you need to find revenues to support that. It's an unfunded liability that has been created in years past and we are under a state mandate and a schedule that we have to meet that unfunded liability. And the state mandate is we have to have an additional \$248,000 at least a year for the next several years and we need to identify that, the Town can't get out of it, and we need to find funds to meet that.

We've done a real good job with the Town's insurance to keep that on a par with previous years; it hasn't gone up at all over the last five years. The Medicare, you know, we always get scared that that's going go up, but you know we've kept that down. But it gives you an idea of the role of some of these structural items.

I want to talk a little about the debt service. You see the debt service for the Long Term Excluded Debt being shifted over: the Short Term Excluded is down 700,000. We've got about 2.8 million in new Excluded Debt. That's the cost of that last chunk of the high school, getting those bonds in place, moving the high school project over from temporary debt to the permanent debt, so this debt will even out from here. But I think what's more important, this shows we've had some great success in addressing some of our structural problems.

If you take a look at the Unexcluded Debt, this is the debt underneath Proposition 2 ½ that competes with the funds that we use to provide services such as education and public safety, that's up this year 280,000. Now, if you take a look over the last five years, it's only up 280,000, and that includes buying a new golf course that had its own revenues associated with it and is self-funding, and it also includes that debt that we've taken on to build those wind turbines which will more than pay for itself.

So, the debt that we've taken on that's included we've been

very successful because all the new unexcluded debt has revenues associated with it so it is not a drain on our system. That is a victory that we've had in addressing the structural problems.

Let me go to the next slide. Something that we need to think about very strongly, and that's right, this says "Public Safety Decreases". I want to salute the public safety departments in this community for very successful efforts in keeping their costs down. In both departments we've had significant reductions in overtime costs. And it takes a lot of teamwork. It is a very difficult job.

Moving forward, we need to ensure that we're not eroding to a point where we're not comfortable with the services that are provided by these departments. Anytime you reduce a labor intensive effort like these public safety departments, you put service levels potentially at risk. I think that both chiefs and the men and women of the departments have done a great job, but we need to study these services, cost out. As the Chairman of the Finance Committee I think so appropriately said, cost out the individual programs and make some decisions on the priorities, and I know the chiefs have already started doing that.

We can maybe take a look at the next area. This just shows you, it's a training exercise of the Fire Department, how intensive, you know, the need is there to be active, ready for the types of challenges that are faced in the public safety environment.

Maybe the next slide – shows you in the police arena as well some of the training is enormously specialized. It's very difficult, the missions that they accomplish, and to see them be able to hold those costs down, you know, I think the next steps are going to be incumbent on us to determine what those service levels need to be.

It's a similar situation when you get into the Public Works arena. These folks have done a great job in holding the costs down. Take a look at these five years costs. We're spending less now than we spent in 2007 in Highway; Water's been able to get their costs down. Wastewater, you know, it's gone up a little but we've opened up in that period of time two brand new wastewater treatment plants that both of them are performing, you know, much higher than they had in the past.

Interestingly enough, you need to take a look at this item here. You know, the trash collection budget is up 248,000. Does everyone know that the trash budget is the biggest division in all of Public Works? Well, well, well it is. And when, you know, we talk about – I know there's been so much discussion about the mechanisms that we employ to have some fees for these types of services. I only ask that, in making these determinations on what the most appropriate fees are, that you recognize that we need 248,000 more dollars just to get the curbside program rolling for next year. That this is an environment of shrinking revenues, but if you don't come up with another \$248,000, you will not have your waste picked

up. And these are costs, as you can see, you know, that they are growing and that is a service that is a bid service and we were happy with the bids, but it's more money.

I want to show you, you know, just a couple of pictures, because when we talk about the Department of Public Works is: how do they get the job done with less resources? There has been a significant retooling of the entire function in the Public Works Department that has just been something to behold. And I really want to salute them for that. And what this shows, in old years, this is the type of work, the installation of these so important drainage structures in our public ways, that that work would have always been bid out. We're working smarter. We've got more equipment. We've kept up with the capital improvement program and we're able to do the types of jobs in-house for a lot less money than we used to always have to contract out for.

