

# The Falmouth Enterprise

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One Dollar

## County Commissioner Questions Hiring Of Lawyer

By ELISE R. HUGUS

A lawsuit threatened against the Cape Cod Commission and the Barnstable County Commissioners by the Conservation Law Foundation (CLF) and the Coalition for Buzzards Bay could be filed at any time, but the two potential defendants have not yet figured out their legal representation.

In keeping with regulations under the Clean Water Act, the environmental groups filed a 60-day notice of intent to sue the US Environmental Protection Agency, the Cape Cod Commission, and the Barnstable County Commissioners for failure to implement and annually certify a regional waste treatment management plan. The notice letter was sent on August 24, making October 23 the expiration date.

In a letter dated October 22, attorney William L. Lahey, of the Cambridge law firm Anderson & Kreiger, denied that the commission and the county are responsible for implementing provisions of the Clean Water Act. However, the body responsible for hiring attorneys for the county, the Barnstable County Commissioners, was not aware of the Mr. Lahey was acting on its behalf.

Mary (Pat) Flynn, chairman of the county commissioners, said she had requested help from Andrew Gottlieb, executive director of the Cape Cod Water Protection Collaborative, in finding legal representation in case the lawsuit went forward. She said she had requested a list of various law firms backgrounds and fees, so when she and other county officials received Mr. Lahey's letter on Thursday last week, it was the first time she had heard about his involvement.

"Normally we don't hire counsel unless there's a lawsuit. At this point, we don't know if they will continue," she said.

Although she was pleased with Mr. Lahey's analysis, Ms. Flynn said it is up to the county commissioners to hire attorneys to represent the county. Given Anderson & Kreiger's rates, she said the county might not be able to hire that firm.

Asked who should pay for Mr. Lahey's expenses for writing the letter, Ms. Flynn said that "someone" would be obligated to pay

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## Meetings

**Board of Health**—Monday, 7 PM, town hall.

**Coastal Pond Management Committee**—Monday, 7 PM, Long Pond DNR office.

**Selectmen**—Monday, 7 PM, town hall.

**Solid Waste Advisory Committee**—Tuesday, 8 PM, town hall.

**Bikeways Committee**—Wednesday, 7 PM, town hall.

**Conservation Commission**—Wednesday, 7 PM, town hall.

**Pre-Town Meeting-Precinct Three**—Wednesday, 7 PM, Great Harbors clubhouse.

**Waterways Committee**—Wednesday, 7 PM, town marina.

**Affordable Housing Committee**—Thursday, 3 PM, town hall.

**Affirmative Action Committee**—Thursday, 5:30 PM, town hall.

**Board of Appeals**—Thursday, 6:30 PM, town hall.

**Pre Town Meeting-Precincts One & Two**—Thursday, 7 PM, town hall.

## Weather Forecast

This afternoon, it will be partly sunny and breezy and cool, with the high around 57. Tonight conditions will be partly cloudy and breezy, with the low around 36. Tomorrow, it will be partly sunny. Highs will be around 53, and the low will be around 42. Extended forecast for Sunday is mostly sunny. The high will be around 56 and the low will be 38.

## Air 57; Sea Water 59

The water level at Long Pond is 17.67 inches above sea level.



Photographs by DON PARKINSON/ENTERPRISE

Led by a fire truck from the West Falmouth Fire Station, the annual West Falmouth Library Halloween parade made its way Saturday from the West Falmouth Market to the West Falmouth Library. The parade has been a tradition for at least 40 years. Firefighter Scott Williamson drove the engine.



Bumblebee Sophie Egan, 15 months, picks up a small pumpkin under the watchful eye of her dad, Bob Egan, both of Falmouth, during the library's Halloween activities.

## A Village Tradition



During the West Falmouth Library's parade, 19-month-old Jackson Cummings rides atop the shoulders of his dad, Seth Cummings of North Falmouth. About 120 people attended the event.

## Halloween Not Just For Kids

### More Adults Getting Into The Holiday Spirit

By CHRISTOPHER KAZARIAN

Imagine being coworkers with Frankenstein, having a board meeting with the Scooby-Doo gang or calling Darth Vader your boss.

