

COMMONWEALTH OF MASSACHUSETTS

TOWN OF FALMOUTH

NOVEMBER TOWN MEETING

Memorial Auditorium  
Lawrence School  
Lakeview Avenue  
Falmouth, Massachusetts

MODERATOR: David T. Vieira

TOWN CLERK: Michael Palmer

Wednesday, November 14, 2018

7:00 p.m.

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**I N D E X**


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P R O C E E D I N G S

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2 [7:00 p.m.:]

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[Pause.]

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[Pause.]

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[Pause.]

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THE MODERATOR: Okay, all Town Meeting members, please come forward, take your seats so we can establish a quorum.

THE MODERATOR: Okay, all Town Meeting members present please come forward. Make sure you've checked in and you have your electronic voting device.

THE MODERATOR: Yeah, if we could cue the quorum slide. Greg, if we could cue up a slide for a quorum.

Okay, folks, come on down, take your seats.

THE MODERATOR: I remind everyone that has a cell phone to please put it on a silent operation or turn it off before we commence the meeting. I heard some phones ringing last night.

I want to remind all Town Meeting Members if you have your Charter Review Committee

1 survey: there's a box in the lobby and you can  
2 drop off your completed survey and there are  
3 extra copies of the survey in the lobby if you  
4 haven't gotten them yet.

5 So, you can drop them off tonight. Pick  
6 one up during the break, if necessary, fill it  
7 out and drop it off.

8 Okay, let's activate the quorum call.  
9 All members present please press one for the  
10 establishment of a quorum.

11 [Pause while electronic vote scrolling.]

12 THE MODERATOR: Okay, all Town Meeting  
13 Members present please press one for the  
14 establishment of the quorum.

15 [Pause while electronic vote scrolling.]

16 THE MODERATOR: By a counted vote of  
17 183 members we have a quorum and I call the  
18 Annual Town Meeting back into session.

19 All present please rise for the  
20 presentation of the colors by the Falmouth Scout  
21 Honor Guard.

22 [Colors presented.]

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

1 [Pledge of Allegiance taken.]

2 THE MODERATOR: At this time I'll  
3 recognize Virginia Valiela for our invocation.

4 MS. VALIELA: Lord, when it comes to  
5 meeting and communicating with each other, help  
6 us to be good listeners. Help us to be open-  
7 minded, putting aside our own agendas. Help us  
8 to be honest, without being insensitive. Help  
9 us to be respectful, without being too formal or  
10 artificial. Help us to question and to  
11 challenge without being harsh.

12 Help us to be aware that this is just  
13 one moment, just one meeting. And lastly, help  
14 us to remember that you, too, are always meeting  
15 and communicating with us.

16 Amen.

17 THE MODERATOR: Please remain standing  
18 for a moment of silence this evening for another  
19 Town Meeting member that we lost since our last  
20 Town Meeting: Sia Karplus.

21 [Moment of silence taken.]

22 THE MODERATOR: Colors post.

23 The Falmouth Scout Honor Guard including  
24 the Sea Scouts, the Boy Scouts and the Cub

1 Scouts.

2 [Applause.]

3 THE MODERATOR: Okay, we're going to  
4 start on Article 11 tonight. **Article 11.** The  
5 Planning Board for the main motion.

6 MS. HARRIS: Charlotte Harris, Precinct  
7 5 and member of the Planning Board.

8 I'd like to first read the motion and  
9 then talk about it for a few minutes before you  
10 rush ahead. The motion is: I move to amend the  
11 Zoning Bylaw by adding a new section 2040-12,  
12 Moratorium on Solar Energy System, to read: 2040-  
13 12, Moratorium on Permits for Solar. The  
14 provisions of the zoning bylaw to the contrary  
15 notwithstanding, no building permit or special  
16 permit for the construction of solar arrays on  
17 business property, Business zoned property, as  
18 defined, shall issue until November 30<sup>th</sup>, 2019, or  
19 until this article is repealed by a vote of Town  
20 Meeting, whichever occurs first.

21 The purpose of this article is to  
22 provide the time necessary to study impacts to  
23 sites, site coverage, and other issues associated  
24 with the location of this use in front yard

1 setbacks and along the roadways of Falmouth.

2 Before you go ahead and vote against it,  
3 which I suspect you're going to do, I would like  
4 to explain that it's not unreasonable. The new  
5 law that has been passed by the state allows for  
6 reasonable regulations. You yourself voted last  
7 night for a reasonable regulation in passing the  
8 article that created the solar overlay district,  
9 so you've acknowledged the reasonableness of some  
10 regulations.

11 The Planning Board had hoped to have the  
12 opportunity to have a planning site review before  
13 ground mounted solar arrays --

14 THE MODERATOR: Could we hold for one  
15 moment? So, the number is dash 12. Your  
16 warrant booklet is dash 13. So that is one  
17 change. And can we just confer for one moment  
18 before you continue?

19 MS. HARRIS: Certainly.

20 THE MODERATOR: Thank you.

21 [Whereupon, Moderator leaves the dias and confers with  
22 Ms. Harris. The Moderator then returns to dias.]

23 MS. HARRIS: Okay, that was actually  
24 exciting. [Laughs.]



1 THE MODERATOR: Maybe for you, but -  
2 [Laughs].

3 [Laughter.]

4 MR. HARRIS: Mr. Vieira thought that  
5 this would be withdrawn because Article 7 passed,  
6 and I thought, "Oh. Wow." But no, in fact it  
7 didn't. So this isn't withdrawn.

8 So let me go back to - to where I was,  
9 which is the explanation of why this is here as  
10 sort of a back-up.

11 It's confusing to have a set-up on a  
12 warrant article that, if this one passes, we'll  
13 withdraw that. We apologize for the confusion.  
14 In the future, we're not going to present things  
15 in that way. But we saw it as one way to try and  
16 be sure that we would have time to develop  
17 appropriate regulations for this relatively new  
18 technology. The Town doesn't have them now.

19 It's true, as Rod Palmer has told us,  
20 that he's going to apply the zoning regulations  
21 that exist, but they don't really suit the  
22 occasion and it needs to be refined in some  
23 reasonable way. We had thought that by having  
24 it be considered as a structure, we would have a

1 site plan review in advance of making decisions,  
2 which would give us a case by case chance to  
3 develop a sense of what would be appropriate and  
4 that would have worked for us.

5 But now, that hasn't happened. So,  
6 rather than having that case by case approach  
7 that we would have gotten through a site planning  
8 process, we're asking for the time to be able to  
9 develop that. The amount of time that we would  
10 like is either one year, through next November,  
11 or, if it isn't working for some reason, sooner  
12 than that; you could get rid of it in April. So  
13 it's either six months or a year's time to  
14 develop reasonable regulations. That doesn't  
15 seem unreasonable.

16 I'd also like to use this opportunity to  
17 try and correct some statements that were made  
18 yesterday that may be untrue. The statement was  
19 made that the new state law forbids the  
20 consideration of aesthetics. The word  
21 "aesthetics" doesn't appear in the law. It's  
22 just plain not there. The law doesn't make any  
23 comment whatsoever about the appearance of ground  
24 mounted solar arrays. It's not in the law.

1           What the law says is a phrase that's  
2           often used in legislation: safety, health, public  
3           welfare. Think about those words. Welfare, if  
4           you look at Webster, often refers to general  
5           well-being, prosperity, economic sort of  
6           considerations. That's all in the clutch of  
7           ideas that are held together in that word of  
8           welfare.

9           Much of the welfare of our town depends  
10          on its appearance. People come here, they buy  
11          houses here, they visit here, they spend their  
12          money here, because we're a beautiful community.  
13          It's part of our welfare. We need to be  
14          thinking about that as we think about zoning our  
15          town.

16          So, that's the statement I'd like to  
17          make. Now please consider the moratorium. I've  
18          a feeling it's not going anywhere, but think  
19          about it.

20          Thank you.

21          THE MODERATOR: Mr. Latimer.

22          MR. LATIMER: Thank you, Mr. Moderator.  
23          Richard Latimer, Precinct one.

24          I hate to stand up here like a lawyer.

1 But I'm going to say a few words in Latin, just  
2 to start out. The first one is: "Expressio  
3 unius est exclusio alterius". Which means: If  
4 you say one thing, that eliminates other things.  
5 Where you talk about health, safety and welfare,  
6 that excludes aesthetics, period. That's a  
7 legal maximum.

8 The other one is: "Noscitur a sociis".  
9 Which means: when you list several things in a  
10 row, you know what each one means by what it is  
11 associated with. Health and safety and welfare,  
12 "welfare" refers back to health and safety or  
13 other general concerns related to health and  
14 safety. Now, that is the law.

15 The law says these regulations can only  
16 be directed to health, safety and welfare.  
17 Welfare meaning things relating to the well-being  
18 of individuals, not to property values. Not to  
19 what some people think are tasteful appearance  
20 and other people might think is not a tasteful  
21 appearance.

22 So, I think we want to say "no" to this.  
23 We said no to the other restriction they wanted  
24 to put on the individual's ability to develop

1 their properties with solar installations; we  
2 want to say no to this.

3 We don't want to be another pawn in the  
4 Koch brothers' assault on alternative energy.  
5 And if you don't believe that's true, that's what  
6 it is. The Koch brothers are making billions  
7 and billions of dollars off oil. They don't  
8 want to stop doing it until they pump every last  
9 drop out of the ground and this planet is turned  
10 into a wasteland.

11 We've got to start on the local level  
12 all across America and we can't be - we cannot go  
13 along with something like this that says for a  
14 whole year - "Oh, it's only a year." If I'm  
15 somebody that really is concerned about global  
16 warming and I'm also concerned about my electric  
17 bill, a year is a hell of a long time.

18 Let's just say no to this nonsense, move  
19 on. We passed a bill that had to do with major  
20 installations, but this is something that's going  
21 to affect the average homeowner in town who might  
22 both want to save some money on his electricity  
23 and help protect the environment. So let's just  
24 say no.

1 Thank you.

2 THE MODERATOR: Okay, on the far right  
3 in the center.

4 MS. CIARLETTA: Hi, Precinct 5, Beth  
5 Ciarletta.

6 I just want to point out that the  
7 article that's on the slide is actually slightly  
8 different than what's in our warrant book. It  
9 includes the words "on business zoned property",  
10 instead of --

11 THE MODERATOR: That's correct. So -  
12 so there's two changes. I thought the Planning  
13 Board was going to let you know that. So 13  
14 should be 12, and it specifically says "on  
15 Business zoned property" in the third line.

16 MS. CIARLETTA: Which one is correct?

17 THE MODERATOR: This is the motion.

18 MS. CIARLETTA: Thank you.

19 THE MODERATOR: Yeah.

20 Okay, Mrs. Putnam. I'll add you.

21 MS. PUTNAM: Rebecca Putnam, Precinct  
22 9.

23 So what's aesthetically pleasing? You  
24 have a board of five or seven members who gets to

1           decide whether it looks right or it looks wrong.  
2           First of all, with solar, when you're talking  
3           about solar, it has to be built and done in a way  
4           that is generating the energy.    So, depending on  
5           what type of sun maybe a business zoned property  
6           received, it might be more shadowed at certain  
7           times of the day.    They might have to build it  
8           slightly more slanted.    It's not going to all  
9           look the same, ever.

10                    Number two.    If we put this in place  
11           for a year, we don't know how many businesses  
12           have already put down deposits and have asked for  
13           permits to do this in their parking lots,  
14           currently.    They've already started an  
15           investment.    They've paid money.    It's not  
16           right for us to say that seven - five or seven  
17           people get to determine what looks right and what  
18           looks wrong.

19                    If you go down Church Street, which I  
20           know that I've seen a few Facebook posts this  
21           week about, there's a house being built right  
22           next door to the cemetery and the church, there.  
23           To me, it is not aesthetically pleasing.    To the  
24           homeowner who is building it who paid for a

1 permit and paid an architect, it is.

2 Why are we insisting upon stopping the  
3 solar? Business owned property is the right  
4 place to put it. It's usually in a Business  
5 zoned area. When you drive down Route 28, you  
6 have huge parking lots -- and actually I think it  
7 would be great. It's a nice place to park, like  
8 yesterday we had such nasty weather. And let  
9 them generate some energy. Cleanly. Without  
10 putting up a wind turbine. Without doing things  
11 that we have found to be detrimental.

12 This moratorium, the Planning Board  
13 needs to come back with actual guidelines and ask  
14 us to vote on actual restrictions, like they did  
15 last night. I ask you to vote this down.

16 THE MODERATOR: Ms. Siegel.

17 MS. SIEGEL: Debra Siegel, Precinct 6.  
18 Mr. Moderator, I don't know if you're going to  
19 allow me to say this, but I didn't dare try to  
20 say at 10:30 last night.

21 I am begging the Planning Board the next  
22 time that you come to us with complex and  
23 complicated articles with multiple revisions,  
24 please have the courtesy to at least highlight



1 the changes so that it is easier for us to figure  
2 out what those changes are.

3 Thank you.

4 THE MODERATOR: Okay, Ms. Carey.

5 MS. CAREY: Rosemary Carey, Precinct 5  
6 and I'm a member of the Energy Committee.

7 The Energy Committee believes the year-  
8 long hiatus is unnecessary and our residents and  
9 businesses would lose out in the meantime.  
10 Already, Falmouth residents and businesses have  
11 installed 11.7 megawatts of solar capacity and a  
12 new solar installation, according to one industry  
13 member, happens on an average of one every 2.5  
14 days in Falmouth. That's astonishing. Do we  
15 really want to shut that down?

16 If a moratorium is placed on solar in  
17 Falmouth, our business owners would miss key  
18 financial incentives in the first years of this  
19 state's new Smart program. A one year  
20 moratorium would leave Falmouth on the bench  
21 while other towns enjoy the benefits.

22 Finally, in a report addressed to  
23 policymakers - that's us, here in the room - the  
24 IPCC, the Intergovernmental Panel on Climate

1 Change, is telling us that we have about 12 years  
2 if we are going to rapidly transition to  
3 renewable energy and leave future generations  
4 with a planet that is anything like the one we  
5 have today. So, it would be unconscionable,  
6 really, for our coastal town sitting on the front  
7 lines of climate change to suspend solar energy  
8 development for an entire year, one of these  
9 critical years that we need to get going.

10 So I am asking for a vote no on Article  
11 11. We know what inaction looks like, or delay,  
12 and we - we just don't have the time anymore.  
13 Time's up.

14 Thank you.

15 THE MODERATOR: Okay, in the back.  
16 Mr. Stone.

17 MR. STONE: Falmouth Town Meeting,  
18 thank you for the opportunity to speak before you  
19 today regarding Article 11. I'm Michael Stone,  
20 Precinct 6, a resident and taxpayer.

21 I have a small business here in  
22 Falmouth, Suntility Electric, that's been  
23 operating for five years. I have worked in the  
24 solar industry for ten years. The projects I

1 manage are primarily based in Massachusetts and  
2 Vermont, and clients range from Fortune 500  
3 energy companies to local non-profits.

4 An important note: my company is not  
5 working on any solar projects in development in  
6 Falmouth. That is simply not my company's  
7 focus. I'm speaking to you today because I  
8 simply care about clean energy progress in this  
9 town and care about helping to advance the many  
10 economic and health benefits that solar power  
11 offers.

12 Falmouth and its institutions are  
13 stronger because of solar. According to the  
14 Massachusetts Department of Energy Resources,  
15 there are nearly 50 commercial solar  
16 installations in Falmouth out of the nearly 800  
17 solar installations in total.

18 Solar helps lower businesses' operating  
19 costs, brings federal and state incentives to our  
20 community, and helps make Falmouth organizations  
21 more competitive and more resilient. That  
22 benefits all of Falmouth's citizens.

23 Pillars of our community Falmouth  
24 Service Center, the Marine Biological Laboratory,

1 Falmouth Academy, Falmouth Youth Hockey, Cape Cod  
2 Church, Falmouth Jewish Congregation, Atria  
3 Senior Living, St. Barnabas Church, Waquoit Bay  
4 Research Reserve, the Woods Hole Oceanographic  
5 Institute, the Falmouth Artist Guild and many  
6 more, all have solar. These organizations went  
7 solar to do the right thing, to save energy, to  
8 save money, create jobs, and help the  
9 environment. Shouldn't we be encouraging other  
10 organizations such as these to go solar?

11           Shouldn't we be encouraging action to  
12 preserve a stable environment on which we all  
13 depend? Solar is a significant net benefit to  
14 this town and is a valuable part of a diversified  
15 local economy. Solar has brought over \$40  
16 million worth of investment to Falmouth, employed  
17 local skilled professionals, engineers,  
18 electricians and laborers.

19           Solar also raises property values,  
20 according to the U.S. Department of Energy, as  
21 proven by multiple studies. For example: an  
22 average-sized residential solar array increases a  
23 home's value by \$15,000. As overall solar  
24 provides significant benefits to Falmouth, a

1 solar moratorium would be bad for Falmouth.

2 Also, based on state law, as had been  
3 discussed yesterday, a solar Moratorium would  
4 likely be deemed illegal by the Attorney General.  
5 Judge for yourself: No zoning ordinance or bylaw  
6 shall prohibit or unreasonably regulate the  
7 installation of solar energy systems, or the  
8 building of structures that facilitate the  
9 collection of solar energy, except where  
10 necessary to protect the public health, safety or  
11 welfare.

12 A solar Moratorium would prohibit solar.  
13 Falmouth is a better place with solar.  
14 Healthier, safer and stronger today and into the  
15 future. I urge you to vote no on a solar  
16 moratorium.

17 THE MODERATOR: Ms. Vogel.

18 MS. VOGEL: Hi. Wendy Vogel, Precinct  
19 4.

20 I am familiar with the studies that show  
21 that roof mounted solar does increase property  
22 values and has shown to be an additional asset to  
23 a home. What it seems to me, tonight we're  
24 talking about the addition of a lot of ground-

1 mounted solar arrays, so my question - and I'm  
2 not sure who to direct it to - is what are the  
3 potential safety issues with ground-mounted  
4 solar? Do they get hot? Do they emit waves?  
5 Are they a problem for children?

6 Is there someone who could address that?

7 Thank you.

8 MS. HARRIS: I can't give you any kind  
9 of a proper answer, but I can say that giving us  
10 time to hear information like that would be  
11 helpful.

12 THE MODERATOR: Okay, Mr. Netto.

13 MR. NETTO: Joe Netto, Precinct 9.

14 Fellow Town Meeting Members, I would  
15 just ask you: would you really want to pass  
16 legislation that's anti-business and call that  
17 planning? Would you like to pass legislation  
18 tonight that affects the profit and loss margin  
19 of the local businesses of the Town of Falmouth?  
20 Do you really want to take part in that political  
21 process? I know I don't.

22 I can tell you one reason why these  
23 business folks are putting these solar arrays up,  
24 because I went to one of them that has one and

1 talked to him. And I was shocked. Hundreds of  
2 thousands of dollars. And I said, "Oh, my God,  
3 why would you spend so much money?" "Very  
4 simple, Joe, because the payback at today's  
5 electric rates is this."

6 So, I'm not going to talk to you about  
7 the scientific parts of it; of, you know, the  
8 beach erosion, like I did last night. But the  
9 dollars and cents, which we ask these business  
10 folks in the Town of Falmouth to be prosperous so  
11 they can hire the residents of the town and we  
12 can have a vibrant economy.

13 You know what your home electric  
14 bill is. When I spoke to these business people  
15 and they told me what their bill was, I was  
16 shocked, a month. They're talking 20, 30,000  
17 dollars. Not for big business, either.

18 So therefore I do not want to take part  
19 in any legislation that infringes upon that  
20 person's right to earn a living.

21 Thank you.

22 THE MODERATOR: Okay, before I continue  
23 with my list, is there anyone that wants to speak  
24 in favor of the moratorium?

1 Mr. Hargraves.

2 MR. HARGRAVES: Thank you. Peter  
3 Hargraves, Precinct 9.

4 You know, I'm getting really  
5 uncomfortable with the discussion, here, because  
6 it's mis-characterizing this issue as a battle  
7 between people who are for solar and people who  
8 are against solar, and it's not about that at  
9 all. I applaud the Planning Board for taking on  
10 a complex issue and trying to make some sense out  
11 of it. And unfortunately last night we bypassed  
12 the opportunity to put some structure and learn  
13 as we go, by voting down Article 7.

14 So I think approving a moratorium so  
15 that we can make some sense out of this is the  
16 right thing to do.

17 And, in my view, have we learned nothing  
18 from the past four years with the wind turbines?  
19 They were fine, no problem. You know, they met  
20 all the regulations. We put them in, and  
21 suddenly there were issues. We don't know the  
22 issues with solar.

23 And I'm standing up here, the only one  
24 speaking in favor of this article besides the



1 authors in the Planning Board, and I'm getting  
2 the feeling that, you know, if you're either for  
3 solar or against solar and you're - that means  
4 you're - you're a climate denier or you're a  
5 smart person, and I think it totally mis-  
6 characterizes what we're talking about.

7 I'm talking about, you know, a sane site  
8 plan review and concern about the character of  
9 our town, and I'm the first one in line for  
10 reducing emissions, improving the environment and  
11 - and having green energy. But let's look at  
12 what the real issue is, here, and you know, mis-  
13 characterization of the Massachusetts law in  
14 order to defeat sane articles that give us  
15 maintain control over the character of our town  
16 is a travesty. And I haven't heard from legal  
17 minds who might have another opinion on that, but  
18 it's worded ambiguously enough that you could  
19 take any side of that.