Maybe take a look at the next slide. This was a major drainage problem: Mill Street. Perennially under water. This was a massive drainage project that was also an environmental improvement project by the DPW and their crews and I just think it shows an example of some of the great work that's being done in these departments to try to work smarter, to try to get more done for the money, to try to use the equipment that Town Meeting has provided.

And I want to show you the education piece as well. We've

struggled, we've struggled very hard with the question of education. I want to salute the School Committee and the Superintendent of Schools; every step of the way, they've been critical partners with the Town in addressing problems with the revenues shrinking. There's a \$500,000 decrease in the educational program for next year. It's going to be very difficult to absorb that into the school system. But I think it's part of our adaptation to this changing environment. What we've proven is that you can't do it pitting one department against another. It has to be a town-wide effort and it has to be an effort that includes all departments and all of our policy leaders. And it's going on right now.

And if I could wrap things up for you, I will. This is some of our younger constituents that are the beneficiaries of some of the major services that we perform.

Maybe just go to the next slide. You can't see it too well, but that's a gym full of kids that depend on the Recreation Department services that they provide. And I just want to wrap things up a little for you, now.

In terms of this issue of resiliency, which again means coming out of this recession a stronger community than we went into it, I think it's possible. I'm not being overly optimistic. We have our work cut out for us, ladies and gentlemen. It's not going to be easy adapting to this change. But if you look at it in the structure, and we have mounting evidence of

these common characteristics of the types of communities that are capable of moving forward and being stronger, I would submit to you that the key factors that we talked about tonight for success are in place; we just need to employ them and continue to work hard and work together to make those priorities and to communicate with each other on them.

We've taken some very strong action to rein in expenses. Maybe we could have done it a little sooner. I admit that, freely. But I think we've developed stronger partnerships. We've developed better ways of analyzing, you know, the revenues, and we've taken bold action to try to keep those expenses down while we set, you know, the new priorities and establish, you know, potential new revenues.

We're turning now to establishing multi-year financial planning for these budgets, working to set priorities, set funding sources, and the hardest part of this process is going to be to work with residents, Town Meeting Members, just like yourselves, and our Town leaders to talk about our financial situation. It's nothing that anyone here did wrong that caused the global recession, but we need to adapt to it and we need to move ahead and do it pretty quickly. We need to have that open, honest discussions about prioritizing, costing out local services. If there are services that we are providing that we can get away without providing, we need to cut those services. And we need to identify what the core missions are that we're doing and we need to do them right.

And that basically, I think with that, I'll stop – I'll stop here and get into the budget. But I thank you for listening and I thank you for your attention.

[Applause.]

THE MODERATOR: Before we get into the actual line items, any general questions on the budget for Mr. Whritenour? Mr. Latimer.

MR. LATIMER: Richard Latimer, Precinct 5. We noticed lots and lots of cuts and holding the line in cuts. We need to control costs. We don't hear anything about how to increase our revenue streams. We see that a steady progression of property tax revenues; that's nice to see. But I have a question for Mr. Whritenour as to – Mr. Whritenour – Mr. Whritenour, I have a question for you.

MR. WHRITENOUR: I'm listening. I'm listening. It's "Whritenour".

MR. LATIMER: All right. I have a question for Mr. Whritenour as to on that increase – that steady increase that you say is sustainable on property tax revenues, how much of that is attributable to increasing appraisals based on market or how much of that is attributable to increased development? In other words, the increase in the number of units that are converted from open space to developed properties and increased in size? Have you broken that down?