This might seem like the stuff that only happens in movies, but today and through the weekend it might happen more often than you think as residents get into the Halloween spirit in offices and workplaces throughout town.

While typically considered a children's holiday, more and more adults have donned costumes in

recent years as the holiday has become more popular. In the process it has brought an onslaught of pirates, cowboys, and witches to the streets of Falmouth.

In Falmouth Town Hall staff in the office of the assessors and tax collector contemplated their choices of garb this week in anticipation of the parade of Mullen-Hall School students who would be trick or treating in their building this morning.

Assistant Tax Collector Tracey E.P. Cecil said she was undecided as of Wednesday what she was go-

ing to be. "It's a tossup between being a fortune teller or just doing something with face paint, having black eyes and something gory, although I don't want to be too gory to scare the kids," she said.

In the past, she has dressed up as a bunny rabbit at work, laughing "that was pretty tame."

At least one of her co-workers, Falmouth Assessor David A. Bailey, pretended to be upset when he found out some were dressing

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## Experts Tie Job Growth To Housing, Say Cape Lags On Both Counts

By BRENT RUNYON

More than 70 people showed up at the Falmouth Public Library on Wednesday night to hear two state experts discuss how building more housing can stimulate the local economy and encourage job growth.

"Building an Affordable Future on a Cape Cod Foundation," presented by the Falmouth Housing Trust in collaboration with the Falmouth Chamber of Commerce and the Falmouth Fund, featured Clark Ziegler, executive director of the Massachusetts Housing Partnership, and Michael Goodman, economic analyst and professor of public policy with the University of Massachusetts Donahue Institute.

"At some point Massachusetts went off the rails," Mr. Ziegler said. Since 1980 Massachusetts housing prices have risen twice as fast as the rest of the country, a larger increase than any other state.

At the same time the rate of housing creation dropped to one of the lowest in the country. Massachusetts produced less housing per capita than 45 other states, he said, and the growth of newly formed households exceeded the number of new housing by 25 percent, he said.

"Job growth in Massachusetts is falling well short of the nation as a whole," he said. "What we've found is you simply can't grow jobs without creating housing first."



GENE M. MARCHAND/ENTERPRISE

Clark Ziegler, executive director for the Massachusetts Housing Partnership, describes the issues of housing development in Massachusetts at the "Building an Affordable Future on a Cape Cod Foundation," event at the Falmouth Public Library on Wednesday.

In order to create new jobs, towns like Falmouth should build housing in densely populated areas like Main Street, he said.

If zoning height restrictions were relaxed, he said, it would be easier to develop a higher density of housing in smaller spaces without compromising open space.

He displayed a photograph of Main Street, Dennisport, as it currently exists, with mostly single-story buildings, next to an

artist's rendering of how it would look with three-story buildings on both sides of the street.

Reducing the sizes of lots would be another way to increase density, he said. He showed another graphic that charted the sizes of lots from the 1600s to present day, highlighting that in the 1920s lot sizes were about a quarter acre. In Falmouth, lots in most areas must be an acre, with the smallest lots in the general residence

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## Wastewater Review Committee Wraps Up Eight-Month Task

By CHRISTOPHER KAZARIAN

In March nine residents were appointed to a board that was given what to many appeared to be a monumental task—analyze the draft plan to clean up Falmouth's estuaries and look at every option for wastewater treatment as a way to lessen the financial burden upon the town and build consensus among the public.

This week that group, known as the Falmouth Comprehensive Wastewater Management Plan Review Committee, concluded its mission, voting on a list of recommendations it will bring to Falmouth selectmen on Monday night.

Unlike many nights, when they have gathered for three-hour marathon sessions, Tuesday's work was completed in less than two hours with most of their concerns wrapped around the first budgetary expenditure that will come before Town Meeting and voters next spring.

Initially, the board had proposed a lump sum of \$15 million, to be funded through a debt exclusion, the majority of which would go toward the preliminary design at a cost of \$1 million, and the construction design, at \$10 million, of the proposed comprehensive wastewater management plan.

This week the committee elected to recommend that the amount be split up, with \$6 million expended next spring and another \$9 million in the spring of 2013.