20 So, I would say please think about this.  
21 And I say all mine in English; I have no Latin.  
22 And vote in favor of this article.

23 Thank you.

24 THE MODERATOR: Okay, Mr. Walker.

1 MR. WALKER: Thank you, Mr. Moderator.  
2 Grant Walker, Precinct 3.

3 I don't have a very extensive answer,  
4 but I have somewhat of an answer to the lady who  
5 spoke a few moments ago asking if there is any  
6 information.

7 I have in my hand a report entitled  
8 "Clean Energy Results Questions and Answers,  
9 Ground-Mounted Solar Photovoltaic Systems". This  
10 represents a study of many studies that were done  
11 on solar by the Massachusetts Department of  
12 Energy Resources, the Massachusetts Department of  
13 Environmental Protection, the Massachusetts Clean  
14 Energy Center. And in this report, they look at  
15 heat, they look at various kinds of waves. They  
16 look at reflection. They look at all kinds of  
17 things.

18 One of the things they look at, for  
19 example, is: well, what happens when you have to  
20 take these things down. And I've read parts of  
21 this, and I'm not qualified to understand  
22 everything in here, but it has a lot of answers  
23 to those kinds of questions. And when you take  
24 these things down, from what the studies indicate

1 so far, you have to practically bash them to  
2 pieces and grind them into powder before you're  
3 going to release anything that comes close to  
4 harming anybody.

5 But there is a report available; it's  
6 online: Massachusetts Department of Energy  
7 Resources.

8 THE MODERATOR: Okay, Ms. Lichtenstein.

9 MS. LICHTENSTEIN: I'd like to move the  
10 question.

11 THE MODERATOR: Okay, we have a motion  
12 to close discussion. All those in favor of  
13 closing discussion, signify by saying aye.

14 [Aye.]

15 THE MODERATOR: All those opposed no.

16 [No.]

17 THE MODERATOR: It's the opinion of the  
18 chair that the ayes have it by a two-thirds and I  
19 so declare.

20 The question will now come on the main  
21 motion that's up on the overhead. So, it's as  
22 printed, changing the number 13 to 12, and adding  
23 the language "on Business zoned property".

24 All those in favor of the main motion,

1 signify by saying aye.

2 [Aye.]

3 THE MODERATOR: All those opposed no.

4 [No.]

5 THE MODERATOR: It's the opinion of the  
6 chair that the nos have it by a majority and  
7 therefore there is no two-thirds.

8 **Article 12**, the recommendation of the  
9 Board of Selectmen is indefinite postponement.

10 Mr. Walker, would you put a positive  
11 motion on the floor?

12 MR. WALKER: Thank you, Mr. Moderator.  
13 I move Article 12 as printed.

14 THE MODERATOR: As printed. Mr.  
15 Walker.

16 MR. WALKER: So, hello everybody. I'll  
17 try to make this as quick as I can. I've cut it  
18 down.

19 Article 12, no spending, no borrowing,  
20 no bylaw, no permitting, no construction, no  
21 delays. We're focusing on two programs in  
22 Massachusetts: net metering and SMART. SMART's  
23 the new program. They're both intended to  
24 encourage solar in the state.

1                   And basically Article 12 asks us: let's  
2                   remove or urge the removal of some bad things,  
3                   but let's keep the good things.

4                   First: net metering.    If you have solar  
5                   panels that generate more electricity than you  
6                   use, that electricity goes out to the grid.  You  
7                   get a credit for that electricity and you can use  
8                   that credit to help pay charges on your bill.

9                   Got to have a meter; some people have  
10                  two meters.  Got to have an account with an  
11                  electric utility company.  You could have solar  
12                  panels on a school, on a house, on a  
13                  manufacturing facility, on a farm, on a  
14                  supermarket, on a hospital, on a parking garage.

15                  Who's eligible?  I'm sorry, let's get  
16                  to this question first: who owns the electricity?  
17                  What happens to it?  It's out there on the grid.  
18                  The utility company that delivers the electricity  
19                  to the customers and people, your own house,  
20                  perhaps in your area, they own that, they control  
21                  that, they sell that electricity to other  
22                  customers.

23                  The "net" in net metering, let's take a  
24                  look at that.  The net refers to the difference

1 between the electricity that you use and the  
2 electricity that your system sends out when you  
3 don't need electricity because it's generating  
4 more than you use. You get a credit for that.

5 The value of the credit is worth money,  
6 of course. It appears as a dollar amount on  
7 your bill. Credits never expire and you can  
8 roll them over to the next billing period.

9 Not included in a calculation of the net  
10 metering credits: all the other charges that you  
11 get on your electricity bill. It's only the  
12 electricity that comes in and the electricity  
13 goes out. Get the difference, that tells you  
14 whether you got a credit or not.

15 Let's take a look at what we mean by the  
16 caps on net metering. The caps are limits on  
17 the total combined capacity of all the solar  
18 systems in the territory, the service territory  
19 of a given utility. It's not a cap on you, it's  
20 not a cap on me, it's not a cap on them, it's a  
21 cap on the whole array combined, the aggregate  
22 total of all the systems in a given area.

23 There are exemptions to the cap. Some  
24 people's solar systems don't count towards that

1 total aggregate capacity that is limited by the  
2 caps. Houses, residences, small systems have not  
3 been counted towards the cap. They are exempt.

4 Did I skip one? No, I didn't. Even  
5 hydro-electric power has been accepted for net  
6 metering in Massachusetts.

7 Now, the caps have been reached. It was  
8 in April of 2016 that the Massachusetts  
9 legislature set the cap for the whole  
10 commonwealth: 1,727.25 megawatts, for the whole  
11 commonwealth. About one year after that cap was  
12 set, caps were reached in two of the NStar  
13 service territories and in a Unitel service  
14 territory. Six months after that, the caps were  
15 reached in Western Massachusetts for Eversource,  
16 there.

17 Here, where we are, in Southeastern  
18 Massachusetts caps have not been reached.

19 So what happens when caps have been  
20 reached? Projects are locked out. They don't  
21 qualify. They could send their electricity out  
22 to the grid, but if they do, it won't help them  
23 much because the compensation they'll get for  
24 the electricity will be a tiny fraction of the

1 compensation that is received by all those  
2 projects that got in before the cap was reached.

3 So, Article 12 asks us to urge our  
4 representatives to serve us in this way and to  
5 fight for the removal of the caps.

6 Why do we want to remove them? Let's  
7 just review a few reasons. Fairness. People  
8 who invest their money: school systems, churches,  
9 hospitals, whatever, businesses who invest their  
10 money in solar panels and then actually send  
11 electricity out to the grid, they should be paid  
12 for that. They should not be forced to give it  
13 away. Fairness.

14 There's also job growth. There's also  
15 the fact that the more we can use of solar, the  
16 less we need natural gas and natural gas  
17 pipelines and other fossil fuels.

18 Now, Article 12, in addition to removal  
19 of the caps, urges that we have the ability to  
20 net meter as long as our system is sending  
21 electricity out to the grid. Why put ten years  
22 on it? Or 20 years on it? As long as it's  
23 capable of sending electricity out to the grid,  
24 let's go with it.



1                   Another good thing about the net  
2                   metering program is the assignment of credits.  
3                   So you got a credit for electricity that you've  
4                   generated and did not use. You can assign that  
5                   credit to another account. Could be if you have  
6                   a business in the same area or a second home in  
7                   the same area. It could be to a friend or a  
8                   relative. It could be to a public school. You  
9                   can assign credits to another account that they  
10                  can use against their bill. So we're urging  
11                  that to be kept.

12                  And to do that, you have to be in the  
13                  same - or with the same utility company as that  
14                  other account, and you have to be in the very  
15                  same electric distribution load territory.  
16                  Those are the territories - it might be a little  
17                  tough to see the colors and what they define, but  
18                  that's also available at the Department of Energy  
19                  resources.

20                  Article 12 also urges us to urge them,  
21                  the representatives, to keep Community Solar.  
22                  Community Solar is a solar facility in which many  
23                  customers can share, many business, many homes,  
24                  whatever. There are three ways to participate

1 in Community Solar. You can buy shares in  
2 Community Solar; even though you never use that  
3 electricity, you can benefit financially from  
4 being an owner of the shares in that energy that  
5 is produced.

6 Secondly, you can subscribe, as a  
7 customer, to get your electricity, because the  
8 program offers support to Community Solar  
9 installations that serve people locally; you'll  
10 get a lower rate.

11 The third way to participate in  
12 Community Solar is sometimes in a given community  
13 actually get together, put their money together,  
14 set up their own generating facility with a lot  
15 of solar panels, and all get their electricity  
16 from it.

17 Community Solar is critical for a number  
18 of things.

19 Article 12 urges fair compensation, but  
20 I didn't want to presume and the people that  
21 signed this petition with me didn't want to  
22 presume that we knew what was fair. There's a  
23 lot of fighting going on about what's fair. How  
24 much should we pay for that electricity? Should

1 people get exactly the same amount as they pay  
2 retail for that electricity to the utility  
3 company? Should it be a little bit less? Which  
4 it has been. What should it be?

5 The new program SMART is going to offer  
6 incentives and compensation are going to pay  
7 people even more than the retail rate. It's  
8 going to be more than one for one.

9 Article 12 also urges on-bill  
10 compensation. No waiting for a check in the  
11 mail. No filing for reimbursement. Month to  
12 month, right on your bill.

13 Renters, low income people, other who  
14 cannot put solar panels on their house, they can  
15 participate in Community Solar, and the program  
16 offers support for the low income people. So,  
17 they get an even more discounted rate on their  
18 bill.

19 Whoops, I went by my favorite slide.  
20 The new program. It's called SMART: Solar  
21 Massachusetts Renewal Target. And there's a  
22 SMART cap. There's a cap on the new program.  
23 And the cap is, again, a limit on the total  
24 capacity that is going to be eligible for

1 reimbursement and incentives. It's not on you,  
2 it's not on me, it's not on him or her. It's on  
3 the whole system, if you will.

4 Here we see a table. Don't worry about  
5 the numbers. It shows basically what the cap is  
6 for each utility company in each of its service  
7 territories. It's the idea: public and private  
8 entities, each utility company, each territory.

9 THE MODERATOR: Mr. Walker, we're at  
10 ten minutes.

11 MR. WALKER: I'm at ten minutes?

12 THE MODERATOR: Yes.

13 MR. WALKER: Sorry. Thank you.

14 THE MODERATOR: Okay --

15 MR. WALKER: So, please vote in favor  
16 of Article 12. I never got to SMART, but that's  
17 the next program. It does pretty much some of  
18 the same things in different ways.

19 [Laughter.]

20 MR. WALKER: It has caps --

21 THE MODERATOR: Okay. Mr. Antonucci.

22 MR. WALKER: [No mic: inaudible.]

23 [Applause.]

24 THE MODERATOR: Mr. Antonucci.

1 MR. ANTONUCCI: Bob Antonucci, Precinct  
2 6.

3 I do respect your opinion. I respect  
4 your opinion on every article that's come up and  
5 that's important. But, you know what, just  
6 tonight, at this Town Meeting and last night, I'm  
7 getting a little frustrated by the complexity of  
8 the issues that are brought to Town Meeting floor  
9 with a lot of study.

10 You just told me how many things Article  
11 12 is going to do. In no way am I going to vote  
12 for it because I'm not sure those are accurate.  
13 Not doubting your integrity. Not doubting your  
14 word.

15 I would suggest we take a moratorium for  
16 a year on every new regulation and every advocacy  
17 that we're doing. That's what we need. This  
18 Town Meeting is getting a little carried away.  
19 We're making decisions that are going to impact  
20 the town in the future without good deliberation.  
21 This is in no reflection of the people who serve  
22 on committees. I just think it's about time we  
23 focus on what's best for the town.

24 I don't need a lecture on Article 12.

1 I don't need a lecture on how to put my cans in  
2 the right bin at every Town Meeting. I get it.  
3 So let's move on.

4 So I'm against Article 12 because of its  
5 complexity. Not because of Mr. Walker.  
6 Because he does his homework. You have to give  
7 him credit.

8 But the complexity of that issue is the  
9 same as the complexity with the solar issues.  
10 So I would urge all of us: take a step back, take  
11 a deep breath and not vote for Article 12.

12 Thank you.

13 THE MODERATOR: Further discussion on  
14 Article 12?

15 Ms. Siegel.

16 MS. SIEGEL: Deborah Siegel, Precinct  
17 six.

18 This isn't a regulation. So, I think  
19 to put it in that category is giving the wrong  
20 impression.

21 Thank you.

22 THE MODERATOR: Okay, further  
23 discussion?

24 Mr. Latimer.

1 MR. LATIMER: Richard Latimer, Precinct  
2 one. Thank you, Mr. Moderator.

3 As Ms. Siegel has said, this isn't a  
4 regulation. This is just simply a resolution.  
5 We want to let our legislators know, perhaps the  
6 legislators down Cape in similar towns, that this  
7 town is in favor of fairness in electrical energy  
8 distribution. We'll do it in a way that will  
9 encourage more people to install these systems  
10 because they'll save more money.

11 And what the article calls for is simply  
12 asking the legislators to come up with a fairer  
13 formula than now exists. And I don't think  
14 that's too hard to understand. I understand it.  
15 The existing formula is unreasonably restrictive.  
16 There's a 20 year cap on these systems. Why?  
17 How is the - there's a megawatt cap on these  
18 systems. Why? Why should that be? This is  
19 simply asking our legislature to go forward and  
20 look at those questions.

21 And I say vote yes on this.

22 Thank you.

23 THE MODERATOR: Okay, the question will  
24 come on the main motion as printed.

1 All those in favor, signify by saying  
2 aye.

3 [Aye.]

4 THE MODERATOR: All those opposed no.

5 [No.]

6 THE MODERATOR: Can we cue a slide?  
7 Okay. We're going to use the electronic voting  
8 devices for this. It's a simple majority.

9 Activating the polling. All those in  
10 favor of Article 12 as printed, signify by  
11 pressing 1A; those opposed, 2B.

12 [Pause while electronic vote scrolling.]

13 THE MODERATOR: Mr. Hunt, are you  
14 having trouble with your device?

15 MR. HUNT: [No mic: inaudible.]

16 THE MODERATOR: Okay, we'll deal with  
17 that as soon as we're complete, here.

18 We're going to need to save the results  
19 on this for a moment. We might have a clicker  
20 that's not working.

21 Okay, the current total is 126 in favor;  
22 68 opposed. It passes, but can we pull up  
23 Carter Hunt on the roster and see if the vote  
24 activated?



1                   Are we getting a light on that, that  
2           it's -

3   [General talking with no mic; inaudible.]

4                   THE MODERATOR:   Here's the clicker.  
5           Did you notice if he registered during the  
6           quorum?

7                   FROM THE FLOOR: [Inaudible.]

8                   THE MODERATOR:   Okay.

9                   THE CLERK:    Re-issue a new clicker.

10                  THE MODERATOR:   Okay.

11                  FROM THE FLOOR: [No mic:] Request for  
12           the slides to go slower.

13                  THE MODERATOR:   No, because we can't  
14           get through the rotation more than once if we go  
15           too slow.

16                  MR. BANWARTH:   Okay.    It's registered.

17                  THE MODERATOR:   It's registered now.  
18           So it's now active.

19                  MR. BANWARTH:   No, it registered the  
20           vote.

21                  THE MODERATOR:   Oh, it actually - so  
22           he's in the 126?   Okay.    So the display is not  
23           showing that it voted.   Is that what I'm  
24           hearing?

1 MR. BANWARTH: I think the display did  
2 show it.

3 THE MODERATOR: Oh, okay, so it didn't  
4 - gotcha. It didn't come up here but it was in  
5 the total. Okay.

6 Okay, so 126 in favor and 68 opposed,  
7 the article passes.

8 **Article 14.** Recommendation of the  
9 Planning Board. I'm assuming we've got some  
10 slides.

11 MS. KERFOOT: I'm Pat Kerfoot, the  
12 Planning Board.

13 I move Article 14 to amend the zoning  
14 bylaw Article 5, Single Resident Districts, and  
15 Article 8, Agricultural Districts, and by  
16 amending both Section 240-31I, and Section 240-  
17 38I, Accessory Apartments, by deleting both  
18 sections and inserting the new language below in  
19 both sections, as printed with the following  
20 changes and additions.

21 (3)e) The accessory apartment shall have  
22 no more than two bedrooms and a maximum of 800  
23 square feet, or 40 percent of the principal  
24 dwelling, whichever is less, as measured using

1 the exterior side of the first floor outside  
2 wall.

3 And, in deference to Ms. Siegel, this  
4 would have been in bold, had we done it this way.

5 Plus, as follows: Finished attic space,  
6 50 percent of first floor; finished half story,  
7 75 percent of first floor; three-quarter story  
8 gambrel, 90 percent of first floor; second floor  
9 colonial, 100 percent of first floor; and third  
10 floor colonial, 100 percent of first floor.

11 (4)a) The architectural effect, as the  
12 result of the accessory apartment being  
13 constructed within the principal dwelling, or  
14 attached thereto, shall be that of a single  
15 family residence consistent in its exterior  
16 character.

17 (4)b) The architect --

18 THE MODERATOR: Can we just pause for  
19 one second. So, the change in your warrant  
20 booklet is instead of saying "compatible with the  
21 surrounding neighborhood", it will say  
22 "consistent in its exterior character". That's  
23 the change.

24 MS. KERFOOT: I'm sorry, I should have

1 said that. Okay.

2 Okay, (4)b) The architectural effect, as  
3 the result of the accessory apartment being  
4 constructed as a detached accessory structure,  
5 shall be that of a structure incidental to a  
6 single family residence and in the same character  
7 and period of architecture as the primary  
8 residence. And that would be the same thing,  
9 the same character and period.

10 Monitoring. That's number (6)a) An  
11 affidavit shall be submitted annually to the  
12 Building Commissioner, signed by the property  
13 owner, attesting that the principal dwelling or  
14 accessory apartment has been owner-occupied for a  
15 period of seven months and not otherwise rented  
16 as set forth in section (3)c) - that was b) -  
17 above. The Building Commissioner may allow a  
18 property owner to be absent during the seven  
19 month period for cause, such as military  
20 assignment, work, or health-related issues,  
21 academic sabbatical, or similar circumstance.

22 THE MODERATOR: Okay, so in that  
23 section the only change is it goes from 3b to 3c.

24 MS. KERFOOT: Uh-huh.

1 THE MODERATOR: That's the only change  
2 from what's printed in your warrant in that  
3 section.

4 MS. KERFOOT: Yeah, the - you'll see  
5 them bolded, the other changes to the bylaw.

6 THE MODERATOR: Okay. So, we've got  
7 the main motion on the floor. Are there any  
8 questions about the motion before we do the  
9 presentation?

10 MR. POTAMIS: [No mic:] Gerry Potamis,  
11 Precinct --

12 THE MODERATOR: Oh, can we get a mic,  
13 please?

14 MR. POTAMIS: Gerry Potamis, Precinct  
15 2.

16 It was a one bedroom accessory  
17 apartment, now you're allowing up to two bedrooms  
18 in accessory apartment?

19 MS. KERFOOT: We always had.

20 MR. POTAMIS: Always allowed two  
21 bedrooms?

22 MS. KERFOOT: Yes.

23 MR. POTAMIS: My mistake. Thank you.

24 THE MODERATOR: Okay. Any questions

1 just about the motion? I want to make sure  
2 we're all on the same page with that before we do  
3 the presentation.

4 Yeah. Mr. Donahue.

5 MR. DONAHUE: Mr. Moderator, Bob  
6 Donahue, Precinct 3.

7 800 square feet seems very small to me  
8 for two bedrooms, living room, dining room,  
9 kitchen --

10 THE MODERATOR: Okay, that's part of -  
11 Mr. Donahue --

12 MR. DONAHUE: Yeah.

13 THE MODERATOR: That'll be part of the  
14 debate. I want to make sure everyone  
15 understands the changes that the Planning Board  
16 are making from what you have in front of you in  
17 your warrant booklet.

18 MR. DONAHUE: Sorry.

19 THE MODERATOR: Okay. But I'll get  
20 you during the debate.

21 Okay, so everybody's good with the  
22 changes? Okay. Now we'll have the  
23 presentation. Ms. Kerfoot.

24 MS. KERFOOT: Thank you.

1                   Now, we're going to go to the changes to  
2                   the bylaw. I don't know how many of you  
3                   remember, but you probably do, because it wasn't  
4                   that long ago. It was Spring 2017 Town Meeting  
5                   that you passed this accessory apartment bylaw,  
6                   and we thank you for that.

7                   As with many bylaws that are as complex  
8                   as this, there are refinements that are needed as  
9                   time goes on. Well, this happened when  
10                  inquiries and applications started to be  
11                  received. It became apparent that some  
12                  clarifications were necessary. This became even  
13                  more obvious during a joint meeting called by the  
14                  Selectmen of several boards, Committees and Town  
15                  personnel, all of whom had something to do with  
16                  administration of the bylaw.

17                  There was little consistency of  
18                  understanding of what the requirements as they  
19                  were envisioned by the Planning Board. So, a  
20                  temporary working group was set up with one  
21                  representative each of the Planning Board, the  
22                  Zoning Board of Appeals, the Board of Health, the  
23                  Affordable Housing Committee and the Water  
24                  Quality Management Committee, as well as Town

1 staff from those groups, when they could attend  
2 and participate. So you can see there was broad  
3 representation when we were looking at any  
4 changes necessary to this bylaw, because they all  
5 had their own different experiences.