MR. WHRITENOUR: The increases that we discussed this evening are not as a result of any increases in the property values. Let's talk about property values for a second, though. With even such a high levy of property taxes, the property tax rate in this community is only \$6.75 per thousand. Now, what that shows is that we have extremely strong property values, simply put. The increases in the property tax revenues, I think that largely a lot of it is from the excluded debt that we've taken on; otherwise it would be growing just as steady but maybe a little bit slower. And I would say that the second part of your question dealt with how much of the increase in our property tax revenues comes from the new building. And what we've seen is – and, again, it's one of those fundamental economic considerations that we need to adapt to -- that the issue is we had maybe in its heyday – which was in the 2006-2007 – and I'm only going back for the last ten years – they call that the new growth, which is the new property tax revenue each year from those properties that were built during that year. We derived approximately 1.2, 1.3 million dollars per year at the height of that. Now we've dropped to 500,000 or below. It's about a third of what it once was. And so we've proven that you will not fund the growth in Town services on the new buildings in town. And that's part of our new paradigm, that we're not counting on this new development to increase the property taxes; that we're going to have to take a look, if it's property taxes you desire, you're going to have to take a look at the

property tax rate that you can't – there's just not enough building going on to grow the property taxes. Does that answer the question?

MR. LATIMER: Yes, but the follow-up question is then, when we see that new development that adds a nominal amount to that growth in the property tax base, that puts increased demands on services such as police, fire, schools, other services like waste management and so forth, and so we're not keeping pace – that development isn't keeping pace with the – in terms of the property tax with that demand: so what are we doing to find other ways to increase revenues? Because we can't practically go – because of 2 ½, just do like we used to do in this town, is raise the funds to meet our demands on our services, so what other ways have you been looking at to increase revenues in this town?

MR. WHRITENOUR: Well, that's a very good question and you know there are a series of recommendations that have been presented, and as I have indicated, the Town's independent auditors have conducted a comprehensive analysis of the Town's finances and they've made a series of recommendations and those involve analyzing the property tax rate, they've involved analyzing the user fee departments for establishing fees that cover the services. So, it runs the gamut.

And also out there there are local option taxes that, you know, we've decided, I guess previously, that the Town didn't want, and I think what it boils down to is not selecting just one item and say, "That's what

we're going to do to the exclusion of other items.”

But I think that what my key point is, and this is the hard part of the puzzle, is we need to have an open and frank discussion about what our service levels are, first and foremost. What we prioritize for these service levels. Where we view ourselves, and then and only then can we begin to go through all of the options for new revenues that are available to support those services levels that we decide that we'd like to see.

THE MODERATOR: Okay, ready to do the line items? Yes, Mr. Netto.

MR. NETTO: Joe Netto, Precinct 9. Question, Mr. Moderator, for the Chairman of the Finance Committee, Mr. Anderson. Before we start discussion of the line items of the budget, we have had, you know, numerous presentations by the Town Manager and earlier one by you, but I see here again on, well, whatever page it is, I can't see, I don't have the glasses on, we have no money in – no money being applied to the Stabilization Fund. So, as Town Meeting Members, before we start the discussion of spending \$107 million, could you please tell us what we have in our bank account, our rainy day fund? Which, to sum up, I think would be Certified Free Cash, and the total in the Stabilization Fund, in case of emergency.

CHAIRMAN ANDERSON: In the Stabilization Fund, we have a little over \$900,000. The amount of Free Cash that we are starting

tonight with is \$211,000. There are some articles in the Special Town Meeting that will draw down the Free Cash. There is nothing – we are not using the Stabilization Fund in terms of a recommendation to fund any of the articles.

THE MODERATOR: Okay? Let's begin at the beginning with Town Meeting. Town Moderator. Selectmen/Town Manager. Finance Committee. Yes, Mr. Schmitt. Microphone, please.

MR. SCHMITT: I would just like to know something about line 23, it's the Finance Committee Reserve fund; can you just tell us what that's for?

THE MODERATOR: That's for emergencies. Mr. Chairman.

CHAIRMAN ANDERSON: The Reserve fund is a fund that is set aside by Town Meeting within a budget, and it is to be used for funding unexpected emergencies, things that cannot wait until a Town Meeting to be funded by another method. And the departments make an appeal to – they make a presentation to the Finance Committee and we make a determination as to whether or not it meets the criteria.

THE MODERATOR: Anything else for the Finance Committee?

Town Accountant. Assessing Department. Town Treasurer. Town Collector. Legal Department. Yes, Ms. Aguiar.