Committee member Peter F. Boyer explained that the preliminary design would provide for a much clearer picture of how much money would be needed for the construction design in 2013.

At the same time, he said, it would mean asking Town Meeting and voters to approve two debt exclusions over the next three years for tackling the town's

wastewater problems.

While Mr. Boyer proposed one use of the total \$15 million at the board's meeting two weeks ago, some questioned his appropriation of money for alternative systems solely in Bournes Pond.

The most vocal criticism came from fellow board member Eric T. Turkington, who asked that alternatives be placed throughout town to determine their individual effectiveness in reducing nitrogen from estuaries.

This week Mr. Turkington added a proposal for the first \$6 million to the mix, one that most of the board members appeared to support, although it was ultimately amended based upon his and

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## Residents Press For Alternatives

By BRENT RUNYON

An enthusiastic crowd of more than 115 people filled nearly every available seat in the Hermann Foundation Meeting Room at the Falmouth Public Library on Tuesday at a forum about wastewater treatment alternatives, including composting and urine diverting toilets, aquaculture solutions, and permeable reactive barriers that could be less expensive and effective alternatives to a traditional sewer system.

"No Time to Waste," a forum on wastewater management, organized by members of the Falmouth Climate Action Team, was attended by most of the major players in the local discussion, state leaders, and many Falmouth residents who discussed alternatives to the sewer project that could cost \$310 million or more.

Valerie Nelson, a Gloucester resident, opened the evening by encouraging an adaptive management approach to wastewater, which allows the community to change and develop wastewater treatment over time as technology and environmental conditions change.

Earle A. Barnhart, Common Way, Hatchville, and founder of The Green Center, the successor to the New Alchemy Institute, gave an overview of the problems that wastewater is causing in Falmouth.

Human waste causes most of the problems in the coastal ponds and estuaries, he explained, especially urine, which contains 70 percent of the nitrogen seeping into the groundwater, negatively affecting eelgrass, an important habitat for fish and sea creatures.

Because urine is the biggest

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# Experts Tie Job Growth To Housing

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districts at a half acre, to be considered for new construction. Mr. Ziegler said reducing the size for buildable lots to a quarter acre would stimulate economic growth.

Building multifamily housing would be another way to create economic growth, he said. New multifamily housing is almost non-existent in Massachusetts, he said.

Mr. Goodman reported that slow job growth in Massachusetts is directly related to the lack of available housing.

If the Cape and Islands continues developing at this rate, there will be 1,000 fewer housing units than optimal by the year 2020, Mr. Goodman said.

"The good news is we definitely didn't overdevelop like Nevada and Florida," he said.

Although home prices have fallen an average of 10 percent statewide, they are still at about the same level as they were in 2003 and 2004, he said.

"We've seen very slow job growth throughout Massachusetts," Mr. Goodman said. "We currently have fewer jobs in Massachusetts than we did at the end of the 1990s."

Nancy A. Hayward of Chase Road, West Falmouth, said that the market for second homes in the 1980s caused the inflation of housing prices, and said that the zoning in Falmouth is determined in part by the problems with wastewater.

In Falmouth, the second home market is a major factor in how housing has developed, Mr. Ziegler said. Falmouth has ap-



A crowd of more than 70 people filled a meeting room at the Falmouth Public Library to hear the presentation that argued that more housing helps create more jobs.

GENE M. MARCHAND/ENTERPRISE

proximately 20,000 households, and more than 8,000 of those are owned by people who live elsewhere.

Leonard W. Johnson of Wild Harbor Road, North Falmouth, questioned the reasoning that building housing will definitely create more jobs and grow the economy.

"Housing is necessary but not sufficient for creating jobs," Mr. Goodman said. "Housing doesn't cause the economy to grow, it enables the economy to grow," he

added. Chapter 40B, the law that enables developers to bypass local zoning regulations and is a ballot question on Tuesday's election, came up several times.

Mr. Goodman said that 40B allowed developers to create multifamily and other kinds of affordable housing, and should be kept in place. "No on 2," Mr. Goodman said, referencing the ballot question.

Assistant Town Manager Heather B. Harper asked what policies the researchers would recommend to stimulate economic growth.