6 And then the following are the major  
7 changes that came out of these deliberations.  
8 You'll see (3)b) up there, that there should be a  
9 minimum lot size, hence 7500 square feet. So as  
10 not to raise unreal expectations with lots that  
11 are too small for consideration.

12 Most of you know that most of the lots  
13 here in town have septic systems on them. Any  
14 accessory apartment has to be accommodated for  
15 their sewage disposal. Some of the lots may be  
16 too small. Some of the lots that are 7500  
17 square feet might not even be reasonable. They  
18 have to be reviewed, because it will depend upon  
19 the configuration of the lots. But, as a  
20 baseline, 7500 square feet was thought: okay, we  
21 can start off with that.

22 The Zoning Board of Appeals originally  
23 wanted a baseline and they were okay with 7500  
24 square feet.



1                   So we go to (3)e).    The square footage  
2                   of the primary dwelling was being measured in any  
3                   number of ways.    Some people were counting  
4                   bathrooms and hallways; some were not.    Some  
5                   were measuring from interior walls, some from  
6                   exterior walls.    The Planning Board originally  
7                   envisioned it as being measured from exterior  
8                   walls.    So we have as measured from exterior  
9                   walls.

10                   However, that needed further definition  
11                   because we have different forms of buildings.  
12                   And you'll see up here: okay, we have attic space  
13                   that's been finished.    So we're saying 50  
14                   percent of the first floor.    We're saying we  
15                   might have a finished half-story.    Well, that  
16                   would be 75 percent of the first floor.    Three-  
17                   quarter story, which is a gambrel.    We're  
18                   saying, okay, count that as 90 percent of the  
19                   first floor.    And remember, that first floor is  
20                   being measured from the exterior walls.

21                   The second floor colonial and the third  
22                   floor colonial would be both 100 feet - a hundred  
23                   percent of the first floor.

24                   This is a much easier way of calculating

1 and pretty accurate, also. There are many  
2 organizations that use this format for  
3 calculating the square footage.

4 Then we go to (3)f). The footprint of  
5 a new detached accessory dwelling unit cannot  
6 exceed that of the principal dwelling. We  
7 debated long and hard about this, because you've  
8 got second stories and an accessory detached  
9 dwelling may just be and probably is a one floor  
10 dwelling. And sometimes that footprint could be  
11 larger than the main dwelling, which could give  
12 the appearance of its being two separate main  
13 dwellings on one lot. So we put this limitation  
14 in. We were - that working group was happy with  
15 that, as a limitation.

16 The question came up there are some pre-  
17 existing buildings that have more than four  
18 bedrooms. How do we handle that? Well, you  
19 can see up here how we suggested handling that.  
20 There are a couple of different instances and  
21 I'll leave it up to you to read those in your  
22 warrant book.

23 The next one, Tom.

24 Now, we got into owners of properties in

1 a coastal pond overlay district. This becomes  
2 critical with how you dispose of your wastewater.  
3 If you want to apply to have more bedrooms than  
4 the density outlined in (I) in here, you can only  
5 do so provided that both the principal dwelling  
6 and accessory apartment are connected to the  
7 municipal sewer system, and only to the extent  
8 allowed within the applicable sewer system -  
9 sewer district bylaw or regulation.

10 So you've got a couple of controls,  
11 there. You have to be allowed to hook up to  
12 that. Or two, that you have an onsite septic  
13 system with enhanced nitrogen removal approved by  
14 the Board of Health, and it is installed on the  
15 property.

16 We go to the changes to the existing  
17 bylaw here for design standards. The  
18 architectural effect is the result of the  
19 accessory apartment being constructed within the  
20 principal dwelling, or attached thereto. So  
21 it's just one unit. Shall be that of a single  
22 family residence consistent in its exterior  
23 character.

24 We had "similar to the neighborhood",

1 but no, because what we're trying to do is make  
2 this be absolutely unidentifiable from one  
3 residence.

4 Or (b), the architectural effect is the  
5 result of the accessory apartment being  
6 constructed as a detached accessory structure.  
7 Shall be that of a structure incidental to a  
8 single family residence, and in the same  
9 character and period of architecture as the  
10 primary residence. We had someone tonight who  
11 mentioned a new house going up on Church Street.  
12 Not my architectural choice, either. Well, it  
13 would be possible that someone could, without  
14 this constriction on it, put up a very modern  
15 accessory apartment next to a very Cape Cod  
16 colonial. It just wouldn't mesh. So the  
17 reason for the "in the same character and period  
18 of architecture as the primary residence".

19 We also had a great deal of discussion  
20 about on-street parking. We cannot allow that  
21 with an accessory apartment. Any accessory  
22 apartment that is built, whether within the  
23 building, the primary residence, or whether in a  
24 detached structure, has - the lot has to be

1 capable of accepting any parking envisioned on  
2 that lot. So that you're not crowding the  
3 street with parking.

4 So this is a very simple one:  
5 monitoring. But it's a very important one, too.  
6 An affidavit shall be submitted annually to the  
7 Building Commissioner signed by the property  
8 owner attesting that the principal dwelling or  
9 accessory apartment has been owner-occupied for a  
10 period of seven months and not otherwise rented  
11 as set forth in Section (3)c) above.

12 And that is that you can only rent one  
13 of those units at a time. It can be either the  
14 primary structure or it can be the accessory  
15 structure, but not both. The owner must live in  
16 one of those units.

17 The Building Commissioner may allow  
18 property owner to be absent during the seven  
19 month period for cause, and that's why we had to  
20 put this in the restriction. You can only rent  
21 one of those properties at a time.

22 So those are all the changes and the  
23 reasons behind them. And we really do hope that  
24 you will support this article. It's been a lot

1 of work for that temporary working group and we  
2 enjoyed trying to figure all of this out.

3 I'd be happy to try to answer any  
4 questions that you might have.

5 THE MODERATOR: Okay, Mr. Donahue.

6 MR. DONAHUE: Bob Donahue, Precinct 3.

7 I question the 800 square feet. Why  
8 and how did you come to that number? Why not  
9 1,000 square feet? And if we're talking about  
10 building - taking the roof off a building and  
11 putting an accessory apartment where the attic  
12 used to be, why not just use the square footage  
13 of the building itself and let it go at that?

14 It seems like you folks are just trying  
15 to make this as complicated as you possibly can,  
16 for, here again, to force a person who wants to  
17 put in an apartment to have to hire architects  
18 and lawyers and et cetera, et cetera, et cetera.  
19 It really defeats the whole issue of it because  
20 people won't do it. It becomes too expensive.

21 Thank you.

22 MS. KERFOOT: It may be for some  
23 people, but the whole point of doing this is, you  
24 have to remember the word "accessory".

1           Accessory is something that's not the primary.

2                       The real motivating factor on this was  
3           affordable housing.    You limit the amount that  
4           you charge to some degree by the square footage  
5           of it.    Why not say, "Well, you can have 100  
6           percent of the primary residence"?    That would  
7           defeat the whole purpose.

8                       This was envisioned as apartments that  
9           could be used, let's say - well, let's use me.  
10          I'm getting older, and it may be that I don't, at  
11          some point in time, want to keep up my whole  
12          house.    And I'd love to be able to rent my main  
13          house to somebody and have a one bedroom, very  
14          small unit, myself.    Maybe even an efficiency  
15          apartment.    That's logical.    It also serves a  
16          purpose of having somebody live there, maybe a  
17          relative, maybe not, who knows whether you're  
18          alive or dead.

19                      That's one scenario.

20                      Another scenario is you've got children.  
21          They're hard-pressed to be able to live in  
22          Falmouth because of the expense of the housing  
23          here.    So you want to put on a one or a two  
24          bedroom efficiency, an apartment, whatever you

1 want to call it, and your children can live here  
2 while they economically get ahead.

3 So those are various scenarios. We  
4 never, ever envisioned having something large.  
5 A thousand square feet is fairly large.  
6 Actually, I brought two children up in what would  
7 be called a cottage. It's about an 1100 square  
8 foot house. Three bedrooms. [Laughs.]

9 MR. DONAHUE: I beg to disagree. I  
10 think that if we're looking to house low income  
11 people, young people, they're going to need at  
12 least two bedrooms, probably, because they're  
13 going to have children. Maybe three. We're  
14 trying to get people, young people to stay in  
15 town. I think you're defeating it by putting  
16 limitations on this for the homeowner.

17 Thank you.

18 MS. KERFOOT: Then we cannot call it an  
19 accessory apartment any longer. That's simply  
20 my comment, the word "accessory".

21 THE MODERATOR: Mr. Potamis.

22 MR. POTAMIS: Gerry Potamis, Precinct  
23 2. I'd like to offer an amendment.

24 THE MODERATOR: Okay.



1 MR. POTAMIS: You're on page 16. My  
2 suggestion and recommendation is to eliminate the  
3 term "enhance", such that the language would  
4 read: "An onsite septic tank system with nitrogen  
5 removal approved by the Board of Health."

6 Nitrogen removal approved by the Board of Health.

7 Could you go to the next slide, please.

8 This is a little bit awkward because I  
9 had thought I was dealing with no more than one  
10 bedroom, but it serves the purpose. If you have  
11 a three bedroom house, you could put an accessory  
12 apartment in and use a standard Title V. If you  
13 have a four bedroom house and you wanted to go to  
14 five bedrooms, you have to put an enhanced  
15 system.

16 Now, why should that worry you? If you  
17 live in Perch Pond, that's an impaired waterway,  
18 okay? An enhanced system won't help you. And  
19 the Board of Health has to deal with the term  
20 "enhanced".

21 If you live north of 28, in the Little  
22 Pond Coastal Overlay, we just spent millions of  
23 dollars to put sewers in. We're growing  
24 oysters, and we may - don't shoot me - we may do

1 inlet widening -- but hopefully we wont. If you  
2 live there and you want to put an accessory  
3 apartment in that exceeds the density, you have  
4 to put in an enhanced system approved by the  
5 Board of Health.

6 Next slide, please.

7 I've just repeated myself. This is  
8 essentially the same slide for the coastal  
9 overlay. Disregard the red.

10 Next slide.

11 Why? Enhanced system. It's an  
12 experimental system. Under Title V it's called  
13 pilot systems, okay? For pilot system to be  
14 acceptable, you have to have 18 systems, the same  
15 system, approved over 18 months of monitoring.  
16 Then you go to the next step, which is 15 systems  
17 over three years of monitoring. Now, granted  
18 you could take the 15 and add it so you only have  
19 to be 35.

20 This enhanced is not required by Town,  
21 Board of Health or state, and more importantly in  
22 my mind: there's no subsidy. We gave through  
23 not - Buzzards Bay -- I was going to say British  
24 Beer club - a subsidy of up to \$10,000 to put in

1 experimental systems. These people will not get  
2 any money to put in an experimental system. We  
3 gave the eco toilets folks \$5,000 initially and I  
4 think we waived the betterment of \$15,000. But  
5 if you want to accommodate the elderly, younger,  
6 or maybe if you need assisted living for a member  
7 of your family, you get no subsidy. The cost of  
8 these systems are 20 to 30 thousand dollars, plus  
9 a thousand dollars annually of O and M.

10 So this one bothers me. Excuse me.

11 Oh, operation and maintenance. In other words,  
12 you have to go out and monitor it.

13 This is not required for your neighbors.  
14 You want to put an accessory apartment in, you  
15 pay 20 to 30 thousand dollars. Your neighbor  
16 wants to put three to five bedrooms - three to  
17 four more bedrooms in, he's not covered by any  
18 law, or she. Excuse me, I get in a lot of  
19 trouble nowadays, with the --

20 [Laughter.]

21 MR. POTAMIS: In other words, we're  
22 discriminating - eh, discriminating's a strong  
23 word, according to the Assistant Town Manager, but  
24 we're having an adverse impact on the people we

1 want to help the most.

2 The standard onsite system removes 20 to  
3 40 percent nitrogen. I verified this with the  
4 Health Agent. I also verified it with our own  
5 town consultants. In the Oyster Pond, one of  
6 the early reports, they came up with 40 percent  
7 for removal of a standard nitrogen system. GHD,  
8 in another report, not necessarily for the Town,  
9 said it's closer to 20 to 40 percent, but on  
10 average 23 percent. So your average system,  
11 including cesspools, I think, could remove about  
12 20 percent nitrogen.

13 Now, this slide's a little bit  
14 misleading because I was thinking one bedroom,  
15 but do the math - and even Andy can figure this  
16 out. A one bedroom, two person - a one bedroom  
17 with two people in it adds zero point zero one  
18 two kilograms. You're going to spend - or  
19 you're going to require people that want  
20 accessory apartments to spend 20 to 30 thousand  
21 dollars for point oh one two kilograms. And if  
22 you have two bedrooms, double it. It's not  
23 consistent.

24 And I'm going to say that again. It's

1 not consistent with any - not consistent with or  
2 required by the Zoning Coastal Overlay District  
3 bylaw. This is something that was recommended  
4 to be put in. I think it was well-intentioned,  
5 but I don't think people fully thought it out.  
6 And I think I mentioned this earlier and, if you  
7 listened to Pat, it's unfair to the elderly, to  
8 the moderate income, those seeking independent  
9 living and younger homeowners applying for an  
10 accessory apartment.

11 Next slide, please.

12 In summary, why should you vote yes on  
13 this? Fairness. Twenty to forty thousand  
14 dollars for a minuscule amount of nitrogen that I  
15 don't think you can measure in the water body.  
16 But, you know, you put 200 of these in, you could  
17 measure it. But we're talking about three to  
18 four systems a year.

19 This allows the Board of Health to  
20 approve the nitrogen reduction system in the  
21 absence of an approved watershed plan.

22 Now, when I discussed this with some  
23 members of the Board of Health or the chair, they  
24 don't have a definition of "enhanced". They

1 hope to within two or three months, and I'm  
2 assuming someone will come up with something  
3 before we get the first watershed plan. But  
4 right now - and one person said, "Well, you know,  
5 the Board of Health can define enhanced any way  
6 they want."

7 Well, I have more of a regulatory  
8 background. "Enhanced" means more than  
9 standard, okay? You can't say to the people in  
10 Perch Pond they don't have to put in an advanced  
11 system because you know that's not going to help  
12 all the people north of 28 and the Little Pond  
13 area.

14 So, I think, yes, it puts an onus  
15 initially on the Board of Health, but I'm urging  
16 the Board of Health and maybe the Water Quality  
17 Committee to come up with a definition or a  
18 policy of what we're going to do with "enhanced"  
19 and how we're going to enforce it.

20 And finally, you should vote yes because  
21 it's consistent with the zoning bylaw and it's  
22 consistent with the intent of the accessory  
23 apartment to make more affordable or more diverse  
24 a living for the older, the younger, and you

1 could say people that need assisted living.

2 I'd be glad to answer any questions on  
3 my slides. I did research most of them, but if  
4 anybody wants to discuss the validity of them, I  
5 could tell you my opinion; you could disagree.

6 Thank you.

7 THE MODERATOR: Okay, discussion on the  
8 amendment to remove the word "enhanced".

9 Yes, Mr. Waterbury.

10 MR. WATERBURY: John Waterbury,  
11 Precinct one and until recently a member of the  
12 Board of Health.

13 There are a couple of things, here.  
14 There really definitionally is no difference  
15 between saying "enhanced" and "nitrogen  
16 removing". DEP at present does not give a  
17 credit to Title V systems, normal Title V systems  
18 that we put in the ground. There is no nitrogen  
19 credit. And so, what - this group has thought  
20 this through and what they're asking is that if  
21 there is an increase in the number of bedrooms,  
22 you either have to be hooked to a sewer or you're  
23 going to need to put in a system that has  
24 enhanced nitrogen removal.

1           The words that Gerry has substituted,  
2           "nitrogen removing", is definitionally the same  
3           as "enhanced". And in fact, he's correct, the  
4           definitions of these systems are not well-defined  
5           at this point. And what the Board of Health has  
6           done in the past -- for instance, the state  
7           regulates these enhanced systems, at the moment,  
8           at 19 milligrams per liter. And, with what  
9           we're trying to achieve in our coastal ponds,  
10          that does us almost no good.

11           So what we've been working toward is  
12          getting the vendors of these systems to reduce  
13          the amount of nitrogen that - increase the amount  
14          of nitrogen that they remove. We're currently  
15          putting in systems in West Falmouth demonstration  
16          project in West Falmouth Harbor that are meeting  
17          less than ten milligrams per liter. The Board  
18          of Health in its local regulations years ago  
19          mandated that systems that went in in collected  
20          systems in developments with more than five  
21          houses had to meet 12 milligrams per liter, and  
22          if we pass this bylaw as it's written tonight,  
23          the Board of Health is in at the moment reviewing  
24          its local regulations and they will insert a



1 standard for this particular accessory bylaw.

2 I urge you not to vote for this  
3 amendment.

4 MR. POTAMIS: Mr. Moderator, through  
5 you.

6 THE MODERATOR: Okay, Mr. Potamis, then  
7 Ms. Valiela.

8 MR. POTAMIS: I'm glad you agree with  
9 me, John, that the term "enhanced" doesn't mean  
10 anything. So we can remove it. Because you  
11 said enhanced and nitrogen removal legally don't  
12 make any difference.

13 I am a regulator. I'm on the Zoning  
14 Board of Appeals, and we have seen when you put  
15 the wrong words in a bylaw, you give money to  
16 lawyers. And I agree and I hope the Board of  
17 Health, and working with the Water Quality  
18 Committee, put definitional limits on what is  
19 required.

20 Thank you.

21 THE MODERATOR: Ms. Valiela.

22 MS. VALIELA: Virginal Valiela,  
23 Precinct 5 and a member of the Water Quality  
24 Management Committee.

1 I was also on the Town Manager's working  
2 group that was listed by Mrs. Kerfoot. There  
3 were eight of us. We held a special meeting at  
4 the end of the process of going through all of  
5 these amendments to discuss Mr. Potamis's  
6 concerns and his desire to have the word  
7 "enhanced" removed. The entire committee  
8 disagreed with Mr. Potamis.

9 "Enhanced" is in the original bylaw that  
10 you voted in 2017. It's not something new. It  
11 was there. And he wants to remove it.

12 He's made several points that the Board  
13 of Health needs to work on in terms of  
14 definition, standards, and they are working on  
15 that. So, working on it in parallel with what  
16 the Planning Board has done to improve this  
17 accessory bylaw.

18 I would ask you to vote down this  
19 amendment, leave the language as it is now. It  
20 is not as dire a situation as he has painted, but  
21 I don't really want to go into all those details.  
22 The point is, this word has been there since the  
23 first time you voted this bylaw.

24 MR. POTAMIS: Mr. Chairman, I'd like

1 to correct --

2 THE MODERATOR: Okay, no, no, hold on.

3 Ms. Tobey, on the amendment? You're on  
4 the original speaking list, but you want to speak  
5 on the amendment?

6 MS. TOBEY: [No mic:] No.

7 THE MODERATOR: Okay. We're just on  
8 the amendment, now, removing the word "enhanced".  
9 Yes, Mr. Latimer.

10 MR. LATIMER: Thank you, Mr. Moderator,  
11 Richard Latimer, Precinct one.

12 Again, I'm going to be addressing this  
13 body as a lawyer, from that perspective, and I  
14 would want to know if there is anywhere in any  
15 statute or Town bylaw a specific definition of  
16 the term "enhanced". Because, if there is not,  
17 then Mr. Potamis is correct; it's a field day for  
18 lawyers. They can come in and say it's vague.  
19 If they -- you know, they can come in with  
20 something that's a little better than an ordinary  
21 system and say, "Well, this is an enhanced  
22 system".

23 If there is something that is specific  
24 that gets right to what this - this bylaw is

1 intended to do, well then, that's fine. I'd  
2 want to know that. If there is not, then I see  
3 that there is merit in Mr. Potamis's presentation  
4 which simply defines "enhanced" as, say, this is  
5 what it means. Otherwise, like he says, you're  
6 just inviting lawyers to come in and screw it up.

7 Thank you.

8 MR. POTAMIS: May I clarify something?

9 THE MODERATOR: Okay, you know you only  
10 get, unless it's a direct question to answer, you  
11 only get to speak twice after the presentation.

12 MR. LATIMER: It is a question. It  
13 was a question. Is there something in the bylaw  
14 or is something --

15 THE MODERATOR: Okay, so if you just  
16 answer that, then it doesn't count against you.

17 MR. POTAMIS: I'm not answering that.

18 THE MODERATOR: Okay, you're not --

19 MR. POTAMIS: It's up the Board of  
20 Health. But --

21 THE MODERATOR: - okay. So, if you  
22 want to speak, this is the last time you get to  
23 speak, because you only get twice.

24 MR. POTAMIS: Okay. You know, no,

1           because it was brought up on the history.    And I  
2           think, you know, history is in the eye of the  
3           beholder.

4                        When there was a joint meeting between  
5           the Planning Board and the Zoning Board of  
6           Appeals, the consensus was to remove it.    And I  
7           think, Pat, you were there.    And I know my  
8           fellow Zoning Board of Appeals members were  
9           there.

10                      Yes, it did go back to the Working Group  
11           and I think there was some confusion, and yes,  
12           they didn't agree with me.    But it wasn't  
13           unanimous.    The chair of the Board of Health did  
14           not vote because I think she was far more of a  
15           lady than I am of a gentleman.    She didn't want  
16           to upset the bailiwick or, you know.    If she  
17           didn't - you know.

18                      But she at the joint meeting and at that  
19           meeting essentially agreed with me that, you  
20           know, enhanced may be the improper term.