MS. AGUIAR: Debra Aguiar, Precinct 9. Just a quick

question on 46, Special Counsel. Through you, Mr. Moderator, to Mr. Duffy, can you explain why it went up 50,000?

THE MODERATOR: Mr. Duffy.

MR. DUFFY: I'll have Mr. Whritenour, perhaps, elaborate on that, but it's largely related to labor counsel. In fact, it's almost exclusively related to labor counsel. And what we are seeing now as times are bad, labor costs and the cost of labor counsel go up; we have a lot more labor issues. Mr. Whritenour?

MR. WHRITENOUR: I need to point out on the Special Counsel budget, this was one of those items that didn't go up 50,000 like it looks like. The funds were not adequate in that budget last year and that budget was supplemented with transfers from the Reserve Fund, and what we tried to do is more of an accurate budget that we need, and this is a year that we're negotiating all of the Town contracts. So I don't want you to think that it went up 50,000 in one year. A lot of that is, through our prioritization process we decided that under-funding any of these line items is just not the way to go, so we tried to put it where we thought we needed it.

THE MODERATOR: Okay, yeah, in the back. I can't see whose hand's up, there, but. Oh, Ms. Vidal.

MS. VIDAL: Pam Vidal, Precinct 9. I appreciate you answering that question, Mr. Whritenour, but to us lay people, when we

see 50,000 and then 100,000, and you say, "It isn't", I'm not alone on that question. So, we need to have that one cleared up a little bit better next time, okay? Thank you. Now would be good.

[Laughter.]

THE MODERATOR: Okay. Anything else under the Legal Department?

Personnel Office. Information technology. The GIS. Affirmative Action. Town Clerk. Elections. Conservation Commission. Planning Department. Zoning Board of Appeals. Town Insurance. Facilities Maintenance. Police Department. Fire Department. Building Department. Emergency Preparedness.

Ms. Aguiar.

MS. AGUIAR: Debra Aguiar, Precinct 9. I know this might seem kind of silly, but I'm just curious on number 123, Capital Equipment, Cots. Do we buy these every year? I'm just a little confused. What is the 300 for? Are we – I mean, am I mistaken? Are we buying cots or?

THE MODERATOR: Yes.

MS. AGUIAR: Every year?

THE MODERATOR: Our Emergency Management Director. Shardell, if you want to answer that one.

MS. NEWTON: We do, we buy it every year.

THE MODERATOR: Behind this building there is a ConEx

box and we keep putting, under the leadership of the Emergency Preparedness Office, cots in there so that if the stuff hits the fan, we have enough cots to take care of everybody. So, instead of buying them all at once, We're stretching it out. Okay. No pun intended there, I guess.

Emergency Preparedness, anything else?

Natural Resources. Harbormaster Waterways. Oh, come on, Joe, you don't have anything on that one?

School Department. Upper Cape Vocational School. DPW Admin and Engineering. DPW Highway Division. DPW Snow and Ice Control. Street Lighting.

Ms. Aguiar.

MS. AGUIAR: I really went through this really well, as you can tell. A question on the red capping; is that shown in this anywhere? I know that we spoke about it and we're supposed to do it. I'm just curious.

MS. HARPER: Are we on? Okay. We did discuss that this year during the Board of Selectmen's review of the budget as to whether they were considering a red capping program. They determined that they would sustain the budget and were not proposing to red cap lights. We do have a grant with Cape Light Compact where we will be doing some substantial modifications to the street lighting system which will include new bulb replacement for some of them, changes in sizes of the street lights, so there will be some changes. There's also a contribution from our

Renewal Energy Stabilization Account, which is renewal energy funds generated from our wind energy program. So that is supporting this budget. No red capping this year.

THE MODERATOR: Okay. Vehicle Gasoline. Waste Management Facility. Solid Waste Collection. DPW Wastewater Utilities. DPW Water Utilities. DPW Tree Warden. Health Inspection. Clinics and Nurses. Counsel On Aging. Veteran's Services. Commission On Disabilities. Human Services. Falmouth Public Library. Cape Cod Regional Library. West Falmouth Library. Woods Hole Library. The Recreation Department. The Beach Department. The Bikeways Committee.

