

**TOWN OF FALMOUTH**  
**SELECT BOARD**  
**Open Meeting Minutes**  
**MONDAY, JANUARY 9, 2023 – 6:30 P.M.**  
**SELECT BOARD MEETING ROOM**  
**TOWN HALL**  
**59 TOWN HALL SQUARE, FALMOUTH, MA 02540**

*The Select Board may discuss and vote appropriate action on any item listed on this Agenda unless a different disposition is noted. At the discretion of the Chair, agenda items may be taken out of order.*

Select Board:

Present: Nancy Taylor, Chair; Onjalé Scott Price, Vice-Chair; Samuel Patterson; Douglas Brown; Edwin (Scott) Zylinski II

Absent: None

Others present: Peter Johnson-Staub, Interim Town Manager

### **OPEN SESSION**

Call to Order: By Chair Nancy Taylor at 6:30 p.m.

Pledge of Allegiance: Led by the Select Board

Recognition: None

Announcements:

- Mr. Brown announced the White Ribbon Campaign on 3/14 at 6:00 at the Falmouth Public Library

Public Comment:

- Marc Finneran, Grand Ave., said that he noticed that the agenda for Select Board meetings had not appeared in the Falmouth Enterprise for the last few months. He said he thinks that the public depends on it. Chair Taylor said that except for Friday's Enterprise, she was not aware of any other times that the agenda had not appeared but would look into it. She also noted specific instances where notice had been sent to the Enterprise by the deadline but did not appear in the paper, so the Town Manager's office was not responsible for those omissions.

### **TOWN MANAGER'S PRELIMINARY REPORT**

Peter Johnson-Staub orally previewed/summarized all agenda items for the Board, referring to a memo in the Select Board packet entitled "Preliminary Report for January 9, 2023."

### **COMMITTEE INTERVIEWS**

Board of Health – Amy Roth

Ms. Roth, who has lived in Falmouth for 18 years and served on the Solid Waste Advisory Committee for 4, highlighted her credentials and work experience, saying that the goals of the Board of Health (BOH) align with her goals as an environmental consultant regarding public health and welfare. Mr. Zylinski said that he serves on the Solid Waste Advisory Committee with Ms. Roth and that she does an excellent job.

**Motion by Scott Zylinski: To appoint Amy Roth to the Board of Health for an unexpired term ending 6/30/2023 Second: Sam Patterson Vote: Yes – 5 No - 0**

Council on Aging – Pamela Truesdale

Ms. Truesdale, a long-time resident of Falmouth, noted her experience working with the conservation commission as its administrator, as well as her history of working with the senior center staff. She said she has been a SHINE Medicare counselor, and wishes to expand her involvement with and contribution to the senior center. Mr. Patterson complimented Ms. Truesdale's interactions with clients at the senior center explaining Medicare benefits.

**Motion by Sam Patterson: To appoint Pamela Truesdale to the Council on Aging for an unexpired term ending 6/30/2024 Second: Onjalé Scott Price Vote: Yes – 5 No - 0**

### **PUBLIC HEARINGS**

Application for an Entertainment License – Town Hall Partners LLC d/b/a Timber Axe Bar & Bowl, 23 Town Hall Square, Falmouth

Mr. Brown recused himself due to his having a family member who works in the building, and left the meeting room.

Ms. Scott Price read out the hearing notice.

Michael Mueller, co-owner, was present to speak for the application. He said that the initial understanding was that entertainment was included in the liquor license. He outlined the type of entertainment he was applying for – guitar, piano, singer (solo or duo) for example. He said the guitar would be amplified, but not intrusively so. He said the hours and music type would be specific.

Mr. Patterson said that there have been complaints about the loudness of the music and asked if management had responded to them with policy changes. Mr. Mueller said that yes, they had done a number of things: educated staff to keep doors and windows closed; moved entertainment into the center of the building away from the west side to be less noticeable to abutters; advised musicians, through training, to keep volumes reasonable, at a lower decibel, and to turn it down on later evenings.

Atty. Kevin Klauer (from Ament Klauer) said that correspondence from the police department noted that the noise level was generally not excessive or audible until just outside the establishment.

Mr. Zylinski asked if changes in policy to address noise concerns were posted inside the business. Mr. Mueller said yes, that a new general manager has been working for the past few weeks to address the issue, that notes are posted, and referred to packets of instructions that apply to policies for nights with entertainment. Mr. Zylinski said that he wants to be sure that staff members would not be able to say that they didn't know about the policy.

Mr. Patterson asked if there were a number for abutters to call to correct a problem if necessary. Mr. Mueller said that the main number is now staffed with either the general manager or shift leader who knows all the operations.

Public comment:

Linda Tsimortos, 137 Main St – said she lives 25 to 30 feet from the business – referred several times to anti-anxiety medication made necessary by the noise level at the business – said the problem goes back to June, and that she would text the general manager many times about the noise with no response – said the buffer of 150 feet before being in violation does not help her – voiced frustration at the continuation of the problem – said she loves where she lives – said that sound proofing of the building is necessary to keep amplification inside the walls of the business – said she appreciates the hearing to voice her concerns.

Brendan O'Keefe, local musician who has played at other bars in the area – said the noise level is no louder than a basic sound system in any establishment on Main St. – said the noise level is never past "2" and often goes as low as "1" – said the music is singer/songwriter style – said he supports local music and Timber.