21                      Thank you and I guess I sit down.

22                      THE MODERATOR:    Okay.    On the  
23           amendment, removing enhanced?    Okay.    And then  
24           we're going to vote as to whether or not to

1 remove that one word.

2 MR. LATIMER: Thank you, Mr. Moderator.

3 Again, my question is is there some  
4 standard legal or even industry definition of the  
5 term enhanced? That is a question not just to  
6 Mr. Potamis, it's the question to the proponents  
7 of the article or to members of the Board of  
8 Health. Is there a definition that says that  
9 enhanced means nitrogen removing? Because if  
10 there is not, then it is a vague term. And if  
11 it's a vague term, it means that the bylaw runs  
12 into problems.

13 That's a simple question: is there a  
14 definition that we know that it is - enhanced  
15 means nitrogen removing?

16 THE MODERATOR: Okay, is there someone  
17 that can answer that question?

18 [Pause.]

19 THE MODERATOR: That's your answer, Mr.  
20 Latimer.

21 [Laughter.]

22 THE MODERATOR: The question will come  
23 on the amendment to remove the word "enhanced".  
24 All those in favor, signify by saying aye.

1 [Aye.]

2 THE MODERATOR: All those opposed no.

3 [No.]

4 THE MODERATOR: It's the opinion of the  
5 chair is that the no's have it by a majority.

6 We're going to go back to the --

7 MR. POTAMIS: [No mic:] Can I have a  
8 roll call?

9 THE MODERATOR: Requesting a roll call.  
10 Are there seven people that want to count that  
11 one?

12 Okay, we got seven. Let's cue up a  
13 slide.

14 We're going to be voting with the  
15 electronic device on the amendment to remove the  
16 word enhanced. A yes vote removes the word. A  
17 no vote does not remove the word.

18 MR. DONALD: Is this a roll call vote?

19 FROM THE FLOOR: No. No.

20 THE MODERATOR: Did you want a - you  
21 said counted vote, right?

22 MR. POTAMIS: I'll leave it up to you,  
23 Mr. Moderator.

24 THE MODERATOR: Ha. You asked for

1 counted, so it's counted. It's not a roll call.

2 FROM THE FLOOR: It's too late.

3 THE MODERATOR: Do we have the slide  
4 ready?

5 [General talking.]

6 THE MODERATOR: Do we have the slide  
7 ready? Yes.

8 Okay, the slide is now open on the  
9 amendment. A yes vote to remove the word  
10 enhanced; a no vote to leave the word in there.  
11 1A for yes, 2B for no.

12 [Pause while electronic vote scrolling.]

13 FROM THE FLOOR: [Inaudible.]

14 THE MODERATOR: Is it just not flashing  
15 on your handset? You're getting a red light.

16 Okay, let's stop the roll call device.  
17 And what happens when the red light flashes?

18 [General talking. Inaudible.]

19 THE MODERATOR: No, no, I'm saying  
20 what's happening on the laptop when your light  
21 goes red? That's what I want to know.

22 [Inaudible.]

23 THE MODERATOR: Okay, because his  
24 wasn't registering before, but it was on the



1 computer, that's what I want to check.

2 Andy Dufresne, you were right. [Laughs.]

3 It was bound to happen.

4 MR. BANWARTH: [No mic: inaudible.]

5 THE MODERATOR: But a flashing red  
6 light means it's not working, correct?

7 MR. BANWARTH: [No mic: inaudible] And  
8 there's a flashing red light?

9 THE MODERATOR: Yes.

10 MR. BANWARTH: Oh.

11 THE MODERATOR: Yes. And I saw red  
12 lights flashing. They showed it. They had it  
13 out there, all flashing red.

14 CLERK PALMER: On your slide, were  
15 there two answers to be given, or just one  
16 answer?

17 THE MODERATOR: Did you use the quorum  
18 slide?

19 MR. BANWARTH: [No mic: inaudible.]

20 THE MODERATOR: Yeah, replication of the  
21 quorum slide only allows a yes vote. Okay.  
22 No problem. This is your first time doing this.  
23 Totally understand that.

24 [Talking and laughter.]

1 THE MODERATOR: No problem. You're  
2 going to be an expert by the next one.  
3 Otherwise Andy's going to come back and start  
4 counting again [laughs].

5 Okay, are we ready to do this one?  
6 Okay. The roll call device has been activated.  
7 This is the amendment to remove the word  
8 enhanced. Press one to remove the word. Press  
9 two to not remove the word.

10 I just got a text from somebody at home  
11 watching this, and said somebody probably hacked  
12 the system; must be the Russians.

13 [Laughter.]

14 THE MODERATOR: The Russians are now  
15 influencing the Falmouth Town Meeting. [Laughs.]  
16 [Pause while electronic vote scrolling.]

17 THE MODERATOR: Okay, 15 seconds left  
18 in the polling.

19 By a counted vote of 89 in favor and 108  
20 opposed, the ruling of the Chair stands.

21 Go back to the main motion. My next  
22 speaker was Mr. Dynan.

23 MR. DYNAN: Thank you, Bill Dynan,  
24 Precinct 5, New Silver Beach.

1           A question on lot size consideration for  
2           sewered homes.   New Silver has 210 and I know  
3           there's another - Little Pond has 1400.   Most of  
4           those lots, not that they're going to put  
5           accessory apartments there, are below the 7500  
6           feet, which you mentioned was consideration for  
7           additional sewerage - I mean, additional septic  
8           systems.   Was that consideration taken into  
9           effect?

10           MS. KERFOOT:   There was actually -  
11           there were two reasons.   One would be if you're  
12           on a septic system, you're required to have a  
13           reserve, so far as I know.   The other one is  
14           parking.   And it's already pretty tight to park  
15           everything on the lot when you have a very small  
16           lot.   And some of those lots are 4,000 and 5,000  
17           square feet.   You'd be hard-pressed to get a  
18           reserve septic system on those.   You'd be hard-  
19           pressed to have enough parking with an accessory  
20           apartment.

21           And what the concern was, we originally  
22           said, no, we weren't going to have any limit.  
23           If you could figure out how to do it, you could  
24           have an accessory apartment.   The Zoning Board

1 and others really wanted to have a minimal lot  
2 size. They would have preferred 10,000 to  
3 15,000 square feet, but they said, okay, we'll  
4 start at 7500. And, as I pointed out, 7500  
5 isn't even sometimes going to be sufficient to  
6 accommodate an accessory apartment, because of  
7 its configuration.

8 MR. DYNAN: The question - some of them  
9 are double lots, in a lot of the beach areas,  
10 which would be 11,000 square feet, but you  
11 mentioned a back-up system. It's 100 percent  
12 sewerage. We already paid our \$30,000 to hook  
13 up.

14 MS. KERFOOT: If you've got a sewer,  
15 no, you don't have the problem.

16 MR. DYNAN: Correct.

17 MS. KERFOOT: Uh-huh.

18 MR. DYNAN: So it's still, with a  
19 sewerage, 7500 square feet?

20 MS. KERFOOT: That's what is in the  
21 bylaw that we're voting on.

22 MR. DYNAN: But there was no  
23 consideration - I don't think consideration  
24 wasn't taking the place, here, for a house that

1 has 11,000 square feet meets the criteria. Less  
2 than 11,000 or 7500 square feet that meets that,  
3 that has parking.

4 MS. KERFOOT: Well, you say there are  
5 two lots. Are they combined?

6 MR. DYNAN: Some of them are. Some of  
7 them aren't, though.

8 MS. KERFOOT: Then you've got no  
9 problem, if it's 11,000 square feet.

10 MR. DYNAN: Right. And the lot size  
11 that's 6,000 square feet that has sewerage, it  
12 has parking?

13 MS. KERFOOT: You know, my guess is if  
14 you feel it's - it's okay, you can appeal it.

15 MR. DYNAN: Okay, that's the criteria.  
16 Okay.

17 MS. KERFOOT: We do have an appeal  
18 system, if you want to do that.

19 MR. DYNAN: I don't think you're going  
20 to see many of those in the beach areas, but --

21 MS. KERFOOT: No.

22 MR. DYNAN: - I just question that.

23 MS. KERFOOT: The other - I'd like to  
24 comment on something, too, not specifically your

1 question. But it seems that there is a lot of  
2 background thought about, "Well, this is going to  
3 be too expensive to put a septic system in",  
4 "It's going to be too expensive to build an  
5 accessory apartment". But I really do want to  
6 point out that unless you're doing it for say  
7 parents or children, that you don't want to  
8 charge them, you are going to be getting a rental  
9 on these, and hopefully be making some money on  
10 them to pay back whatever you have to borrow to  
11 put it in or to pay your own savings account  
12 back.

13 So, I feel it's necessary to point this  
14 out, too. These aren't just giveaways to  
15 people. They are to help the people in the  
16 community who do need to have less expensive  
17 living arrangements.

18 MR. DYNAN: Thank you.

19 MS. KERFOOT: Uh-huh.

20 THE MODERATOR: Okay, Ms. Tobey.

21 Ms. Siegel, you're on the original list  
22 already, yeah.

23 Ms. Tobey.

24 MS. TOBEY: Linda Tobey, Precinct 4.

1 I think that this is a good idea to  
2 build small accessory apartments for older people  
3 or for children to be able to stay on the Cape -  
4 to stay in Falmouth.

5 What I don't - what I have a question  
6 about is how you would monitor them. Especially  
7 like (3)d), where it says, "Either the principal  
8 dwelling or accessory apartment may be rented,  
9 but not both"? No idea how you'd monitor that.  
10 "The owner-occupied dwelling cannot be rented  
11 while owner is absent." And it goes on about  
12 rental periods and all. Who or how would any  
13 monitoring happen in these apartments?

14 MS. KERFOOT: Well, you do have to  
15 provide a certificate to the Building  
16 Commissioner every year, certifying. That means  
17 you've got to sign your name to a report, and  
18 that has some legal standing there.

19 But, like everything else in Falmouth,  
20 it's always been a complaint with people, "Well,  
21 why doesn't somebody check that out?" Well,  
22 people only check out somebody who's not playing  
23 according to the rules when it's reported. And  
24 I'm assuming that's going to be the same here,

1 too.

2 Unless you decide to put somebody in who  
3 monitors this, who goes around and knocks on  
4 doors, too. And we've never hired somebody who  
5 will do that kind of thing.

6 So it would be up to, let's say you have  
7 an apartment, an accessory apartment and you have  
8 a primary house and you're renting both of them  
9 while you're off playing in France. Your  
10 neighbors would have to rat you out or it's not  
11 going to be found out.

12 MS. TOBEY: I just think that maybe  
13 that issue should be re-visited before it becomes  
14 a problem. I just think that'd be a good thing  
15 to look into.

16 MS. KERFOOT: Thank you for your  
17 comments.

18 THE MODERATOR: Okay, Mr. Hargraves.

19 MR. HARGRAVES: Peter Hargraves,  
20 Precinct 9.

21 I have a question to clarify actually  
22 the point that was just made for section d),  
23 where it talks about renting one apartment but  
24 not both. But, concerning is something that



1           came up in our precinct meeting and I'm not sure  
2           if it's been answered, but I know there were  
3           members of the Planning Board there.

4                     If you look at c), just above that, it  
5           says it must be owner-occupied for a period of  
6           seven months in every calendar year or owned by a  
7           non-profit organization or government authority.  
8           So, to me, it looks like staging a business  
9           opportunity for someone who wants to have this  
10          and then rent out two apartments.    But how does  
11          that wash with d), that says the owner must  
12          occupy one of the units seven months out of the  
13          year, if it's owned by a non-profit organization?

14                    MS. KERFOOT:    I don't know how it  
15          squares, honestly.

16                    MR. HARGRAVES:    Yeah, I would vote  
17          against it if that isn't clarified.

18                    THE MODERATOR:    Okay.    All right.

19                    MS. KERFOOT:    I don't know how to  
20          clarify that.    That was in the original that you  
21          voted in 2017, and a non-profit organization or  
22          government authority would be one that whose goal  
23          is to provide affordable housing.

24                    And we put that in, to the best of my

1 failing memory, when we wrote this, feeling that  
2 if a non-profit agency owned a house and built an  
3 accessory apartment, both could be rented for an  
4 affordable rate.

5 That is the only thing I can say with  
6 that.

7 THE MODERATOR: So, do you have a  
8 direct answer to that question? You're on the  
9 speaker's list, but do you have the answer to  
10 that question?

11 FROM THE FLOOR: Yes. Falmouth  
12 Housing --

13 THE MODERATOR: No, no, let's do the  
14 microphone.

15 MR. HARGRAVES: Am I done?

16 THE MODERATOR: Well, we're trying to  
17 get an answer to your question.

18 MR. HARGRAVES: Oh.

19 THE MODERATOR: She made some comments,  
20 but she said she couldn't answer it.

21 MR. HARGRAVES: Thank you.

22 FROM THE FLOOR: The Falmouth Housing  
23 Authority owns a large number of raised ranches  
24 and other such houses in neighborhoods. You

1 know, one here, one there. And if the Housing  
2 Authority wanted to break a raised ranch into an  
3 accessory apartment type arrangement, well, no  
4 one from the Housing Authority's going to live in  
5 that primary apartment.

6 THE MODERATOR: Okay, but the question  
7 is: this bylaw says they have to. And so where  
8 is the --

9 FROM THE FLOOR: No --

10 MS. KERFOOT: No --

11 THE MODERATOR: It doesn't?

12 MS. KERFOOT: - it says "or owned by".

13 FROM THE FLOOR: "Or owned by".

14 MS. KERFOOT: "A non-profit  
15 organization or government authority". And  
16 they're exempt.

17 THE MODERATOR: So, yeah, it's a  
18 separate section, though, that says owner  
19 occupied.

20 MR. HARGRAVES: We did bring it up at  
21 the Precinct meeting and my concern is I  
22 definitely support the spirit and the intent of  
23 the accessory apartment bylaw for aging people to  
24 stay in place and get some financial help by

1 renting out part of their house, but when you  
2 provide an opportunity to monetize the way that  
3 this is written, who's responsible?

4 It's different if the homeowner's on  
5 site and is responsible, but if it's some  
6 organization with offices in New Jersey and they  
7 have two units that they're renting out, what are  
8 the neighbors to do?

9 THE MODERATOR: Okay. So, Ms.  
10 Kerfoot, in section c) --

11 MS. KERFOOT: Uh-huh.

12 THE MODERATOR: - because he was cross-  
13 referencing d) to c)--

14 MS. KERFOOT: Right.

15 THE MODERATOR: - the language "or  
16 owned by a non-profit organization or government  
17 authority whose purpose is to provide affordable  
18 housing" is a separate classification than a  
19 principal dwelling or accessory apartment in the  
20 first part of that sentence, correct?

21 MS. KERFOOT: Correct.

22 THE MODERATOR: So the reference is  
23 section d) to an owner-occupied dwelling  
24 references the first part of section c) and not

1 the second part of section c).

2 MS. KERFOOT: That is correct.

3 THE MODERATOR: So the answer is: the  
4 exemption is within the grammatical language of  
5 the sentence in section c). You're either  
6 owner-occupied -- and then, if that's the case,  
7 you have to live there and do all that -- Or you  
8 are owned by a non-profit organization or  
9 government entity.

10 So the exemption is within the language  
11 of section c), meaning that section d) doesn't  
12 apply to owned, non-profit or government  
13 authorities, only to the first part of it, owner-  
14 occupied.

15 Do you see what I'm saying? Otherwise,  
16 otherwise, they would have put all of that at the  
17 beginning of the sentence - those are called  
18 predicate nouns - and you would have had the  
19 sentence start there and then everything in d)  
20 would apply to everything in c). Right?

21 MS. KERFOOT: I told you, I was relying  
22 on a memory that went back a number of years, and  
23 so he just said, "Yeah", that's what it is. If  
24 the Housing Authority owns it and wants to put an

1 accessory apartment in, it's exempted.

2 THE MODERATOR: Yes, Mr. Hargraves.

3 MR. HARGRAVES: You said what you said.

4 I am not a legislator, but I will just say this:

5 I wanted to bring it to the attention of my

6 colleagues and one of the local attorneys who has

7 several articles in this warrant has said to me,

8 "Ambiguity goes to the plaintiff, and in this

9 case, if there's sufficient ambiguity, it's done,

10 it's over and we're cooked." So.

11 THE MODERATOR: Okay. Yeah, no, no,

12 it is in the bylaw.

13 So, I could add you all to the list,

14 because this is a really long list and we've been

15 doing this for almost an hour. So, yeah, I'll

16 add you to the list.

17 Okay, Mr. Kasparian was next on the

18 list.

19 MR. KASPARIAN: Thank you. Michael

20 Kasparian, Precinct 5.

21 I'm standing up to speak in favor of

22 this article. I think it's very well thought

23 out. I really don't think there's anything

24 onerous about it.

1                   We do have a serious problem, here, and  
2                   I think it's confusing going back and trying to  
3                   remember from spring of 2017.    A lot of the  
4                   issues I think we're talking about have already  
5                   been decided.    And, again, as far as size, et  
6                   cetera, like you, I raised my family in a 900  
7                   square foot apartment in a two family house  
8                   before we moved to Falmouth.

9                   What I like about it is that it does  
10                  give specifics on how you measure, which I think  
11                  are in line with what real estate appraisers use  
12                  to measure in terms of banks and lending.    And  
13                  it's nice, because there's no ambiguity there.

14                 The other part I like about it is the  
15                 architectural component.    Because I'd have no  
16                 problem with somebody in my neighborhood doing  
17                 something like this for their children or their  
18                 parents, or I may choose to do it, but certainly  
19                 would want to make sure that it was done in a  
20                 tasteful manner and I think that the things that  
21                 you've proposed will ensure that that will  
22                 happen.

23                 Again, I don't think there's anything  
24                 onerous, here.    Anything that we can do to

1 enhance these type of accessory apartments and  
2 encourage people to do them, because, as we know,  
3 Falmouth is very rapidly turning into a very  
4 high-priced retirement community, and people who  
5 work here are having a very difficult time living  
6 here, and we have to work together in order to  
7 remedy that.

8 So, again, I ask you to vote in favor  
9 for this article. I think it's very well  
10 thought out and the fact that I'm sure as we move  
11 on there's going to be other things gonna come up  
12 that you're gonna find that need to be addressed  
13 in order to make sure that everyone's playing  
14 fair and square.

15 Thank you.

16 THE MODERATOR: Okay, Ms. Siegel.

17 MS. SIEGEL: Debra Siegel, Precinct 6.

18 From everything that I can tell, this  
19 working group that was pulled together comprises  
20 a huge amount of expertise from different town  
21 committees and boards and I think they've done a  
22 very comprehensive job.

23 I would like to remind Town Meeting that  
24 if it does turn out that they have missed



1 something, this can be amended later. And I  
2 urge us - urge us to vote yes for this.

3 Thank you.

4 FROM THE FLOOR: Question, question.

5 THE MODERATOR: Ms. Braga? No.

6 Mr. Potamis.

7 MR. POTAMIS: I'd like to make an  
8 amendment.

9 Gerry Potamis, Precinct 2. I won one  
10 yesterday, I lost one tonight. Hopefully this  
11 might be - it can't be a draw. But could you  
12 bring up the second - my second amendment?

13 This is one of good governance and  
14 efficiency on how we go through the process.  
15 I'd like to eliminate the terms "an accessory  
16 apartment built within or as an accessory  
17 structure not attached to a single family", and  
18 replace it with "in addition to site plan review  
19 requirements above, an accessory apartment shall  
20 require a special" - and that should be "permit  
21 from the Zoning Board of Appeals installed" - oh,  
22 and I put there from a special - "shall require a  
23 special permit from the Zoning Board", period.

24 I'm sorry, I did this late last night

1 and some finger-graphical errors.

2 Essentially what this says, before you  
3 had to go to the Planning Board for one type of  
4 property, and the Zoning Board of Appeals for  
5 another type of property. Which, to me, is not  
6 efficient in government.

7 Next slide, please.

8 It's a more efficient process to allow  
9 the special permit to be issued by one board.  
10 The Zoning Board of Appeals is the Town's subject  
11 matter expert on special permits. Last year,  
12 the Zoning Board of Appeals issued somewhere in  
13 the neighborhood of 80 Special permits, in  
14 addition to variances.

15 Zoning is not a nice subject to talk  
16 about. Most people's eyes close and attorneys  
17 make a lot of money coming in front of us.

18 The second one is "the Zoning Board of  
19 Appeals must issue a special permit for a  
20 property that's not conforming". So if you have  
21 a small house and you want to put the accessory  
22 apartment in a garage detached -- okay? - you  
23 have to come in front of the Zoning Board of  
24 Appeals.

1                   So, it's nothing against the Planning  
2                   Board. I think the Zoning Board of Appeals  
3                   probably is in a better position to administrate  
4                   this. Yes, the people will still have to do  
5                   site plan review, but you go to one board for  
6                   your special permit.

7                   Thank you.

8                   THE MODERATOR: Okay, discussion on the  
9                   amendment. Mr. Fox.

10                  CHAIRMAN FOX: When we passed this, we  
11                  deliberately made it, if it was by the bylaw and  
12                  within the structure, it's by right. So, it was  
13                  trying to streamline the process and not make it  
14                  a special permit. And this will be taking us  
15                  backwards of what we tried to do last time, and  
16                  turn it into a special permit.

17                  That was the whole intent of what we  
18                  passed last year. And now it seems like we're  
19                  going backwards and re-doing everything. The  
20                  big argument was that most of these things could  
21                  be built within the structure and be a by-right  
22                  use, and not a special permit.