Long Term Excluded Debt. Long Term Unexcluded Debt. Short Term Excluded Debt. Short Term Unexcluded Debt. Stabilization. Retirement. Unemployment. Health Insurance. Mr. Lowell.

MR. LOWELL: On the Health Insurance. This being the second largest line item, I was just wondering if you could clarify a little bit more – and I believe it's the fastest-growing line item – clarify a little bit more what the plans are for controlling this. Through you, Mr. Moderator to Mr. Whritenour, you mentioned that you are going to try to control this. You are in union negotiations. I was just wondering if you could elaborate perhaps on what that means, what that practically means. Thank you.

THE MODERATOR: Mr. Whritenour.

MR. WHRITENOUR: The Town is a member of the Cape Cod Municipal Health Group, which is a joint purchase collaborative. It's a regional collaborative for all of the communities on Cape Cod and the Islands and all of the school districts. It covers 10,000 employees plus their families. And through this program, they've been working very hard at studying the various plan design issues to try to come up with a more modernized plan design that establishes various co-payment structures, pharmaceutical benefits, all geared towards changing behaviors and getting folks to go into the most reasonably-priced types of service for health insurance. It's a move that mirrors what's been going on in the private sector for some years, now, and it's a way to reduce the overall benefits or reduce the overall costs of the program without reducing the comprehensive benefits that cover all of the hospitalization.

And the Cape Cod Health Group has announced these new programs that mirror the Town's programs, only they have the structures a little bit different, and they're priced approximately 15 percent lower than the current programs that we have.

And I think that you point out very accurately that this is the fastest growing line item in our budget. And, in an era when revenues are actually declining, unless we take some action to modernize these programs in a positive way that preserves the benefits, the old programs are simply going to be unsustainable economically. And if you take a look

at a budget that's approximately \$1.5 million or more like \$10 million, fifteen percent is about 1.5 million, so that gives you an idea of these initiatives.

THE MODERATOR: Okay –

MS. HARPER: Mr. Moderator, I'd just like to add that those programs are known as rate saver programs. Those programs are available now. Employees have the option of selecting those programs. Now, what we can't do without collective bargaining, coming to agreement with all seven municipal plus the school unions, is to eliminate the more conventional options. So, those programs priced at 15 percent below the other programs are available as of this year. So, if you know an employee or you work with an employee, you can certainly share that with them, that that opportunity is available as of this year.

THE MODERATOR: Okay. Ms. Johnson.

MS. JOHNSON: Two questions. I'm Patricia Johnson, Precinct 5. One question is some of the plans' percentage contribution by the employee going to change? Or, on with your negotiations with the unions, are you considering going into the state health care program which had several articles in the Globe about the savings to communities if all our employees or the Town would negotiate with the unions to go into the state program?

And one other question. There have also been some articles:

do we have any of these programs, health care programs that would be classified as the Cadillac programs?

MR. WHRITENOUR: As a what?

MS. JOHNSON: A Cadillac healthcare insurance. Cadillac, meaning it's way above the average.

MR. WHRITENOUR: Okay, okay, no, I understand that question. You mentioned, first, I'd like to get to kind of like the meat of your question first, which is she raised an issue, there's a state program out there, and I'm sure everyone's read a lot about, it's the health insurance that's offered through the Group Insurance Commission, and this is the health insurance that's provided to state employees. And, quite honestly, a lot of our work with the Cape Cod Municipal Health Group has really been geared towards coming up with legitimate options to that program.

The program is a little bit cheaper than the program we have now, but the benefits are nowhere near the programs that we currently enjoy, and a perfect example of that is – that hurts kind of the Cape Cod environment, there's no Blue Cross Blue Shield, or anything like that available. We're also out of network down here for the state program, so it doesn't work as good here as it would up in Boston. But the fact is that what that Group Insurance Commission initiative has demonstrated for us here on Cape Cod is that the status quo of the old programs with the old

system is not sustainable. And I think if we're going to avoid being shoved into the state system, which has much less benefits and doesn't work as good on the Cape, that we darn well better come up with some programs that have a modernized structure that preserve the quality that we're looking for in our own labor market, in our own region. And I think that the health group has really got a winner with the rate saver program because by readjusting a lot of the co-payment structure it's avoided the reduction in the benefits and the adding of deductibles that the Group Insurance Commission package has done.