Mr. Goodman said the research is only the first of three stages, a cost-benefits and policy analysis is being completed by a different research team. A third team is conducting a systematic policy analysis, he said.

Selectman Mary (Pat) Flynn asked what role the future of high-speed communications on Cape Cod would have on the future of job growth. Mr. Goodman

said that high-speed Internet is becoming a necessity for many people, and Cape Cod would be attractive for many people to telecommute to their jobs.

Mr. Ziegler said that many people who own second homes in Falmouth may choose to live here in the future, especially if they can use computers to work from home.

Senator John F. Kerry announced earlier this week that Mr. Ziegler's organization, Massachusetts Housing Partnership, was one of two nonprofits in the state to share \$9 million in federal funding to develop affordable housing in low-income communities. Falmouth is not in line to receive any of that money, said Mr. Kerry's spokesman.

Massachusetts Housing Partnership received \$5 million while The Community Builders Incorporated received \$4 million.

# Questions Hiring Of Lawyer

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the bill, noting that the Cape Cod Commission is also a party to the threatened lawsuit.

In the coming weeks, Ms. Flynn said the county would convene its own counsel to decide its course of action. "We'll see what strategies we want to have going forward. We had anticipated further action at end of 60 days. This forces us to take another strategy, and we have to consider all the options," she said.

According to Mr. Lahey, the lawsuit could still come at any time. "The 60-day notice provision requires someone to give the prospective defendant time to fix the problem, negotiate with EPA, and get ready. They're prohibited from filing before 60 days, but they could do so tomorrow or six months from now," he said.

Based on conversations with the CLF lawyer and the EPA, Mr. Lahey said he was under the impression that the suit would go forward. In his letter, Mr. Lahey claimed that the county and the commission are "not appropriate defendants" in the Clean Water

Act case, he indicated that the groups may become involved as intervenors in a case against the EPA.

Although the county and the commission do not have the authority over the towns, Ms. Flynn said they could play a supportive role in helping find technical or financial solutions to nitrogen loading, particularly for watersheds shared by two or more towns.

"What we can do is help by creating maps and addressing issues related to shared watersheds," she said. "It's our role as a county to work on regional solutions and help towns know and understand those solutions better."

The Cape Cod Commission is currently touring the Cape, holding sessions in areas where there are shared watershed in order to share information on resources on solving the problem of nitrogen loading in sensitive estuaries. A forum concerning Waquoit Bay, which is shared by Falmouth and Mashpee, will be held November 30 at 7 PM in the Mashpee Public Library.

# Precinct Meetings

Town Meeting members will begin poring over a hefty 52-article warrant next week as precinct meetings get underway to answer questions and address concerns they may have.

The warrant includes proposals to increase local options taxes for hotel/motels as well as for meals; an article that would switch Falmouth to a quarterly property tax payment system; another article that would create an affordable housing fund for the town to loan money for affordable housing projects; and a petitioner's article asking for Town Meeting members to support the establishment of a charter commission to improve Falmouth's current form of government.

The first meeting, which is for Precinct Three, will take place next Wednesday, November 3, at 7 PM at the Great Harbors Clubhouse at 7 PM.

On Thursday, November 4, at 7 PM Precincts One and Two will convene in the Civil Defense Room at Falmouth Town Hall.

Precinct Four and Precinct Seven will meet on Tuesday, November 9, at 7 PM at the East Falmouth Elementary School.

Also on November 9 at 7 PM, Precincts Eight and Nine will gather at the Barnstable County Fairgrounds Administration Building.

The final meeting will be held on Wednesday, November 10, at 7 PM with Precincts Five and Six at the North Falmouth Elementary School.

# Pedestrian Struck By Car

A 75-year-old East Falmouth man was hit by a car on East Falmouth Highway 9 PM last night and taken to a Boston hospital in critical condition.

Anton B. Van-Dijke of Annette Avenue was in the area of Davisville Road when he tried to cross the road and was hit by 23-year-old Peter R. Carvalho of Sam Turner Road, police said.

Mr. Van-Dijke was taken to Brigham and Women's Hospital, where he was on the intensive care floor this morning.

Mr. Carvalho was not arrested or cited in the crash.

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