23                  It's changing the whole by-law with  
24                  this.

1 THE MODERATOR: Further discussion on  
2 the amendment?

3 Ms. Putnam.

4 MS. PUTNAM: Rebecca Putnam, Precinct  
5 9.

6 I would agree we went - we approved the  
7 original bylaw to streamline the process to make  
8 it less of an expense, headache, especially for a  
9 lot of our older residents who don't have a lot  
10 of extra income. They're trying to do this for  
11 their kids, they're trying to do this for  
12 themselves to have a retirement place. To have  
13 a place for their kids to afford to live. The  
14 whole purpose was to make it easier and less  
15 costly.

16 Now, I know people on both boards and  
17 neither one are going to like what I have to say,  
18 but this has become an argumentative process  
19 between two boards who do not want to get along  
20 at the moment.

21 So please vote this down.

22 THE MODERATOR: Okay, the question will  
23 come on the amendment as presented on the slide  
24 above, striking 5(b) and inserting the bold

1 underlined language.

2 All those in favor, signify by saying  
3 aye.

4 [No response.]

5 THE MODERATOR: All those opposed no.

6 [No.]

7 THE MODERATOR: It's the opinion of the  
8 chair is that the nos have it by a majority.

9 The question will now come on the main  
10 motion.

11 Mr. Latimer, do you have something new  
12 on the underlying main motion? Okay, Mr.  
13 Latimer.

14 MR. LATIMER: Thank you, Richard  
15 Latimer, Precinct one.

16 On the main motion, I think this is a  
17 well-reasoned article as far as it goes. It is  
18 based on a real need and the Planning Board is  
19 addressing it properly.

20 The 7500 square foot restriction is  
21 reasonably calculated to make sure that the units  
22 remain affordable where real estate will be  
23 priced according to square footage.

24 I think there is - will be needs for

1 amendments to this article, however, which can  
2 come later, but I just want to put one out there,  
3 which is the situation of an older couple, their  
4 kids are gone, they're out in California, they're  
5 wherever. They have one of these apartments; it  
6 helps their income.

7 First the old man dies. Then the old  
8 lady has to go in the nursing home. What  
9 happens there? There's no longer an owner to  
10 occupy it. I think that's a situation where the  
11 heirs should be able to maintain that additional  
12 unit to rent it, but restrict it to affordable  
13 rental. Which will be consistent with the  
14 purpose of the bylaw.

15 THE MODERATOR: Dead people can't own  
16 property, so somebody's going to own it after  
17 they both die.

18 MR. LATIMER: The heirs.

19 THE MODERATOR: Yeah. So they're the  
20 owners. They gotta occupy it.

21 MR. LATIMER: Yes, but I'm - my parent  
22 has died; I'm out in San Francisco. I'm working  
23 at a major corporation; I'm going to be there for  
24 20 years. I own this property, now.

1                   Now, my options are I'm either going to  
2                   sell it, and the buyer's not going to want to buy  
3                   it with an affordable unit.    He's going to tear  
4                   down the affordable unit or expand his building.

5                   So, I think that's something that needs  
6                   to be addressed in the future.    That's all I  
7                   wanted to say.

8                   THE MODERATOR:    Okay, okay.    We're not  
9                   going to talk about future amendments, though,  
10                  because we only have two amendments.    We already  
11                  had them; they both failed.    We're on the main  
12                  motion.

13                  Mr. Finneran, something new and then  
14                  we're voting on this.

15                  MR. FINNERAN:    Yeah, I think this is a  
16                  great article.    I think it's a win-win for the  
17                  people in the houses that want to stay here as  
18                  well as who may be renting that wants to stay  
19                  here, as well.

20                  I'm not sure about this and there may be  
21                  somebody here from the Assessing Department or  
22                  whatever, but aren't the homes that Kinchla built  
23                  and others on Maravista, aren't they 7200 square  
24                  feet, a lot of those lots?    And they're on the

1 sewer?

2 I know we've been through the  
3 amendments, but wouldn't it make sense if one of  
4 those house - because, it pretty much locks out  
5 all the houses on Maravista. If somebody was on  
6 the sewer and had 7200 square feet, which a lot  
7 of those lots are, shouldn't they be allowed on  
8 this?

9 Have we used the - the amendments  
10 failed. Have we already gone through the two?

11 THE MODERATOR: Yeah, we've already  
12 used two amendments, so we can't do it tonight.

13 MR. FINNERAN: Well, it kind of locks  
14 everybody out on Maravista, doesn't it? And  
15 they're sewerred and --

16 THE MODERATOR: Okay.

17 MR. FINNERAN: - it eliminates all the -  
18 -

19 THE MODERATOR: Something to consider  
20 for the next Town Meeting, a new article.

21 Yeah, Mr. Fox, you want to address that?

22 CHAIRMAN FOX: Yes.

23 Real quickly, you know, this was a  
24 negotiated point. We never wanted a limit on



1           it, but the Zoning Board of Appeals wanted to  
2           make it 10,000 square feet and we compromised  
3           down to this level.    So, if you're looking for  
4           reasons, it was simple negotiation with the  
5           Zoning Board of Appeals to move it forward.    And  
6           we thought it was a reasonable thing to move the  
7           deal forward.

8                        So, a lot of things you have to do to  
9           get this through, and we're the - you know, we  
10          negotiated a lot of things to do it, and that was  
11          just to satisfy the Zoning Board of Appeals  
12          because they were demanding 10,000 feet and we  
13          won by making it 75.    And that's the way we  
14          looked at it.

15                       THE MODERATOR:    Okay, the question will  
16          come on the main motion as presented by the  
17          Planning Board.

18                       All those in favor, signify by saying aye.

19                                       [Aye.]

20                       THE MODERATOR:    All those opposed no.

21                                       [No.]

22                       THE MODERATOR:    It's the opinion of the  
23          chair that the ayes have it by a two-thirds  
24          majority and I so declare.

1                   **Article 15**, Madame - the Planning Board  
2                   for the main motion.

3                   Planning Board, Article 15, main motion.

4                   [Pause.]

5                   CHAIRMAN FOX:     This is a petitioner  
6                   article.

7                   Mr. Moderator, we move the article as  
8                   printed.

9                   THE MODERATOR:     As printed?

10                  Okay, who's going to present on this?  
11                  We have someone to present?

12                  CHAIRMAN FOX:     He's supposed to be  
13                  here.

14                  THE MODERATOR:     Yes, is there someone  
15                  to present on this on behalf of the petitioner?

16                  CHAIRMAN FOX:     Here he is.

17                  THE MODERATOR:     Mr. Ament.

18                  This is vote to amend Article 6, General  
19                  Residence Districts of Chapter 240 Zoning Code of  
20                  Falmouth for accessory apartments.

21                  MR. AMENT:     Thank you, Mr. Moderator.

22                  I'm Bob Ament of Precinct one, a Falmouth  
23                  attorney who's speaking for Kevin Klauer, the  
24                  petitioner who is my law firm partner.

1                   There's been a lot of discussion just  
2                   now about accessory apartments.    Last Town  
3                   Meeting a similar article sponsored by the  
4                   Planning Board requested the inclusion of the  
5                   General Residence District in those areas of town  
6                   where you could have an accessory apartment.  
7                   Just like all other Residential districts and  
8                   Agricultural Districts, so almost all of town.

9                   The General Residence District was  
10                  historically not included because there was no  
11                  need in the General Residence District to have  
12                  accessory apartment regulation because two family  
13                  units were permitted by right.

14                 When the accessory apartment bylaw was  
15                 amended in 2017 to allow detached accessory  
16                 apartments, that changed the situation, because  
17                 that meant there was a creation of two dwellings  
18                 on a single lot, a dwelling in each of them.  
19                 That situation is not allowed in the General  
20                 Residence District, even though you can have a  
21                 triplex by right, if one of the units is  
22                 affordable.

23                 In any case, at the last Town Meeting,  
24                 the action on the proposal to include the General

1 Residence District was put off because of the  
2 feeling that there should be the opportunity for  
3 the ad hoc Committee to review the bylaw and make  
4 recommendations. That's now been done. We  
5 have new restrictions.

6 We also have, because Article 6 passed  
7 yesterday, a new map of the recharge areas in  
8 Town that would subject more properties for which  
9 an accessory apartment is being sought to that  
10 bylaw and those restrictions.

11 So, at this point, I would hope that the  
12 Town Meeting will follow the recommendation of  
13 the Planning Board, really for the second Town  
14 Meeting in a row, to include General Residence  
15 Districts in those areas that can have accessory  
16 apartments. Because they would be - we're  
17 talking about, really, detached accessory  
18 apartments, because, again, duplexes are  
19 permitted by right; every case that this would  
20 apply would involve a special permit from the  
21 Board of Appeals, as well as site plan review  
22 from the Planning Board.

23 Thank you.

24 THE MODERATOR: Okay, any discussion on

1 the main motion as printed?

2 Ms. Shepard.

3 MS. SHEPARD: Susan Shepard, Precinct  
4 one.

5 I'm a little surprised by the vagueness  
6 of this article. How much of town is General  
7 Residence? Is this article being submitted on  
8 behalf of a single property owner? I'm asking  
9 because I've had a number of phone calls and  
10 emails -- I admittedly know nothing about this --  
11 from people who live in the General Residence  
12 District who are very concerned about this bylaw.

13 That's all. So, is it on behalf --

14 THE MODERATOR: Mr. Ament.

15 MR. AMENT: Thank you.

16 My office does represent somebody who  
17 would like to have an accessory apartment that  
18 already exists, legalized. I believe there are  
19 many second dwelling units in the General  
20 Residence District, for the most part the older  
21 part of town, near - near downtown. There are  
22 small pockets of General Residence District in  
23 Waquoit, in North Falmouth; these are very small  
24 areas. Also in Woods Hole.

1                   I believe that the Town Meeting can see  
2                   a map of all the General Residence Districts in  
3                   Town, if you would like.

4                   There are many grandfathered duplexes  
5                   and triplexes and second dwelling units in the  
6                   General Residence District.    It really seems odd  
7                   to me that a bylaw which allows these accessory  
8                   apartments applies in all Residential Districts  
9                   in Town, all Agricultural Districts in town.  
10                  That's probably 92 or 93 percent of the town.  
11                  The rest of the town is some Industrial, some  
12                  Business, and some Marine, a very little bit, and  
13                  some relatively small area of General Residence  
14                  District.

15                  We allow this all over town.    General  
16                  Residence Districts are the areas that are close  
17                  to village centers, intended as a buffer between  
18                  Business zones and Residential zones.    Generally  
19                  near public transportation.    This is exactly  
20                  where one would expect to be able to have an  
21                  accessory apartment and, in this case, because of  
22                  the bylaw, we're talking about a use that's only  
23                  allowed by special permit and site plan review in  
24                  a district that allows duplexes by right and

1 allows triplexes by right if one of the units is  
2 affordable.

3 In a triplex, it's really broader than  
4 that. It's multi-family use that's allowed,  
5 which means you can have three separate dwelling  
6 units, three separate dwellings in the General  
7 Residence District under our bylaw. You can  
8 have three, but you can't have two. It doesn't  
9 make any sense.

10 Thank you.

11 THE MODERATOR: Okay, you got  
12 something? Yeah, Ms. Peterson.

13 MS. PETERSON: [No mic:] I move the  
14 question.

15 THE MODERATOR: Oh, we have a motion to  
16 move the question. All those in favor, signify  
17 by saying aye.

18 [Aye.]

19 THE MODERATOR: All those opposed no.

20 [No.]

21 THE MODERATOR: The ayes have it by the  
22 two-thirds.

23 The question is going to come on Article  
24 15 as printed.

1 All those in favor, signify by saying  
2 aye.

3 [Aye.]

4 THE MODERATOR: All those opposed no.

5 [No.]

6 THE MODERATOR: It's the opinion of the  
7 chair is that the ayes have it by a two-thirds.

8 We'll do **Article 19**. This is going to  
9 be a quick one.

10 Madame Chairman for the Board of  
11 Selectmen.

12 CHAIRMAN MORAN: Mr. Moderator, the  
13 motion is to indefinitely postpone.

14 THE MODERATOR: Okay, we can't take any  
15 action on this article because of a posting  
16 requirement. So the recommendation is and the  
17 main motion is indefinite postponement.

18 All those in favor, signify by saying  
19 aye.

20 [Aye.]

21 THE MODERATOR: All those opposed no.

22 [None opposed.]

23 THE MODERATOR: The ayes have it  
24 unanimous and we'll stand in recess for 15



1 minutes.

2 [Whereupon, recess held.]

3 THE MODERATOR: Okay, let's go, Folks,  
4 come on forward. Or we'll all be here four  
5 nights. Let's go.

6 I'm going to recognize the Chairman of  
7 the Board of Selectmen to make an announcement  
8 relative to the Senior Center project.

9 Madame Chairman.

10 CHAIRWOMAN MORAN: Thank you, Mr.  
11 Moderator. On behalf of the Board of Selectmen,  
12 the Senior Center Building Committee and Town  
13 staff, I wanted to let everyone know that there  
14 has been an award of the project. The contract  
15 will be GVW, Inc.

16 So, good progress and thank you for  
17 everyone who worked very diligently on that.

18 [Applause.]

19 THE MODERATOR: Okay, we have a quorum  
20 slide up, so all Town Meeting Members present  
21 please press 1A for the establishment of a  
22 quorum.

23 [Pause while electronic vote scrolling.]

24 THE MODERATOR: I almost forgot to

1 vote. I only get to vote in the quorum call.

2 By a counted vote of 178 we have a  
3 quorum, and I call the Annual Town Meeting back  
4 into session.

5 **Article 22.** Madame Chairman for the  
6 main motion.

7 CHAIRWOMAN MORAN: Article 22.  
8 Recommend as printed with the following change:  
9 strike the words, quote, by standing vote, end  
10 quote, from the last line in paragraph numbered  
11 1) on page 21 of your warrant.

12 THE MODERATOR: Okay, that's the main  
13 motion: as printed, but striking the words "or  
14 standing vote".

15 Mr. Donald.

16 MR. DONALD: Thank you. Malcolm  
17 Donald, Precinct 6. I'm the petitioner of this  
18 article.

19 This deals with electronic voting here  
20 in Town Meeting. You're striking - I'm showing  
21 you the by standing vote that's in your warrant  
22 book. It's the third line from the bottom of  
23 the article.

24 Okay, what Article 22 does. It makes

1 every electronic vote a roll call vote. In  
2 other words, Town Meeting members' detailed vote  
3 will be saved.

4 Why do we need it? Because we need  
5 accountability for the electorate to know Town  
6 Meeting members' attendance and voting record.

7 Under current rules - or, we're going to  
8 talk about - I'd like to talk about attendance,  
9 right now. Under current rules, attendance is  
10 only captured at sign-in. After that, Town  
11 Meeting Members are free to leave at any time  
12 with no affect on their attendance record.

13 Under current rules, currently there's  
14 no assurance a Town Meeting Member is still  
15 present to vote on articles that are contested  
16 with an electronic vote. And the attendance  
17 figures only reflect, obviously, those who signed  
18 in at the beginning of the meeting, and not those  
19 who are present for electronic votes on any  
20 contested issues in which there are electronic  
21 votes.

22 So, the data that's published in the  
23 Enterprise is suspect, somewhat.

24 Okay, let's take a look at an example.

1 We like - I'd like you to consider April Town  
2 Meeting Night Two. The sign-in attendance for  
3 Town Meeting was 177. Towards the end of the  
4 night, on Article 36, we had an electronic vote,  
5 and there were 134 votes in favor and 25 opposed.  
6 Therefore, we can deduce that there were 159 Town  
7 Meeting Members remaining. In other words, 134  
8 plus 25 equals 159.

9 FROM THE FLOOR: [General talking.  
10 Inaudible.]

11 MR. DONALD: Now -

12 THE MODERATOR: Okay, let the  
13 petitioner continue, but people can abstain and  
14 they don't come up in the record, that's correct.

15 MR. DONALD: So, 17 Town Meeting  
16 Members apparently had left, which is more than  
17 ten percent of those that signed in at the  
18 beginning of the meeting. And it's pretty much  
19 - I had thought about putting in a slide at Town  
20 Meeting, you can see it's rather - it's a lot  
21 more sparse in the beginning of the meeting, so.

22 With Article 22, attendance voting  
23 detail is saved. People will know, you know,  
24 whether any particular Town Meeting Member has

1 voted on an electronic voting vote on a contested  
2 article and we've solved the problem.

3 Okay. Onto voting, which is the second  
4 main issue that this article addresses. Let's  
5 talk about how things were in the old days before  
6 we had electronic voting. We had a standing  
7 vote, and Andy Dufresne would count the members  
8 who were standing for in favor and then count the  
9 members in his section that were opposed.  
10 People watching on television had some sort of an  
11 inkling about well, they could see some of the  
12 Town Meeting Members and who voted for and who  
13 voted against.

14 Or, you could go back on the video  
15 that's on the FCTV's website and see for yourself  
16 and look at it again and you can see some of the  
17 Town Meeting Members so - and how they voted.  
18 It wasn't ideal, but it was a lot better than  
19 what we have now. We - when we have an  
20 electronic vote, people are seated and they vote  
21 silently with their clickers. Nobody gets to  
22 see how anybody votes.

23 The Town on the electronic vote, then,  
24 how it works is, after all the votes are in, the

1 Town Clerk only saves the totals of the vote  
2 count. In other words, how many votes were for  
3 and how many votes were against. The detail is  
4 then - the voting details of every Town Meeting  
5 Member, which the computer has, are then purged.  
6 So all you know - and you look in the minutes and  
7 you can see how many ayes and how many nays, and  
8 I showed you on that attendance example.

9 So, with electronic voting, we have less  
10 accountability and less transparency. It's  
11 worse than what we had before we had the  
12 electronic votes. When we had the standing  
13 vote, at least we had some idea of who's voting  
14 for what, and how they're voting.

15 Okay. So, with Article 22, Town  
16 Meeting's going to - would commit to good  
17 governance and transparency. Because we're  
18 going to be saving - we would save the voting  
19 detail. And, as a result, the electorate would  
20 be better informed about how to vote for a Town  
21 Meeting Member, whether they like the way they  
22 vote, did they stay for entire Town Meeting, or,  
23 you know, what kind of job are they doing.

24 And, the results of the voting would be

1 available on the website for everybody to see.

2 So, to summarize, Article 22 is going to  
3 make every electronic vote a roll call vote.

4 Now, there is a provision in there that  
5 provides for an override should a secret vote  
6 come up. And we had an instance with my walking  
7 buddy, the Chief of Police, when he wanted to  
8 work - to extend his career another five years  
9 and people were uncomfortable having a roll call  
10 vote and having their vote registered. There is  
11 a provision there that we can vote prior to  
12 taking the electronic vote and dump - and vote to  
13 dump the detail if that's what the - two-thirds  
14 of the Town Meeting wants to do.

15 So, now the electorate is going to know  
16 how Town Meeting Members, their each particular  
17 Town Meeting Member, whether - their attendance  
18 record and their voting record.

19 Now, what the article does not do, it  
20 does not alter the number of electronic votes.  
21 So we're still going to have the same number of  
22 electronic votes when the moderator can't  
23 determine the yeas from the - who has the  
24 majority, the yeas from the nays, and calls for

1 an electronic vote; we'll have an electronic  
2 vote. Or if seven people want to have an  
3 electronic vote, they can stand up and request  
4 that.

5 And then the second big thing is it does  
6 not slow down Town Meeting whatsoever. It's  
7 just - the only - yeah, I mean, it doesn't  
8 involve, really involve Town Meeting at all.  
9 All it is is a computer operator that is running  
10 the machine.

11 So, without Article 22, how is the  
12 electorate going to know how to vote for a Town  
13 Meeting Member? And they won't, because they  
14 don't know the attendance record or the voting  
15 record.

16 A yes vote for Article 22 is a vote for  
17 accountability and transparency. So, doesn't it  
18 make sense to vote yes on this article?

19 Thank you very much.

20 THE MODERATOR: Okay, before we open up  
21 discussion, I just want to let Town Meeting  
22 Members to know that the Rules Committee did meet  
23 with the petitioner, discussed the article.  
24 Actually made the recommendation that that "by



1 standing vote" language be removed. Just to  
2 make it compatible with other provisions. And  
3 then took a tie vote of 3 in favor and 3 opposed,  
4 and I abstained as Chair, which I always do with  
5 the Rules Committee so that I can be impartial at  
6 Town Meeting to run the article on behalf of the  
7 meeting.

8 So, the Rules Committee did not have a  
9 definitive recommendation, yes or no. It was a  
10 3-3 tie at the Rules Committee.

11 So, discussion is now open on Article  
12 22.

13 Mr. Keefe.

14 MR. KEEFE: Brian Keefe, Precinct 4,  
15 Rules and Procedures Committee, Electronic Voting  
16 Subcommittee.

17 So, where do I start? So, as the  
18 moderator just pointed out, the Rules and  
19 Procedures Committee did meet, discuss and listen  
20 to Mr. Donald's presentation.

21 Unfortunately, I was not able to attend,  
22 as were a couple of other members of the Rules  
23 and Procedures Committee meeting. So there were  
24 a couple of votes that were not represented that

1 may have broken that tie. Myself being one of  
2 them.

3 So, not being present for that debate,  
4 my vote doesn't count, but I would have voted in  
5 opposition during that meeting, had I been  
6 present.

7 The next piece is, I would just want to  
8 remind this body that the Electronic Voting  
9 Subcommittee spent a significant amount of time,  
10 almost a total of two years in terms of  
11 researching our options, researching the Charter  
12 changes, the bylaw changes that needed to be  
13 implemented in order to support the system. We  
14 threw a lot of creativity and conversation at  
15 those different scenarios to make sure that they  
16 were all covered.