And I think the other issue, you know, the first part of your question and the last part of your question actually dovetail quite closely because you started off discussing the issue of the, you know, what the contribution level is and the percentages, and then you ended up talking about these potential Cadillac programs and things of this nature, and one of the things that we have been very successful here in Falmouth is being able to establish a sliding scale that has one of the so-called Cadillac programs that we still offer; it's the old Master Health Plus, but it's really gone the way of the white elephant. It's just the most expensive program. It's no longer even the best. The benefits aren't as good as some of the other programs that we offer. And the Town still does offer that program, but we pay 50 percent of the premium for it. And if you get into the HMO program, you get a higher percentage paid and that's a good thing,

because the HMO program contains a great deal of cost control and it's by far the lower cost program so you get a slightly higher percentage.

So, we've been successful in tying the percentage contribution to the programs that are the best for both the employee and the Town. The next step is to revisit the overall structure of these programs to make sure that they are very competitive with that state program, but offer better benefits as well as a lower cost. And I hope that answers your question.

THE MODERATOR: Mr. Netto.

MR. NETTO: Mrs. Johnson, I'm glad you asked the question. And Mr. Whritenour, I don't agree with everything that you just said because, number one, that's the health program that I'm retired under, and some of the statements that you just said I don't think are perfectly true, Sir.

First of all, it's a program open to Town employees. It's not a – it's a state run program. I'm not the expert on it. Health care is fine. There was a move by the state and the state's been behind it. And I think the Town of Falmouth should do everything in its power to investigate this program because it offers a great deal of savings to the taxpayer.

I'm a retired public school teacher. I was never a state employee. I was a town employee for the Town of Wareham. So, if you're going to discuss it, Sir, discuss it with correct terminology. And it has very good parts to it. We're not going to discuss health care here on Town

Meeting floor. But I think it's the same answer that 50 and 50 doesn't equal a hundred. We should be factual in what we say. Thank you.

THE MODERATOR: Mr. Latimer.

MR. LATIMER: Richard Latimer, Precinct 2, Town Meeting Member. Mr. Whritenour, maybe I'm wrong, but I thought when you started out and you showed us those bar graphs, I thought I saw a very significant increase in health insurance costs for this year. If I'm correct about that, to what was that increase attributable?

MR. WHRITENOUR: With the self-insured program, what we pay are the exact costs to operate the program. So that is the inflation of health care costs on Cape Cod.

MR. LATIMER: Okay, and we have no control over that?

MR. WHRITENOUR: No, we have no control over that rate, the costs of the services. If we weren't in a self-insured pool, we'd be paying insurance companies and that rate of inflation would be even higher. Where we have control is in analyzing issues such as the programs that we offer.

MR. LATIMER: Thank you.

THE MODERATOR: Ms. Palmer. No. Okay. Anything else on health insurance?

Life Insurance? Medicare Benefits. Other Employees Benefits. And Court Judgments.

And then our revenue statements. Yes, Ms. Tobey. Can we have a microphone to my right, please.

MS. TOBEY: Linda Tobey, Precinct 4. My concern is, with a couple of different departments they had the common thread of the out of state travel that was put in. I was a little surprised to see it because, at the previous town meeting, we discussed it and people were in agreement that this was, when you're going to cut, that this is something that could have been cut unless it related to courses that people had to take or requirement for their jobs.

It comes to over \$13,000. It's for the selectmen and town manager, the police, the fire, the DPW. At the previous Town Meeting, I believe we took the money that had not been spent and put it into the Stabilization Fund. I'd like to propose that we do that again tonight.

It just seems that a lot of people have really cut things to the bones and having money to spend in out of state travel is a luxury, it's not a necessity, unless it's something required for jobs. Like the Fire and the Police, I realize there are some things they have to go out of state to do. But I don't think this is the time for other people in other departments to be traveling. Thank you.

THE MODERATOR: Do we have a specific motion of where you'd like to reduce?

MS. TOBEY: I'd like to make a motion that any money that is

not spent by the departments in the out of state travel be put into the Stabilization Fund.

THE MODERATOR: Okay, in order to do that, we'd have to do that in the Fall Town Meeting or at a Special Town Meeting because we don't know what they're not going to spend yet because we haven't started the fiscal year.

In other words, you can budget to not allow them to spend a certain amount of money, but if you want to take what's left over and put it back into Stabilization, we can do that when we get towards the end of the fiscal year, which would be at a Special Town Meeting.

So, do you have a motion to move any of the existing line items?

MS. TOBEY: [No audible response.]

THE MODERATOR: No? Okay, yes, in the back. Can't see with the glare. Is that Mr. Stumcke?
Okay.

MR. STUMCKE: Brad Stumcke, Precinct 4. Line item 10— it's the Quinn Bill for next year. There's nothing there. I know we're going to discuss the Quinn Bill for this year, right?, in the Special?

THE MODERATOR: In the Special, you'll be dealing with the current fiscal year, and this is for next fiscal year.

MR. STUMCKE: Right.

THE MODERATOR: That's correct.

MR. STUMCKE: But there's nothing in next fiscal year for the Quinn Bill.

THE MODERATOR: That's correct.

MR. STUMCKE: I just hope everybody's aware of that.

THE MODERATOR: Mr. Chairman.

CHAIRMAN ANDERSON: Actually there is a line item, Line item 100, which represents the Town portion of the Quinn bill, totaling \$207,070. The Town is still paying their 50 percent portion. It is the state, in line 101, the state's share, that has been removed.

THE MODERATOR: Yes, Ms. Valiela.

MS. VALIELA: Virginia Valiela, Precinct 5. Mr. Moderator, this is sort of a general comment, but it's because we're at the end of the budget. The overall budget increase is about 1.6 million. And when you look at the individual departments, nearly every department has either held the line or reduced its costs, and it's other parts of the budget that, health insurance and so on, that have driven up so that the final number is higher for Fiscal '11 than it was for Fiscal '10.

We are going to, in the next article, be considering capital expenses and then asking the voters to support that article. I think it would be instructive to the residents and voters of the Town if the Board of Selectmen, Town Manager, made a list of the things that the departments

actually cut so that it clearly shows the effort that was put in to keeping this budget as low as it is, so that when we talk to voters about supporting the capital expenses, it shows that the Town government has been very aware of financial concerns and taken positive steps to address it. Thank you.

THE MODERATOR: Okay, any further discussion on the budget? Okay, hearing none, then the question will come on the main motion as printed with the – oh, we've got another one? Okay, Ms. Murphy.

MR. HAMPSON: Mr. Moderator, point of order. Just to be sure, I would like to make a motion that we continue beyond eleven o'clock to finish this budget, vote on it.

THE MODERATOR: Okay.

MR. HAMPSON: Okay?

THE MODERATOR: Just for the budget. Okay, continuing after 11:00 if necessary, to finish this article. All in favor, say Aye.

[Aye.]

THE MODERATOR: Opposed, No.

[None opposed.]

THE MODERATOR: The Ayes have it.

Ms. Murphy. Can the mic carrier help get that mic on, please?

MS. MURPHY: Is it on? Okay. Thank you, Mr. Moderator.

Carol Murphy, Precinct 9. I have a question on the Unemployment line

number 318, Fiscal Year '10, 80,000, and then it went to 175; why?

THE MODERATOR: Mr. Chairman.

CHAIRMAN ANDERSON: As many of us may know, this has been a very difficult time in the country and in the state for people who are not employed. Both the state and the federal governments have extended unemployment benefits and so we have seen a significant cost increase there. That's the reason that they have gone up very substantially. We've actually had Reserve Fund transfers and there is an article in the Special Town Meeting for an addition to unemployment compensation for essentially the same reason.