17 As Mr. Donald did represent, that there  
18 was one particular vote that was - that was  
19 sensitive in nature, that was a scenario that the  
20 Committee hadn't considered. And, when we  
21 listened to this at the previous Town Meeting, I  
22 spoke in opposition to it at that point, because  
23 I felt as though this body wasn't yet ready to  
24 consider - we didn't have the experience, we

1 didn't have the different scenarios run through  
2 the system often enough to fully understand the  
3 implications. I think we are still there. And  
4 I think that is evidenced by a couple of issues  
5 that we just had that were non-technical in  
6 nature, sort of working with the presenters and  
7 those that were having an issue.

8           The two issues that we have, there was a  
9 misunderstanding in terms of the color coding on  
10 the screen. So, as a reminder, your name will  
11 always appear in black until a vote is received.  
12 At that point, your name flips to green. That  
13 had to be re-covered with a couple of different  
14 users.

15           In addition, we also - it was an honest  
16 mistake, but the wrong slide was presented.  
17 Only a quorum vote was available when we needed a  
18 binary decision.

19           So, I think that it's - we remain  
20 premature to consider this motion at this time.

21           That being said, I am generally opposed  
22 to flipping - flipping this electronic vote to a  
23 full roll call vote at every opportunity. There  
24 are a few different reasons for that. Number

1 one, that creates a data stream. As a data  
2 analyst, I can say that this creates an analytics  
3 opportunity for those who wish to target  
4 individuals within this body to sway their vote.

5 That's a little bit easier than it  
6 sounds. Though it's above a certain threshold.

7 So I do want to make sure that we are  
8 very thoughtful as we consider this vote, because  
9 if down the road we want to reverse that it's,  
10 again, quite a bit of work to reverse that.

11 And we're a volunteer body, at the end  
12 of the day. Yes, we are representative. We  
13 represent our precincts. However, we do have  
14 precincts that are under-represented. So now,  
15 with that 100 percent transparency - and I'm not  
16 opposed to transparency, don't misinterpret that  
17 statement, but once we move to a 100 percent  
18 transparency model, the opportunity or the  
19 encouragement for volunteers to step forward and  
20 get involved, I think that undermines that - that  
21 encouragement. It questions, "Do I want to get  
22 involved and constantly be questioned because I  
23 voted against Article X or Article Y?"

24 So, I just - I encourage this body to be

1 thoughtful and be considerate and, again, I vote  
2 in opposition to this article.

3 Thank you very much.

4 THE MODERATOR: Mr. Hunt.

5 MR. HUNT: Carter Hunt, Precinct 7.

6 I'd like to answer Mr. Donald's  
7 question. Anybody in my precinct that wants to  
8 know how I vote can ask me. I don't need to  
9 answer questions from people from Precinct one,  
10 two, three, four, five, six, eight and nine.  
11 Only Precinct 7.

12 So, this is a little bit over the top as  
13 far as I'm concerned. It is a volunteer body.  
14 I agree with what was just the last speaker.  
15 There are many occasions where a vote, an  
16 anonymous vote, is a way to vote. There's  
17 nothing wrong with that. And we should continue  
18 that.

19 I oppose this article.

20 THE MODERATOR: Mr. Netto.

21 MR. NETTO: Joe Netto, Precinct 9.

22 I'd like to explain why I voted against  
23 this. I'm basically against this electronic  
24 voting. I've been that way since day one and

1 nothing's ever going to change my mind about it.

2 First and foremost: I spoke before you  
3 as a member of the Rules Committee when we  
4 presented this to you, and someone stood up and  
5 said, "I ask the question is our vote going to be  
6 recorded?" And the answer to that question was  
7 no. I'm not going to vote for something and go  
8 against what I told you just two years ago.

9 Those that want this said, "Joe, we're  
10 using it, it's worked out fine." Well, it  
11 doesn't work out that fine, as what we just saw  
12 tonight. It's technology. Does your cellphone  
13 work all the time? Does your computer never  
14 crash?

15 But what really bothers me and why I  
16 will never be for this, is because we had the  
17 most basic, simple system. A person stood up  
18 for what they believed in. What is more  
19 transparent than that?

20 The previous speaker just took the words  
21 what I was going to ask you, or mention to you  
22 again. The people from Precinct 9 know how I  
23 vote. They have no problem with that. I do  
24 realize I'm one of the ones that gets up to the

1 microphone. Fine. I'm going to say what I  
2 feel.

3 I would like - after tonight, I'd like  
4 to write an article to do away with this.  
5 Really, honestly. This is the second time, now,  
6 we've had something like this in front of us at  
7 Town Meeting because one article, three years ago  
8 - and I'm one of the counters - passed by one  
9 vote. And somebody said they want a recount.  
10 And the moderator said, "No, there's no reason  
11 for a recount". Because one, the recount was  
12 saying those of us that counted didn't count  
13 right. Or two - and this was what would probably  
14 happen - once some people see how the vote goes,  
15 they get on the winning side.

16 So, transparency? What's more  
17 transparent than you as a Town Meeting Member  
18 standing up and showing how you voted? You  
19 can't beat that.

20 Thank you.

21 THE MODERATOR: Okay, Mr. Dynan.

22 MR. DYNAN: Thank you, Mr. Moderator.

23 I'm in favor of this article. I had an  
24 opportunity to sit with Mr. McDonald at a

1 Precinct meeting. I came from a town with open  
2 town meeting. They would fill a Town Meeting  
3 hall with special interests during special  
4 articles. This Town Meeting and Town Meeting  
5 Members are very, very knowledgeable. I think  
6 accountability is the key word, here.

7 Plus, enhancements. There's going to  
8 be more enhancements to this system going down  
9 the road.

10 If you're elected as the dog catcher,  
11 Selectmen, Board of Health or Town Meeting  
12 Member, you're elected by a body of people and  
13 you represent them. Anybody can ask you at any  
14 time how you voted and you should be able to give  
15 an answer. But I think accountability and  
16 recording accountability, you shouldn't be  
17 afraid.

18 As far as being targeted, fine.

19 I think, the House of Representatives,  
20 everything you do is recorded. And you should  
21 be recorded so you can go back to your  
22 constituents and show them what you did and why  
23 you did it.

24 So I think this is a great enhancement.



1 I think it's something that's coming and  
2 something that's going to have additional  
3 enhancements, probably down the road, and we  
4 should use it.

5 Thank you.

6 THE MODERATOR: Okay, Ms. Schneider.

7 MS. SCHNEIDER: Barb Schneider,  
8 Precinct 4.

9 I'm against this, also. As a former  
10 English teacher and journalist, I sat here trying  
11 to wordsmith how I was going to say this, and I  
12 have to say that, listening to you suggest that  
13 people replay tapes and try to see who's voting  
14 how gives me the creeps. And I'm being honest  
15 here, because it's hard enough to get people to  
16 fill all the slots in all the precincts to run  
17 for Town Meeting.

18 I think when people go to the polls and  
19 vote for me, they vote because they know I do my  
20 homework, they know I care about this town, and  
21 they know I care about Precinct 4. And that's  
22 why they're voting for me. Not to keep tally on  
23 every vote that I take, but to know, if I'm  
24 voting, I'm doing it thoughtfully and because I

1 care about the big picture.

2 And I'm really sad that we've come to  
3 this level of scepticism.

4 I understand that there are people in  
5 this room -- and we just talked about it at the  
6 break, it is very difficult at 10:25 at night to  
7 have very technical discussions and to have  
8 everybody awake and thoughtful and making good  
9 decisions. That's something I hope that will be  
10 discussed, because we've gotten to be a very  
11 technical Town Meeting. Not like we used to be,  
12 just deciding about lifeguard salaries and so on.

13 So, I'm hoping that people will realize  
14 that this is not the answer. The answer is that  
15 we all come here, doing the best we can, and  
16 that's what matters. Not this accountability  
17 where people can keep targeting who's voting how.  
18 That's not what this is about.

19 THE MODERATOR: Okay, Ms. Lichtenstein.  
20 Got you on the list.

21 MS. LICHTENSTEIN: Leslie Lichtenstein,  
22 Precinct 8.

23 I'm ambivalent about this, but if we did  
24 vote this, I believe that it should have a yes,

1 no, and an abstain, which is what they do at the  
2 State House, I believe.

3 THE MODERATOR: No, we don't have that  
4 on our -

5 MS. LICHTENSTEIN: You don't have -

6 THE MODERATOR: No. And in Town  
7 Meetings in Massachusetts, an abstention has no  
8 legal weight. It's those present and voting  
9 determine all questions.

10 MS. LICHTENSTEIN: Okay. I'm  
11 ambivalent. I don't feel either way. I just  
12 feel that there are a number of people who might  
13 feel pressured to vote maybe against their  
14 conscience and against the conscience of the  
15 people in their precincts if they knew it was  
16 being recorded. That's just my feeling.

17 THE MODERATOR: And, Ms. Lichtenstein,  
18 the Rules Committee, just technically, the Rules  
19 Committee could have that discussion to ask that  
20 a number three be activated in a slide, and so  
21 that option could be made available. It will  
22 just have no legal weight.

23 And when you do a two-thirds vote, it's  
24 those present and voting. So those - if you were

1 to use number three, they don't count in the two-  
2 thirds and they don't in the majority. Okay.  
3 They would have no legal weight in the decision  
4 being made, but you could -

5 MS. LICHTENSTEIN: [No mic:] It would  
6 be recorded as not [inaudible.]

7 THE MODERATOR: Yeah, as you were  
8 present in the room. Mr. Donald mentioned  
9 attendance. So that you could say, "Hey, I'm  
10 here. I just didn't vote." But it doesn't  
11 count.

12 Whereas an abstention, if there is an  
13 abstention in some cases, in other bodies, the  
14 abstention counts towards the final decision.  
15 Not in Town Meeting.

16 MS. LICHTENSTEIN: Thank you.

17 THE MODERATOR: Okay. Let's see, Mr.  
18 Walker.

19 MR. WALKER: Thank you, Mr. Moderator.

20 I am going to vote yes on this. I think  
21 it's a good idea. I'm from Precinct 3, Grant  
22 Walker.

23 When I'm here, I - I think of the whole  
24 town, actually. I don't think that - maybe I

1 should, but I don't think of my precinct so  
2 specifically. I think my responsibility is to  
3 the whole town, even though I'm elected by my  
4 Precinct. And I agree with the idea of  
5 transparency and accountability.

6 I think of myself, at some small level,  
7 here, as one of the officials of this Town's  
8 government, by virtue of being a Town Meeting  
9 representative. And therefore I feel that it is  
10 my responsibility to be accountable and  
11 transparent. So I'm voting in favor.

12 THE MODERATOR: Okay, Mr. Latimer.

13 MR. LATIMER: Thank you, Mr. Moderator.  
14 Richard Latimer, Precinct one.

15 I'm kind of on the fence on this one.  
16 I don't like the idea that anyone can just ask  
17 for an electronic vote. I think that is  
18 unnecessary. I do feel that when an electronic  
19 vote is called by the moderator, it's on  
20 something that is so close that there is almost  
21 an evenly divided opinion or it's very close,  
22 whether it's a two-thirds it's - those are  
23 usually very important articles. By definition.

24 And I notice, on this device I have

1 here, it has my name on it. And I know that  
2 when I click this, my name gets recorded on a  
3 public record. And it bothers me that that  
4 public record of information that the public has  
5 a right to know just gets discarded.

6 So, I do believe that when we make these  
7 - when we do make these recorded votes, that  
8 those should remain on the record and anybody  
9 should be able to look that up, just simply  
10 because it bothers me that stuff that is  
11 available, records that are available to the  
12 public are just being thrown away. I just think  
13 that's wrong.

14 Thank you.

15 THE MODERATOR: Okay, so, Mr. Latimer,  
16 in essence, that's what this proposal does. The  
17 language that the petitioner added about setting  
18 the method of voting prior to the vote is already  
19 parliamentary law. It's in Town Meeting Time.  
20 And so it doesn't need to be in here. You  
21 already can request the meeting to set the method  
22 of voting prior to the vote commencing.

23 My hierarchy is always: I do the voice  
24 vote. If I can't determine it, I go to the

1 machine. Or if I do determine it and you all  
2 question me, then we go to the machine. So  
3 that, just so you know, that sentence is already  
4 available under Town Meeting Time; it's just the  
5 petitioner added to the motion.

6 MR. LATIMER: Very well.

7 But my main point is that the reason  
8 that I am supporting this article is because I  
9 don't like the fact that what's happening is that  
10 a public record is being destroyed, essentially.

11 Some information that the public has the  
12 right to know, maybe not everybody wants to know  
13 it, but anybody in the public that does want to  
14 know how any one of us voted should have the  
15 right to get that information.

16 And I just think that's wrong that it's  
17 being destroyed, that's all.

18 THE MODERATOR: Can you just pass the  
19 mic up to Ms. Thorrold, please? Right in front,  
20 in front.

21 MS. THORROLD: Andrea Thorrold,  
22 Precinct 6.

23 The two pieces of this article are  
24 talking a bit about attendance and our voting

1 records. I spent a long time running for Town  
2 Meeting: 13 years before I became part of this  
3 body. And one of the things I looked at very  
4 carefully was attendance. So I do agree that  
5 that is a key point of it, and I think there are  
6 various ways that we could be able to check  
7 attendance, not only at the beginning of the  
8 meeting, but when we come back for a second  
9 quorum. I do want full representation from my  
10 precinct.

11 The other piece, though, is about voting  
12 record, and the - in the presentation there was a  
13 lot of talk about contested questions. And I'm  
14 for transparency and I would be happy for people  
15 to see my full voting record. But we're not  
16 always unanimous in our decisions. There are  
17 many times where there's some portion of us  
18 voting yes or no on all sorts of different  
19 articles. And all we're going to be giving by  
20 going through this type of procedure are those  
21 that are too close to hear by voice vote and  
22 there are those necessarily contested. And I  
23 think that's probably what a lot of people are  
24 reacting to, is the cherry-picking of the voting



1 record.

2 So, if there was a way to do a complete  
3 voting record, I think that that would give good  
4 information to our constituents. But as this is,  
5 I think we're just getting a piece of the puzzle.

6 THE MODERATOR: Okay, Mr. Duffany.

7 MR. DUFFANY: Thank you, Mr. Moderator.  
8 Michael Duffany, Precinct 6.

9 And, for transparency, I had to be in  
10 Boston late this afternoon; I walked in at 8:20,  
11 so I wasn't part of the quorum. But to - if we  
12 were to vote this, people would think that I  
13 didn't care about the first three questions  
14 because I didn't vote.

15 I always - I've been, like you, been  
16 here a long time and I felt very strongly that  
17 standing up and voicing the way that I feel about  
18 something was the way to do it. I think the  
19 electronic voting just helps to speed the process  
20 along and makes the vote more accurate. And so  
21 I would refer back to the Rules Committee to try  
22 to find some happy medium, here.

23 I certainly don't have a problem with my  
24 attendance being shown, but I - again, I always

1 liked being able to stand up and not sit in my  
2 seat and do the vote. So, I would - I would  
3 vote against this.

4 Thank you.

5 THE MODERATOR: Okay, Ms. Tobey.

6 MS. TOBEY: Linda tobey, Precinct 4.

7 There's something that I miss, now that  
8 we do this - we've been doing this vote  
9 electronically. I miss when we vote to look  
10 around and say, "Oh, do you know I didn't know  
11 she was going to think that way." Or, "Oh, he  
12 thinks the same way I do." Because when I leave  
13 here, I was always taught: you don't talk about  
14 certain subjects, and one is who you vote for.

15 And so, I just kind of leave it here,  
16 unless somebody from the neighborhood wants to  
17 talk about a subject. But I really miss looking  
18 around and seeing the, you know, the different  
19 groups and the different neighborhoods. I think  
20 that's a big piece of this.

21 And also, for the new item that came up  
22 about being more carefully scrutinized, I feel  
23 that we have a - people that voted for us to  
24 become Town Meeting Members, they trust us, and

1 they think we're going to do a good job. Which  
2 we do. And I feel that, if we scrutinize too  
3 much, I feel that we're losing that little piece  
4 of trust that's handed to us when we become Town  
5 Meeting Members.

6 I also have a question, Mr. Moderator.  
7 I'm wondering - I didn't pay attention to this  
8 before, but are we renting these units or did we  
9 buy them?

10 THE MODERATOR: We purchased them.

11 MS. TOBEY: So, if we were to decide  
12 this isn't going to work for us, what happens?

13 THE MODERATOR: We could sell them, we  
14 could rent them. We could leave them in a  
15 closet. [Laughs.]

16 [Laughter.]

17 MS. TOBEY: Okay. All right. Was it  
18 a large amount we purchased them for?

19 THE MODERATOR: No, I think \$15,000 was  
20 the appropriation, but it didn't cost all of  
21 that, right?

22 MS. TOBEY: Okay, all right.

23 THE MODERATOR: The authorization was  
24 15, but.

1 MS. TOBEY: All right.

2 Thank you.

3 THE MODERATOR: Okay. Ms. Keefe.

4 MS. KEITH: Hi. Sorry. Melissa  
5 Keefe, Precinct 4.

6 So, I've written down a few things that  
7 have sort of been said already, but to piggyback  
8 on Mrs. Tobey's: the people that elect us trust  
9 us. I'd like to think that I'm a trustworthy  
10 person. They - I've been elected twice, now,  
11 into Town Meeting, which I'm very proud of and I  
12 take it very seriously.

13 I do my homework. I pay attention  
14 throughout the year, not just the few nights that  
15 we're here twice a year.

16 I don't like the idea of having the data  
17 trail and being targeted. I play another role  
18 in this town and every move I make is watched and  
19 recorded and I am completely and 100 percent  
20 transparent, and if anyone has any question,  
21 whether it's a precinct question, everyone is  
22 more than - like, I am more than happy to welcome  
23 questions, how I voted, why I voted that way.

24 But the thought of somebody or a group

1 targeting people, good people that want to  
2 volunteer their time to the Town, which as  
3 Barbara Schneider mentioned that we're having a  
4 tough enough time filling precinct seats, is a  
5 little - it's not very kind and it's not - it -  
6 it would happen.

7 So, Mr. Donald, I'm not really sure why  
8 - maybe that's not fair.

9 But, anyway, we're volunteers. We're  
10 doing the best we can. Mr. Duffany was late for  
11 legitimate reasons. People are late. People  
12 have to leave early. Sometimes life happens and  
13 they can't be here, and that's okay.

14 Thank you.

15 THE MODERATOR: Mr. Young.

16 MR. YOUNG: Mr. Moderator, fellow Town  
17 Meeting Members, I was a member in East Falmouth  
18 for about seven years and I've been from North  
19 Falmouth for about 25 years and I've enjoyed it  
20 thoroughly. And I don't appreciate the  
21 politicizing of this Town Meeting representative  
22 that I enjoy being.

23 We already have an ability for a roll  
24 call vote, I believe under the present system.

1 If you get 20 people to ask for it, we can do  
2 that. Why don't we leave it the way it is? If  
3 he wants to have a roll call vote, raise his hand  
4 and get 20 members to agree to it. Otherwise,  
5 let's just keep it the way it is.

6 Thank you.

7 THE MODERATOR: Okay, Mr. Clark, Dr.  
8 Clark.

9 Lynn, you're on the list.

10 DR. CLARK: Peter Clark, Precinct one.

11 One comment I would make is that I'm not  
12 in favor of this.

13 I would ask the Rules Committee to  
14 consider having our cake and eating it, too.  
15 When we need this kind of vote, we stand up and  
16 click it, and then sit down.

17 [Laughter.]

18 DR. CLARK: And no's stand up and click  
19 it, and sit down. And it wouldn't take any more  
20 time and people who want to inspect the video can  
21 inspect the video.

22 My second thought about this is -

23 [Laughter and Applause.]

24 DR. CLARK: My second thought about

1 this is that I'm saddened that fear is so much of  
2 the conversation. There's the suspicion that we  
3 may be sneaking out, a fear that we're sneaking  
4 out. And there's the fear that we're going to  
5 get targeted. It's just too bad that that's  
6 where we are.

7 I would love to think that, if someone  
8 saw me stand up and click "no", they can come and  
9 find me and say, "Peter, I want to have a good  
10 conversation with you. I want to talk to you  
11 about this." That's positive. And the  
12 targeting is not part of it.

13 Thank you.

14 THE MODERATOR: Okay, Ms. Whitehead.

15 MS. WHITEHEAD: Lynn Whitehead,  
16 Precinct one.

17 We already discussed this for a couple  
18 of years. We decided we'd do the electronic  
19 voting. I think we should go with it and I  
20 don't like the - this feeling of an attitude and  
21 I can't even put my finger on it, but it doesn't  
22 feel good.

23 I think we should stick to what we  
24 decided. We voted on it and we should continue

1 that, and that's it.

2 THE MODERATOR: Okay. Mr. Dufresne.

3 MR. DUFRESNE: Adriene Dufresne,

4 Precinct two.

5 For 48 years I've never been afraid to  
6 stand up, put my hand up or speak my mind on this  
7 floor, Town Meeting. It's the greatest form of  
8 government going. As I get up in years, I'm  
9 still not afraid to express myself.

10 I run my business. I don't care what  
11 people say. I vote in the best interest of the  
12 Town of Falmouth, not my - not so much just my  
13 precinct. I've had the honor and the privilege  
14 of representing the people of the Town of  
15 Falmouth.