MS. MURPHY: So it's just for an extension and it's not that anyone's been laid off?

CHAIRMAN ANDERSON: There may – I guess I can't comment as to whether or not there have been layoffs. I'm sure that there probably have been people who have left their positions and may be qualified. But the bulk of it is relative to or related to the extensions.

MS. MURPHY: Thank you.

THE MODERATOR: Okay. Anything else on the budget?
Mr. Johnson.

MR. JOHNSON: Leonard Johnson, Precinct 5. I just wanted to follow up on the point that Virginia Valiela made. If you look at the Long Term Excluded Debt, line item – total line item 291, that increase in our

debt service, amortizing our debt, more than – is greater than the reduction in the other departments. So, all of the increase that she referred to, more than the equivalent increase, is coming from an increase in the debt. The Town departments have cut in the other sections of the budget.

THE MODERATOR: You also need to look at the Short Term Excluded Debt and see that there was a debt transfer from short term to long term.

MR. JOHNSON: But if you look at the total, Sir, I think it's still down.

THE MODERATOR: There's a substantial transfer there. Mr. Chairman.

CHAIRMAN ANDERSON: That particular line item, Unexcluded Debt, means that it is outside of Proposition 2 ½, so all of that – excuse me, Excluded Debt. All of the Excluded Debt is outside Prop 2 ½; those particular items must go on the ballot and they are approved by the voters so that there is a directly offsetting revenue source for those above and beyond the property taxes.

THE MODERATOR: Okay, further discussion on the budget? Mr. Wilber.

MR. WILBER: A further comments made on the Long Term Excluded Debt. There are different elements to this Long Term Excluded Debt and they have different time lines in terms of principal payments and

interest payments. It would be I think very informative to me and informative to other people in the Town Meeting to see what those individual items are and what the time lines are on them. When are we going to pay them off? When are they going to drop out of the budget? Right now they are a huge factor. It's the huge factor in the budget, as has been pointed out, but I would like to see some of these individual outside 2 ½ Props that we've bonded or whatever, what are they? What's their time line? When did they come in? When are going to go out?

That seems to me like long-term fiscal planning at its best.

Thank you.

MR. WHRITENOUR: I would just like to point out –

THE MODERATOR: Mr. Whritenour.

MR. WHRITENOUR: And you know what? I just think that's a really great question and I wanted to make sure that everyone knew that that information is posted on our website under the Town Manager's section and it is a very, very important part of our long-term financial planning and it has every project listed by the years and when it's paid off and when it's coming and going.

THE MODERATOR: We do have a copy up here, too, at the Finance Committee, if you'd like to take a peek with it. But it is online now, so that's good to know as well, that we can see that.

Okay. Any further discussion on the budget?

Hearing none, the question will then come on the main motion as printed, with the changes that the Finance Committee Chairman gave us at the beginning. All those in favor of the budget, signify by saying Aye.

[Aye.]

THE MODERATOR: All those opposed, No.

[None opposed.]

THE MODERATOR: Mr. Chairman -- It is the opinion of the Chair that the Ayes have it. Mr. Chairman.

CHAIRMAN ANDERSON: Mr. Moderator, I hereby serve notice of reconsideration of Article 13. I may wish to reconsider this article in case actions in the Special Town Meeting require changes to the Fiscal Year '11 budget.

THE MODERATOR: Okay, notice of reconsideration for Article 13 has been served in case we need to get back into it tomorrow night.

This meeting will stand adjourned until at the end of the Special Town Meeting and you'll all come back for a Special Town Meeting tomorrow at seven o'clock.

[10:58 p.m., whereupon this meeting adjourned.]

CERTIFICATE

BARNSTABLE, SS

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

The foregoing 164 pages comprise a true, complete, and accurate transcript to the best of my knowledge, skill, and ability of the proceedings of the Falmouth Town Meeting held on Monday, April 5, 2010, commencing at 7:00 p.m.

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

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this 25th day of May, 2010.

Carol P. Tinkham

My commission expires:

April 21, 2017