16 However this vote goes tonight, I'm not  
17 going to be affected that much longer. And I  
18 ask you to really consider: is it necessary? It  
19 all started, as Mr. Netto said, two or three  
20 years ago by one vote. Which was questioned.  
21 And the moderator made the decision that the  
22 recount was not necessary. That's the man that  
23 runs Town Meeting. You people run Town Meeting.

24 If we start relying on all these



1 electronics that are coming out, I'm going to  
2 tell you right now: this form of government will  
3 disappear.

4 And I urge you to vote this thing down.  
5 It's not necessary and I think it's already  
6 caused too many complications.

7 Thank you for listening to me and,  
8 again, I've had the privilege of standing here  
9 many times; never afraid to put my hand up. And  
10 never afraid to stand up and be recognized. And  
11 that's what we're here for.

12 Thank you.

13 THE MODERATOR: Okay, Mr. Keefe.

14 MR. KEEFE: Brian Keefe, Precinct four.

15 As a sign of good faith, as I'd like to  
16 think that I might be leading the opposition for  
17 this article, but as a sign of good faith, I  
18 would like to put forward a motion and fix the  
19 method of voting as a roll call vote for this  
20 article.

21 Do I have supporters? I need -

22 THE MODERATOR: Okay, he's asking you  
23 to set the method of voting for this article, as  
24 a recorded roll call vote. All those in favor

1 of utilizing a recorded roll call vote when we  
2 vote on this article, please stand.

3 One, two, three, four, five, six, seven,  
4 eight, nine, ten, eleven - yeah, we've got 20.  
5 So -

6 So, Greg, when we do this - this is your  
7 maiden voyage on a recorded roll call vote.  
8 We're going to do this one and then we're going  
9 to retain the record of the -

10 MR. DONALD: Mr. Moderator -

11 THE MODERATOR: - of the main motion.

12 Yes.

13 MR. DONALD: May I address some of  
14 these points that have been made?

15 THE MODERATOR: I can put you on the  
16 list, yeah.

17 MR. DONALD: Okay, great.

18 THE MODERATOR: Yeah. Let me do -  
19 I've got one more, here.

20 Mr. Dynan. Mr. Dynan.

21 MR. DYNAN: Here.

22 THE MODERATOR: You had your hand up?

23 MR. DYNAN: I did.

24 I'm a little taken aback - Bill Dynan,

1 Precinct five, New Silver Beach.

2 I'm a little taken aback by the  
3 response. Most of the Town Meeting Members here  
4 are I'd say over 40 years old, and technology's  
5 come a long way, and we're all challenged with  
6 it.

7 I hate to speak against Andy, since he  
8 cuts my hair and has a knife to my throat every  
9 so often.

10 [Laughter.]

11 THE MODERATOR: Maybe you'd ought to  
12 have Billy do the next one.

13 [Laughter.]

14 MR. DYNAN: But we should not vote  
15 against this article for fear. We're all  
16 American citizens. We're elected by the people  
17 of the Town, within the precincts. We represent  
18 the precinct and the whole town. Out of fear we  
19 should not vote against this article.

20 We're elected and we should do our duty.  
21 We're volunteers of the church, we volunteer as  
22 the church. You're an elected official of the  
23 town, whether you like it or not. If you don't  
24 want to be elected, and you're afraid that

1           somebody's going to come after you because you  
2           vote against something, well then there's a  
3           problem there and it can be addressed.

4                     Thank you.

5                     THE MODERATOR:    Okay.    Mr. Donald.

6                     MR. DONALD:    Okay.    I'd like to  
7           address some issues, here, that have been raised.

8                     First of all, the technical problems  
9           with the electronic voting system are - are  
10          beyond the scope of this article.    They're  
11          really - it's irrelevant to what I'm asking for.

12                    If you vote this article tonight, and it  
13          turns out you don't like it, it's as easy as my  
14          petition, getting a petition that I put together,  
15          to change it.    So, I mean, it's not a big deal.

16                    People ask me how I voted.    Well, how  
17          many people could you stand asking you to vote?  
18          How you voted.    I mean, ten?    Twenty?    How  
19          many people live in your precinct?    What if a  
20          hundred people wanted to know how you voted?  
21          You wouldn't be doing anything else.

22                    Well, this is gonna just let everybody  
23          know how you voted.

24                    All right, you know, somebody raised the

1 issue how do you know how you vote? The people  
2 know how you vote. Well, you can get up - it's  
3 possible to get up and speak one way and vote  
4 another. It's possible to stand and say "yea"  
5 and hit the number two and vote no.

6 Why do we have - why does FCTV put the  
7 videos on their website? What's the point?  
8 Why are they wasting their time? Well, the  
9 public wants to know. Maybe they had an  
10 engagement this evening and they can't hear this  
11 discussion, and they want to come back and they  
12 want to hear about who wants - who wants  
13 accountability and who doesn't. They want to  
14 know.

15 Someone over here said, "Everybody knows  
16 how I vote". Well, yeah, there's some very  
17 prominent people here and yeah, everybody knows  
18 how you vote. But there's a lot of people  
19 sitting around - a lot of Town Meeting Members  
20 sitting around you that don't get up and say  
21 anything. So how do we know how they vote?

22 FROM THE FLOOR: Question. Question.  
23 Question. Question.

24 THE MODERATOR: He's got his four

1 minutes. Let him finish up and then we're going  
2 to vote on it.

3 MR. DONALD: All right. Before I  
4 became a Town Meeting Member, when I went into  
5 the voting booth, most of the people other than  
6 Chuck Eastman and Bob Antonucci, I didn't know  
7 who the heck my precinct, you know,  
8 representatives were. How did I vote for - how  
9 did I know how to vote for them? But it would  
10 be really nice, on votes that I was interested  
11 like the Planning Board, that the Planning Board  
12 spends all this time putting together these  
13 articles and I'd like to know who supports the  
14 Planning Board. It would be really nice, and I  
15 think I'd vote for precinct members that did for  
16 the - you know, that's the way I'd look at things  
17 and I'd like to know who did.

18 And then, as far as, you know Andy wants  
19 - has no problem standing up and letting people  
20 know how he votes. Well, Andy, you don't stand  
21 up anymore because you click the clicker.  
22 Nobody sees you standing. And that's the  
23 problem.

24 Thanks.

1 THE MODERATOR: Okay. The question  
2 will come on the main motion. All those in  
3 favor, signify by saying Aye - or, no. We have  
4 the slide, that's right.

5 [Laughter.]

6 THE MODERATOR: We fixed method of  
7 voting. So let's activate the vote.

8 All those in favor, signify by pressing 1A.  
9 All those opposed, 2B.

10 [Pause while electronic vote scrolling.]

11 THE MODERATOR: And if you want to  
12 stretch your legs, you can stand, but we won't  
13 know how you voted.

14 [Laughter.]

15 THE MODERATOR: By a counted vote of 72  
16 in favor and 117 opposed, the article fails.

17 **Article 23.** The recommendation is  
18 indefinite postponement.

19 Mr. Donald for a main motion.

20 MR. DONALD: I move the article as  
21 displayed up on the screen and on these handouts.  
22 Did anybody not get a handout? Or an email from  
23 - from me? We have additional copies up here.

24 THE MODERATOR: Okay, Mr. Donald, the

1 changes are substantial not only in form but in  
2 substance from what was in the warrant, so I need  
3 you to read the motion, the main motion.

4 MR. DONALD: Say again?

5 THE MODERATOR: I need you to read the  
6 main motion so everybody can see it.

7 MR. DONALD: Okay.

8 THE MODERATOR: Because I notice you  
9 don't have just little highlighted sections.  
10 This is four pages, so.

11 MR. DONALD: Okay. Okay.

12 To see if the Town will vote to amend  
13 the General Bylaws by inserting the following  
14 section regarding the prohibition of expanded  
15 polystyrene foam.

16 Article 4, the purpose and intent. The  
17 production and use of expanded polystyrene (EPS)  
18 foam, also know as Styrofoam, has significant  
19 impacts on the marine and land environment of all  
20 coastal communities, including but not limited to  
21 contributing to the potential death of marine and  
22 terrestrial animals through ingestion,  
23 contributing to pollution of the land and coastal  
24 environment, clogging storm drain systems,



1 creating a burden to the solid waste collection  
2 by acting as a major contaminant in curbside  
3 recycling, and requiring the use of millions of  
4 barrels of non-renewable fossil fuel for  
5 manufacture.

6 With the goal of protecting the health  
7 of its citizens and the unique natural beauty and  
8 irreplaceable natural resources of the Town of  
9 Falmouth, and given that inexpensive, safe  
10 alternatives to expanded polystyrene (EPS) foam  
11 are easily obtained, the Town will phase out the  
12 use of expanded polystyrene foam over a period of  
13 six months from the effective date of this bylaw  
14 in order to allow time for establishments to use  
15 their existing inventory and to convert to  
16 alternative materials.

17 Definitions. Expanded polystyrene foam  
18 shall mean blown polystyrene, styrene that has  
19 been expanded or blown using a gaseous blowing  
20 agent into a solid form, sometimes called  
21 Styrofoam, a Dow Chemical trademark, which is a  
22 thermal plastic petrochemical material utilizing  
23 a styrene monomer and processed by any number of  
24 techniques.

1                   Expanded polystyrene (EPS) foam  
2           disposable food service containers shall mean  
3           single use, disposable products for serving or  
4           transporting food or beverages, including, with  
5           limitation: take-out foods and/or leftovers from  
6           partially consumed meals prepared by a restaurant  
7           and/or retail food establishment. This includes  
8           but is not limited to: plates, cups, bowls, trays  
9           and hinged or lidded containers.

10                   Food establishments shall mean any  
11           operations, including without limitation:  
12           restaurants, convenience stores, grocery stores,  
13           delicatessens, food trucks, schools, farmers  
14           markets and other public venues that store,  
15           prepare, package, serve, vend or otherwise  
16           provide food for human consumption. Any  
17           establishment requiring a permit to operate in  
18           accordance with the state food code 105 CMR  
19           590.000, et seq., shall be considered food  
20           establishments for the purpose of this bylaw.

21                   Retail establishments shall mean any  
22           commercial business facility that sells goods  
23           directly to consumers, including but not limited  
24           to grocery stores, pharmacies, liquor stores,

1 convenience stores, retail stores and vendors  
2 selling clothing, food, personal items, dry  
3 cleaning services, theaters and all other food  
4 service establishments.

5 I guess we gotta advance the slide. Um,  
6 yeah, here we go. All right. Let me see,  
7 where is -

8 THE MODERATOR: Public venues?

9 MR. DONALD: Oh, yeah. Use  
10 regulations.

11 THE MODERATOR: Public venues.

12 MR. DONALD: Oh, public venues. And  
13 there's a change, here. It was pointed out to  
14 me and I feel it's an oversight on my part, we're  
15 going to strike the word "churches" and we're  
16 going to make that "religious institutions".  
17 So, in that second line under public venues, make  
18 that religious institutions.

19 Public venues shall mean operations  
20 including but not limited to meeting halls,  
21 religious institutions, town offices, the Senior  
22 Center, Recreation Department, library and  
23 Falmouth Public Schools.

24 Use regulations. Expanded polystyrene

1 foam, disposable food service containers and new  
2 polystyrene loose fill packaging shall not be  
3 used or sold by food establishments, retail  
4 establishments, and/or public venues within the  
5 Town of Falmouth on or after a period of six  
6 months from the effective date of this bylaw.  
7 Any stock remaining after six months from the  
8 effective date of this bylaw shall be accepted  
9 for disposal free of charge at the Falmouth Solid  
10 Waste Management Facility.

11 This bylaw shall not apply to loose-fill  
12 polystyrene foam packaging re-used from shipments  
13 originating outside of Falmouth. Number two:  
14 items in original manufacturer's packaging. And  
15 three, Styrofoam freezer chests.

16 Administration and enforcement. This  
17 bylaw may be enforced by any Town police officer  
18 or agent of the Board of Health through any  
19 lawful means in law or in equity, including but  
20 not limited to: non-criminal disposition pursuant  
21 to G.L. c. 40, Section 21D, which is a  
22 Massachusetts General Law, and the appropriate  
23 chapter of the General Bylaws of the Town of  
24 Falmouth.

1                   If non-criminal disposition is elected,  
2                   then any establishment which violates any  
3                   provision of this bylaw shall be subject to the  
4                   following penalties: first offense, \$50 fine;  
5                   second offense, \$100 fine; third offense, \$200  
6                   fine. Offenses occurring within two years of the  
7                   date of prior reported offense will be considered  
8                   as subsequent offenses. Each day or portion  
9                   thereof shall constitute a separate offense.

10                   The Board of Health, after a hearing  
11                   conducted in accordance with the procedures set  
12                   forth in 105 CMR 590.14 and 590.15, again  
13                   Massachusetts General Law, may suspend or revoke  
14                   the food service permit for any establishment  
15                   failing to comply with this bylaw.

16                   191-35, Severability. If any provision  
17                   of this bylaw is declared invalid or  
18                   unenforceable, the other provisions shall not be  
19                   affected thereby.

20                   The end of the article.

21                   THE MODERATOR: Okay, Mr. Donald, your  
22                   reference in that last paragraph to 105 CMR being  
23                   a General Law; it is not a General Law; it's a  
24                   CMR.

1 MR. DONALD: Okay.

2 THE MODERATOR: So will you -

3 MR. DONALD: All right, strike that.

4 THE MODERATOR: - remove that in  
5 parenthesis note from your main motion?

6 MR. DONALD: Yes, I'll remove that note  
7 and the previous note, on page 2, on the bottom.

8 THE MODERATOR: You can, but the  
9 previous one is a General Law.

10 MR. DONALD: Well, that was for the  
11 information of the body.

12 THE MODERATOR: Okay. So we'll remove  
13 both of those notes. Okay. That's the main  
14 motion.

15 Mr. Donald.

16 MR. DONALD: Okay, I would like to  
17 introduce Alan Robinson, who will be giving a  
18 presentation on this article.

19 Alan.

20 MR. ROBINSON: Thank you, Malcolm.  
21 And I think by you having just read this, you  
22 really got all of the points that we wanted to  
23 make, that Styrofoam is non-biodegradable, it  
24 really lasts forever. It may break up. A cup

1 may break up into smaller pieces, but those  
2 smaller pieces live on. They can harm fish,  
3 birds, and our oceans. They are a major  
4 contaminant within the Town recycling stream.  
5 They are not recyclable, yet people are putting  
6 them into their recyclables on curbside or on  
7 Main Street, and that is a problem in this day  
8 and age when recycling must really be pristine  
9 and only include the appropriate materials in  
10 recycling.

11 And there are proven alternatives. I  
12 think we saw that downstairs. Those of you who  
13 went downstairs for coffee or for a piece of  
14 cake: those cups were paper. And did they work  
15 okay? I think they did.

16 There are alternatives to Styrofoam.

17 As Malcolm related from the article  
18 itself, the disposal -- the ban is for banning  
19 disposable Styrofoam food service containers.

20 MR. DONALD: Here, want me to bring up  
21 the next slide?

22 MR. ROBINSON: Oh, thanks.

23 [Pause.]

24 MR. ROBINSON: Thanks, Malcolm. Yeah

1 why don't you continue to do that.

2 Styrofoam peanuts. Materials can be  
3 shipped to us. We're not prohibiting people  
4 from outside shipping packages with Styrofoam,  
5 but we are asking that Styrofoam not be sold  
6 within Falmouth.

7 And that the ban will not take place  
8 immediately. It'll take place six months after  
9 the effective date so that businesses have the  
10 time to get alternatives. And there are, of  
11 course, alternatives.

12 And of course we included some  
13 photographs of - of - from just a few days ago,  
14 of two of these items contaminating the area near  
15 our waterways.

16 This really is a third step in Falmouth,  
17 in sort of an organized approach to reducing  
18 plastic litter. The first happened here four  
19 years ago, when you all - those of you who were  
20 here four years ago, and I think many of you were  
21 - voted to ban plastic bags within the town.

22 The second element was - is initiated  
23 this year by the Falmouth Water Stewards and the  
24 refill water stations with the messaging to



1 reduce use of single use plastic bottles. And  
2 use refillable plastic bottles. Because many of  
3 those bottles, when they're used outside, become  
4 litter.

5 And the third element is one we can take  
6 tonight, and that is to vote to ban Styrofoam  
7 here in Falmouth.

8 We've already covered the revised  
9 warrant and that the revised warrant is focused  
10 on expanded polystyrene, only, not all  
11 polystyrene.

12 The article as developed since the time  
13 it was issued - initiated in the warrant  
14 benefitted by conversations, by meetings with the  
15 Board of Selectmen, the Health Agent, the Board  
16 of Health, the Solid Waste Advisory Committee,  
17 reviewing the bylaws of other communities and  
18 talking with interested citizens and input from  
19 interested citizens.

20 And of course, as we said, it bans  
21 Styrofoam only. The bylaw does not ban loose  
22 fill polystyrene packing from packages shipped  
23 from outside of Falmouth, re-use of that same  
24 packaging by those of us in Falmouth, original

1 manufacturer's packaging and Styrofoam fishing -  
2 freezer chests.

3           When was the last time you saw single  
4 use plastic bags littering our town? It is  
5 remarkable to me, having moved here a year and a  
6 half ago from a community that has not banned  
7 single use plastic bags, the difference. When  
8 you walk around the roadsides here, we do - I see  
9 litter, and we do have a litter problem, but  
10 plastic bags are not part of that. We've made a  
11 difference in our community, and it shows.

12           We can take the next step to reduce  
13 litter in town, recognizing that there will still  
14 be paper litter. Paper cups are litter, but  
15 they - they degrade very quickly. The plastic  
16 ones, the Styrofoam ones, do not degrade.

17           So we ask that you vote yes on this  
18 revised article and really respond to the  
19 question: where does change begin? And that  
20 change can be right here in Falmouth Town  
21 Meeting.

22           So thank you, and we hope that you'll  
23 vote for the article.

24           THE MODERATOR: Okay, discussion's open

1 on the article. Yeah, Mr. Rowitz.

2 MR. ROWITZ: Thank you, Mr. Moderator.  
3 Ray Rowitz, Precinct five.

4 I own a store in North Falmouth and we  
5 have coffee and a deli. We sell soup. We sell  
6 a lot of things that - food that people can take  
7 home. This article will not affect me one bit.  
8 Because we use cardboard, the paper cups. We  
9 use the sleeves for 'em. We use containers for  
10 the soup that are paper.

11 So, please vote this article. It  
12 really makes sense.

13 Thank you.

14 THE MODERATOR: Mr. Stecher.

15 MR. STECHER: Bernie Stecher, Precinct  
16 three.

17 From what you said before, I got the  
18 impression that Nantucket and is it Dennis, I  
19 think, that already have this ban? Or am I  
20 wrong?

21 MR. ROBINSON: They do have this ban.

22 MR. STECHER: So it's not a precedent  
23 that we're the first town to do this. So I just  
24 wanted to make sure of that.

1 MR. ROBINSON: Yeah. Nantucket did it  
2 in 1990. 1990. It's been around - other  
3 communities have had it for a while. Some  
4 recently, some for a while.

5 MR. STECHER: Thank you. So, we're  
6 just joining the rest.

7 THE MODERATOR: Okay, Mr. Herbst.

8 Up in the front, here. If you can  
9 stand just so they can see. Yes, thanks.

10 Oh, it's a race.

11 [Laughter.]

12 THE MODERATOR: I'll place my bets on  
13 her, next time.

14 [Laughter.]

15 MR. HERBST: Ralph Herbst, Precinct 8.

16 There was a slide up there a moment ago  
17 that talked about who you consulted with.

18 MR. ROBINSON: Yes.

19 MR. Herbst: And I'd like to see  
20 whether or not you could put that slide back up  
21 there, because under the explanation that says  
22 that the Board of Selectmen said that you did not  
23 consult with the Solid Waste Advisory Committee  
24 or the Board of Health.

1                   So you said Board of Health twice and  
2                   Solid Waste Advisory Committee.    So there seems  
3                   to be some - an error in that.

4                   The other point is -

5                   THE MODERATOR:    Mr. Herbst, I'm being  
6                   informed by the Board of Selectmen that those  
7                   meetings occurred after the publication that they  
8                   hadn't met with them.

9                   MR. HERBST:        Thank you for that  
10                  clarification.    I'm sure that makes them feel  
11                  better, too.

12                  I believe that the Town of Falmouth  
13                  either has a policy or something that outlaws  
14                  plastic straws.    We've done that already, and -

15                  FROM THE FLOOR:    No, no.

16                  THE MODERATOR:    Not in Falmouth.

17                  MR. HERBST:        No?  I thought -

18                  FROM THE FLOOR:    Not yet.

19                  MR. HERBST:        Okay.    Excuse me, I  
20                  thought that applied to - it applies to me when I  
21                  go to a restaurant in Falmouth, anyway.

22                  MR. ROBINSON:    Good.

23                  MR. HERBST:        And then, also, it's  
24                  public pressure that makes these changes happen.

1 And an example of that would be how McDonald's  
2 had to get away from using Styrofoam, and now I  
3 think also other fast food restaurants have had  
4 to switch over to paper when they dispense food.

5 And it's just - it just makes me proud  
6 to be part of a town that would take on something  
7 like this. Thank you.

8 I vote in favor of this.

9 THE MODERATOR: Okay, Mr. Patel.

10 MR. PATEL: Sarav Patel, Precinct 7.

11 I just would like to have a  
12 clarification about the freezer chest. I own a  
13 7-11 and these are the coolers, Styrofoam  
14 coolers, which, you know, in summer, a lot of  
15 customers, you know, lot of tourists, even the  
16 locals when they go out fishing, they buy the  
17 coolers. But that is different than a freezer  
18 chest. So, does that include in there or not?

19 MR. DONALD: Yeah, the Styrofoam  
20 coolers are excluded from this article.

21 MR. PATEL: Okay, thank you.

22 MR. ROBINSON: If we need to correct  
23 the terminology, you're certainly welcome to make  
24 that - help make that clear.

1 MR. PATEL: Okay.

2 THE MODERATOR: Okay, Mr. Smolowitz.

3 MR. SMOLOWITZ: Thank you, Ron

4 Smolowitz, Precinct 8.

5 I'm against this article. I understand  
6 that plastics in the ocean is a major problem.  
7 I've been doing a lot of work with that for  
8 several decades. I'm sure there's a lot of  
9 people in here that work with the problem of  
10 plastics in the ocean. There's no doubt it's a  
11 significant problem.

12 But Town Meeting is not the place to be  
13 dealing with this. We could probably spend  
14 three hours - I mean, I've been to two day  
15 workshops talking about this subject, to get  
16 enough information. And it's the problem is  
17 what is the reaction: we're banning Styrofoam?

18 I just, before I came to the meeting, I  
19 just downloaded from the Ocean Conservancy the  
20 top ten plastic waste products. And number ten  
21 on the list is foam take-out containers. The  
22 number one is cigarette filters. The problem  
23 is, is that if you ban Styrofoam take-out  
24 containers, there's a good chance they're going

1 to be replaced with another plastic. The  
2 wrappers. It just - it's - it's not something -  
3 it's a feel-good thing, but the consequences  
4 could be a lot worse.

5 Town Meeting is not the place to be  
6 dealing with this plastics issue. This is - has  
7 to be dealt with at a much higher level. It's  
8 important for us to let our representatives at  
9 the state and at the federal level understand the  
10 issue, to deal with it. But we're going to be:  
11 what's the next thing? We're going to have next  
12 April somebody's gonna ban balloons, which are a  
13 much bigger problem?

14 Look, while we had a coffee break, these  
15 plastic stirrers, is that going to be in next  
16 fall's Town Meeting? These individual service  
17 creamers, is that going to be in the April Town  
18 Meeting, we're going to have two hour discussions  
19 of each, the consequences of that? Town Meeting  
20 is not the place to be dealing with this type of  
21 important issue.

22 I - I'm just - I'm concerned that we're  
23 - we're going to be having three and four day  
24 meetings. I mean, I'm not - this is too - it's



1 not the place to be doing this.

2 THE MODERATOR: Okay, Mr. Dyer.

3 Mr. Swain, you're on my list, so you can  
4 have a seat.

5 MR. DYER: Ron Dyer, Precinct 8.

6 In doing your research, what did the  
7 supermarkets say to you?

8 MR. DONALD: Um, I guess -

9 THE MODERATOR: Mr. Donald.

10 MR. ROBINSON: We didn't - well -

11 THE MODERATOR: Mr. Robinson.

12 MR. ROBINSON: - in the various  
13 conversations we had, we did not go specifically  
14 to supermarkets.

15 We did stop, for example, at the Market  
16 in Woods Hole, and learned what they're doing.  
17 And just like the gentleman who spoke - the  
18 gentleman there who spoke first, they - they are  
19 not using anything with Styrofoam. All of  
20 their service materials that they're using for  
21 food can be - actually theirs can be composted.

22 MR. DYER: So the Woods Hole Market  
23 that you just talked about is a tiny  
24 organization. The reason I asked you about

1           supermarkets is that's where a great deal of  
2           packaging materials are issued to each one of us,  
3           whether that be for meat substances or other  
4           capabilities that are packed in-store and then  
5           issued to us consumers.

6                        So, what did they say?    If you didn't  
7           do that, that's not part of the research that I  
8           would have expected you to have not done.

9                        MR. DONALD:    Okay, what we did do is we  
10          talked with the Chamber of Commerce and gave them  
11          this article, with plenty of time to get it out  
12          to their membership.

13                       Now, I don't know whether the Stop &  
14          Shop is a member of the Chamber of Commerce, but  
15          the Chamber of Commerce is a group of all -  
16          pretty much all these retailers in town, and  
17          restaurants and so, I mean, they had notification  
18          of it, so apparently there isn't a problem.

19                       And then -

20                       MR. DYER:    So, let me ask another  
21          question, then.    You just said you went to the  
22          Chamber of Commerce.

23                       MR. DONALD:    Yes.

24                       MR. DYER:    Did you - how did you do

1 that? Did you go to one of their meetings? Or  
2 did you just hand them a set of materials?

3 MR. DONALD: I sent things -

4 MR. DYER: So you didn't have a meeting  
5 with them directly?

6 MR. DONALD: I sent the Executive  
7 Director this article for -

8 MR. DYER: So you didn't talk to them -

9 MR. DONALD: - for his review.

10 MR. DYER: So you didn't talk to them  
11 and you didn't talk to any one of the managers at  
12 supermarkets?

13 MR. DONALD: I did talk to -

14 THE MODERATOR: Okay, okay, whoa, whoa.  
15 Whoa. We're done.

16 MR. DYER: Thank you.

17 THE MODERATOR: Ms. Siegel.

18 Ms. Siegel. Yes? No? Maybe?

19 Stand up if you want it.

20 MS. SIEGEL: I call the question.

21 THE MODERATOR: Okay, the question  
22 comes on closing discussion. All those in favor,  
23 signify by saying Aye.

24 [Aye.]

1 THE MODERATOR: All those opposed no.

2 [No.]

3 THE MODERATOR: It's the opinion of the  
4 chair that the ayes have it by a two-thirds  
5 majority and the question will come on the main  
6 motion as presented on the slides in red.

7 MR. DONALD: Can we get a roll call  
8 vote on this?

9 THE MODERATOR: Okay. Do you want a  
10 recorded roll call vote? We've closed  
11 discussion; we haven't fixed the method of  
12 voting.

13 Stand if you want a recorded roll call  
14 vote on this. One, two, three, four, five, six,  
15 seven, eight, nine, ten, 11, 12, 13, 14, 15, 16,  
16 17, 18, 19, 20. Yeah. We're just under the -  
17 just at the 20.

18 So, let's do a slide for a recorded roll  
19 call vote.

20 Okay, all those in favor of the bylaw,  
21 press 1A; all those opposed, 2B.

22 [Pause while electronic vote scrolling.]

23 THE MODERATOR: Okay, by a counted vote  
24 of 126 in favor and 61 opposed, the article

1 passes.

2 [Applause.]

3 THE MODERATOR: Okay. **Article 24**, the  
4 recommednation of the Board of Selectmen is  
5 indefinite postponement.

6 Mr. Donald for a main motion. And do  
7 you have your - I understand there's a main  
8 motion different than as printed; do you have a  
9 copy of that for the Clerk and I?

10 MR. DONALD: Mr. Moderator, you know, I  
11 submitted this article which I believe is a very  
12 important way of voting for - for us. We really  
13 should take a look at it, but there's been really  
14 no - no support on it and I'd like to withdraw -  
15 draw the motion.

16 [Applause and cheers.]

17 THE MODERATOR: Okay, at this time I'd  
18 recognize the Chairman of the Board of Selectmen  
19 for a main motion.

20 CHAIRWOMAN MORAN: As recommended.

21 THE MODERATOR: And the recommendation  
22 is indefinite postponement.

23 All those in favor of indefinite  
24 postponement, signify by saying Aye.

1 [Aye.]

2 THE MODERATOR: All those opposed no.

3 [None opposed.]

4 THE MODERATOR: The ayes have it  
5 unanimous and the article's indefinitely  
6 postponed.

7 **Article 25.** Article 25, Planning Board  
8 for the main motion.

9 Someone from the Planning Board to make  
10 the main motion?

11 [Pause.]

12 THE MODERATOR: Bueller? Bueller?

13 [Laughter.]

14 FROM THE FLOOR: I'm surprised I'm the  
15 only one left. I recommend that as printed.

16 THE MODERATOR: Okay. As printed.  
17 Article 25. This is to vote to amend the  
18 official Zoning Map of the Town of Falmouth to  
19 extend the Business 3 District. This was a  
20 petition article.

21 Mr. Ament, presentation?

22 MR. AMENT: Thank you again, Mr.  
23 Moderator. I'm again Bob Ament, Attorney, and I  
24 represent the owner of the property who seeks the

1 extension of the Business 3 zoning to include the  
2 entire lot.

3 The property is shown on the screen  
4 above you. I don't know if you can point it  
5 out, but it is in your - let's see if this works.  
6 No.

7 FROM THE FLOOR: Page 99.

8 MR. AMENT: I'm screwing things up.  
9 Your warrant book, of course, has a map that  
10 shows the property in question.

11 The proposal is to expand the Business 3  
12 District to include all of the two-thirds acre  
13 property that's two doors away from the  
14 intersection of Old Main Road and County Road in  
15 North Falmouth. So we're dealing with an  
16 existing business property, business next door,  
17 business across the street. And even one of the  
18 Residentially zoned properties that fronts on  
19 County Road and touches this property is the site  
20 of business offices.

21 The total of two-thirds of an acre would  
22 allow four residential units, multi-family  
23 housing with four units, two-thirds of an acre.  
24 Six units per acre is allowed by special permit.

1 Two-thirds of an acre would allow four.

2 There's an existing house in the front  
3 of the property. It's in an Historic District.  
4 Like to keep and rehabilitate that house. So  
5 we're talking about a rezoning that would allow  
6 three multi-family units in the back of the  
7 property.

8 Now, the density of multi-family housing  
9 is based on the area of the lot, even if only a  
10 portion of the lot is zoned for business.  
11 Someone could have four units on the lot, as is.  
12 As of now, if - you could have three of them in  
13 the front of the property and one, a single  
14 family residence, would be allowed in the back,  
15 total of the four units. That could be done  
16 now.

17 By rezoning the entire property to  
18 Business 3 District, it allows more flexibility  
19 in the layout of the units and probably allows  
20 for a more appropriate rehabilitation of the  
21 historic structure in the front of the property.

22 We have filed with the Town Manager's  
23 Office a covenant that's referred to in the  
24 Planning Board's recommendation. A covenant



1 that says that if the property is rezoned to  
2 Business 3 District, the only new use that would  
3 be allowed would be residential use. That's  
4 been signed, notarized, filed with the Town so  
5 that it would be recorded at the Registry of  
6 Deeds if Town Meeting passes this article.

7 This is a good site for denser  
8 residential development. Of course, the  
9 density, as I said, would already be allowed on  
10 the Business portion of the property. But it is  
11 close to a village center, close to the bike  
12 path, easy access to highways and so on. It's  
13 an appropriate use of the property and I hope  
14 that you'll be able to support it.

15 Thank you.

16 THE MODERATOR: Discussion on Article  
17 25.

18 Ms. Valiela.

19 MS. VALIELA: Virginia Valiela,  
20 Precinct 5. Long-time resident of North  
21 Falmouth and I'm here to speak for many residents  
22 in North Falmouth who are very concerned about  
23 this proposal. I'm going to make a number of  
24 points.

1                   If you could first go back to the other  
2                   slide that was shown originally.

3                   Let's see if I've got my pointer, here.  
4                   Okay.    This map does not accurately represent  
5                   what the situation is in Falmouth, and that's why  
6                   we created this context map.    There is actually  
7                   a lot of B-3 zoning in North Falmouth.    And I'm  
8                   going to orient you, here.

9                   This is the Old Main Road, and it  
10                  continues on down to Curley Boulevard.

11                  Over here, there is a bike path and then  
12                  ultimately Route 28A.

13                  Coming in from this side is Route 151.

14                  What you see in red are B-3 zones.

15                  This is ancient zoning from 1926, when  
16                  the Town first adopted zoning.    They created a  
17                  strip along various portions of Old Main Road and  
18                  County Road, which is what's the extension from  
19                  Route 151, where they thought business might  
20                  occur in the future.    The actual businesses that  
21                  were on Old Main Road at the time in 1926, there  
22                  were businesses here and there was the fire  
23                  station down at Wild Harbor Road and Ray Rowitz's  
24                  country store on the south.    But everything else

1 was a house. It was residential. And the  
2 Business zoning was in anticipation that there  
3 would be businesses developed in the future.

4 We're now going to fast forward to  
5 merely a hundred years later. Those houses are  
6 still there. This is a residential road.  
7 There is business just at the four corners up  
8 here. One house has been converted to a  
9 hairdresser and very tastefully, and then the  
10 next property north is this number 289 that is  
11 now being asked to be rezoned.

12 Down here, at Wild Harbor Road, there is  
13 the Old Country Store, there is the fire station,  
14 but all of the other structures are residences.

15 In the 1980's, Town Meeting recognized  
16 the historical nature of many sections of this  
17 town, and created strips that preserved the look  
18 of those villages. There is a Historical  
19 District which is not shown in your map, that  
20 runs the full extent of Old Main Road, this  
21 entire stretch that is shown, here.

22 The Business 3 zoning is 100 feet deep.  
23 It's not very deep. This historical strip is  
24 150 feet deep. So, the development on this

1 parcel is really only that hundred - the Business  
2 section is only that 100 feet in the front of the  
3 property. And the map in your warrant booklet  
4 somewhat - I don't know quite why - exaggerates  
5 that 100 foot.

6 This is a deep lot. It has lots of  
7 trees. It's very - it fits with the character  
8 of the neighborhood. And I was rather surprised  
9 to hear the applicant say that they were going to  
10 preserve the house. The house is in very poor  
11 condition. It's actually somewhat open to the  
12 weather. It has Caution tapes all the way  
13 around it. And there are windows falling and  
14 stairs drooping.

15 So, I very much doubt this house is  
16 going to be preserved. It's going to be pulled  
17 down.

18 But if you have given them Business  
19 zoning for the entire lot, then what can be  
20 developed there is much more than what will be  
21 developed if we leave this - if you leave this  
22 parcel as it is. This is a residential road and  
23 we are looking for residential development to the  
24 degree that the community has input on it.

1 I want to point out one more thing. We  
2 have B-3 zoning where I just pointed on County  
3 Road; we have eight condos going in there.  
4 Directly across - not directly, but just up here,  
5 this section here, that is ten condos. There  
6 are at least a dozen planned for there. These  
7 are all B-3 zoning and each one has been  
8 developed, because of the B-3 zoning, to have  
9 just as many condos as they possibly could  
10 squeeze on.

11 These are not cheap. These are  
12 investments. They're running from 500 to  
13 600,000 dollars, and so they're not helping with  
14 the character of the town and we just do not - we  
15 being the community in North Falmouth are very  
16 concerned to see that one parcel after another  
17 keeps getting picked off and then overly, overly  
18 developed.

19 I think lastly I would say that there  
20 are other parcels down here that are also deep  
21 lots, and so if you approve this B-3 to be this  
22 entire lot, sure as shooting we're gonna have the  
23 next time that someone gets too old and dies or  
24 downsizes, you'll be seeing some more lots

1 looking - that will be asking, "Well, they did it  
2 up there. Why can't you do it down here?"

3 So, we really ask you to help us and not  
4 pass this article.

5 Thank you.

6 THE MODERATOR: Ms. Johnson. With a  
7 microphone, please.

8 MS. JOHNSON: Oh, here we go. Sorry.  
9 I am Patricia Johnson -

10 MR. SWAIN: Point of order.

11 THE MODERATOR: Mr. Swain?

12 MR. SWAIN: [No mic:] Yes, I move that  
13 we go beyond eleven o'clock to finish this  
14 article.

15 THE MODERATOR: Okay. Motion to  
16 commence beyond 11:00 for this article. All  
17 those in favor, signify by saying Aye.

18 [Aye.]

19 THE MODERATOR: All those opposed no.

20 [No.]

21 THE MODERATOR: The ayes have it, and  
22 we'll continue after 11:00.

23 Go ahead.

24 MS. JOHNSON: Okay?

1 THE MODERATOR: Yeah, go ahead.

2 MS. JOHNSON: All right. I'm going to  
3 make two essential points. To begin with, in  
4 the hearing process, the Planning Board did not  
5 follow their customary procedures in recommending  
6 this article, and this is not fair.

7 I attended the September 27<sup>th</sup> open  
8 meeting when the petition was presented and  
9 questioned and the public was heard and the  
10 hearing was closed. The Planning Board has had  
11 a long-established policy that once a hearing is  
12 closed, there will be no further comments from  
13 the public, whether for or against a proposal.

14 However, in this instant, at the next  
15 meeting, when the Planning Board discussed the  
16 petition and reached a decision, they did not  
17 follow their policy of not allowing additional  
18 input from the public. In this case, they  
19 recognized Attorney Klauer, who then reinforced  
20 his petition. A North Falmouth resident who was  
21 opposed to this had left the meeting believing  
22 that he would not be recognized. The Planning  
23 Board's action on that night was not even-handed.

24 Second, I want to indicate why you

1 should vote no on this article. The North  
2 Falmouth community should not be stuck with a 95  
3 year old Business strip zone. We suggest that  
4 the Planning Board and the Town Planner plan and  
5 propose zoning changes on Old Main Road and  
6 connecting roads as a whole, with a big picture  
7 and avoid the results of rezoning just one lot at  
8 a time.

9 Further, the explanation does not  
10 indicate that this is in an Historic District and  
11 it is in the Rand's Canal Coastal Pond Overlay  
12 District.

13 If you vote for this article, you will  
14 be establishing a precedent that will open the  
15 door to similar proposals that will have a  
16 negative impact in village centers throughout the  
17 town. This is not just about North Falmouth.

18 Please vote no.

19 THE MODERATOR: Okay, Mr. Latimer.

20 MR. LATIMER: Thank you, Mr. Moderator.  
21 Richard Latimer, Precinct one.

22 I used to be a delegate from North  
23 Falmouth, so I have a fondness for this area. I  
24 also used to be a member of the Planning Board,



1 and I think this is terrible planning.

2 I want to point out that I came to  
3 Falmouth in 1958 as I was going into high school.  
4 My parents and I drove down what was then Route  
5 28, which is now Route 28A. That was the new  
6 highway that bypassed Old Main Road. Before  
7 they built Route 28, not 28A, Old Main Road was  
8 the way you came into Falmouth, back I guess in  
9 1926, and then it made sense to have businesses  
10 on that road.

11 When Route 28 came in, well, okay that  
12 was the highway, so it still made sense maybe to  
13 have some businesses there and there were  
14 businesses. You know, pretty good businesses.  
15 There was an apothecary, a drug store, one of the  
16 local drug stores that now have disappeared from  
17 this town, where all people go now to the malls  
18 to the drugstores. Well, actually that was a  
19 drug store and that was the center of the  
20 village. It's no longer there.

21 Then what happened was they built what  
22 is now Route 28, the dual highway. So Route 28A  
23 then became the secondary road. And that is the  
24 suitable place for new business development and

1 maybe new Business zoning, if needed in the North  
2 Falmouth area.

3 The Old Main Road is now -- what is  
4 there on that corner, there? Well, there's the  
5 yoga shop, okay. There's a bank, which is a  
6 convenience, I suppose. There's a very good ice  
7 cream shop, the Holy Cow, which is one of my  
8 little minor sins. But it is not really a  
9 suitable area for business and it isn't really a  
10 business area that would be contributing in any  
11 way to the town or to the people of North  
12 Falmouth.

13 So I urge everyone to vote against this  
14 article.

15 Thank you.

16 THE MODERATOR: Okay, Mr. Finneran.

17 MR. FINNERAN: This subject I probably  
18 have the least familiarity with, so I got a  
19 couple of simple questions. Can someone explain  
20 to me firstly why this would not be considered  
21 spot zoning?

22 THE MODERATOR: Because it's an  
23 extension of the existing zone.

24 FROM THE FLOOR: Yes.

1 MR. FINNERAN: Okay.

2 And secondly, would this, as Mrs.  
3 Johnson indicated, would this set a precedent and  
4 start a cascade, I mean, from all the way down  
5 right through West Falmouth? Potentially?

6 FROM THE FLOOR: [Laughter.]

7 MR. FINNERAN: Kinda stinky, if you ask  
8 me.

9 THE MODERATOR: Mr. Netto.

10 MR. NETTO: [No mic:] Mr. Moderator, I  
11 move the question.

12 THE MODERATOR: Okay, we've got a  
13 motion to move the question. All those in  
14 favor, signify by saying Aye.

15 [Aye.]

16 THE MODERATOR: All those opposed no.

17 [No.]

18 THE MODERATOR: The ayes have it by the  
19 two thirds majority; the question is closed.

20 And the question will now come on the  
21 main motion as printed. This requires a two-  
22 thirds vote.

23 All those in favor, signify by saying  
24 Aye.

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[Aye.]

THE MODERATOR: All those opposed no.

[No.]

THE MODERATOR: It's the opinion of the chair that there's a majority of nos and therefore there is no two-thirds majority.

And the meeting will stand adjourned until 7:00 p.m. tomorrow night.

[11:01 p.m., whereupon, the meeting adjourned for the night.]

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF BARNSTABLE, SS

I, Carol P. Tinkham, a Professional Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing is a true and accurate record of Night Two of the Falmouth Annual Town Meeting, taken by me on Wednesday, November 14, 2018. To the best of my ability the within transcript is a complete, true and accurate record.

In witness whereof, I have hereunto set my hand and Notary Seal this 20<sup>th</sup> Day of December, 2018.

\_\_\_\_\_  
 Carol P. Tinkham, Notary Public  
 My Commission Expires  
 April 5, 2024

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