Richi Mehta, 137 Main St. – referred to the accuracy of Linda Tsimortos' comments – expressed concerns about the ability of the police department to enforce the times included in a license – said music was heard well past midnight – said his unit is more like 15 to 20 feet from the business, not 25 to 30 – advocated installing sound proofing – wants to find middle ground to solve the problem.

Meg Maggio, 137 Main St. – said no one is against music but why has sound proofing not been installed? – said she is shocked by procedural errors regarding this issue, asking how a business could operate the entire summer without a license despite complaints – questioned how legal counsel for the business could have overlooked this – said granting an entertainment license in an old building should include upgrades to address noise – said omissions require a fine or penalty for operating an entire summer without a license.

Atty. Kevin Klauer– reiterated that the applicant made an error in understanding the scope of the initial license and is now trying to rectify it/make it right – said that Town Hall Square is a B1 zoning district and that it's natural to seek an entertainment license – said the request is for limited scope of entertainment, and that for a busy area, it is a more than reasonable request.

Mr Zylinski asked if the price of sound proofing for the building could be considered. Atty. Klauer said he could not answer that question at this point.

**Motion by Onjalé Scott Price to close the hearing Second: Sam Patterson Vote: Yes – 4 No – 0 (Doug Brown had recused himself.)**

Board discussion – Mr. Zylinski said he thought it was a small ask for the applicant to investigate sound proofing for the building, considering the revenue gained for the time period the business operated without a license. Mr. Patterson said it is important that the right form of sound proofing materials would need to be explored. Ms. Scott

Price clarified the suggestion that the applicant would evaluate/investigate the sound proofing issue and return to the Select Board with a proposal to mitigate, or not, and costs associated with it. Chair Taylor sought clarification that the license would not be granted until the sound proofing issue was addressed.

**Motion by Scott Zylinski: To continue the hearing to January 30, 2023 Second: Sam Patterson.  
Vote: Yes – 3 No – 1 (Nancy Taylor) (Doug Brown had recused himself.)**

Applications for an Entertainment License and a Sunday Entertainment License – Moto Pizza Falmouth, LLC d/b/a Moto Pizza to be exercised at 500 Waquoit Highway, East Falmouth  
Ms. Scott Price read out the hearing notice.

Dante DelGrosso was present. Mr. Brown asked if abutters across the street had been notified of the hearing. Mr. DelGrosso did not have that information. He said he was exploring entertainment after requests from customers. Asked about loudness by Mr. Brown, Mr. DelGrosso said it would be one or two-member groups, maybe a DJ, low-key. The business closes at 9:00 typically. Ms. Scott Price said the hours of operation are reasonable. Asked about closer abutters by Mr. Zylinski, Mr. DelGrosso said that the next-door business has two units upstairs.

Public comment:

Matthew Patrick, 24 Collins Rd – asked if music would be amplified. Mr. DelGrosso said yes.

Marc Finneran, Grand Ave – said the previous business at that location had bands and loud music, and along with highway noise, he did not think noise was an issue then – said he did not recall any complaints and he knew the two previous owners.

Peter Johnson-Staub spoke to the process used to notify abutters, which is the same process used by the ZBA. He said approximately 25 abutters, the legal owners of the properties, were notified about the hearing.

**Motion by Douglas Brown: To close the hearing Second: Onjalé Scott Price Vote: Yes – 5 No – 0**

**Motion by Doug Brown: To approve the application as requested for the hours from 4:00 to 9:00 Second: Sam Patterson Vote: Yes – 5 No – 0**

Application for a Sunday Entertainment License – Olive Restaurants, Inc. d/b/a Shiverick’s Café & Bar to be exercised at 285 Main Street, Falmouth  
Ms. Scott Price read out the hearing notice.

Elias Gregoriadis, the applicant, was present. Asked by Mr. Patterson how close any residents are to the establishment, Mr. Gregoriadis estimated 40 to 50 feet. Agreement was reached to reduce the entertainment hours on Sunday to 11:00 p.m.

Public comment: None

**Motion by Onjalé Scott Price: To close the hearing Second: Douglas Brown Vote: Yes – 5 No – 0**

**Motion by Onjalé Scott Price: To approve the application as amended, to 11:00 p.m. from 1:00 a.m. Second: Douglas Brown Vote: Yes – 5 No – 0**

Application for a New All Alcoholic Beverages Hotel License – Wagner Hospitality Management, LLC d/b/a Holiday Inn Falmouth to be exercised at 291 Jones Road, Falmouth  
Ms. Scott Price read out the hearing notice.

Wagner Quintanilha, general manager, was present, and explained why he was applying for the license. He said he spends approximately 50 hours a week on site. He said all who work behind the bar are TIPS certified.

Public comment: None

**Motion by Onjalé Scott Price: To close the hearing Second: Scott Zylinski Vote: Yes – 5 No – 0**

**Motion by Doug Brown: To approve the application Second: Scott Zylinski Vote: Yes – 5 No – 0**

Vehicle for Hire Regulations – Request to Increase Taxi Fare

Ms. Scott Price read out the hearing notice.

Adam Meehan, owner of Falmouth Taxi, gave a document to Board members with corrected pricing, adding that it had been approximately 15 years since the last increase. Chair Taylor read out the email to Diane Davidson that contained the correct pricing. Peter Johnson-Staub clarified for the Board that once a hearing was posted, it does not restrict the Board from making changes to the hearing proposal.

Public comment: None

**Motion by Sam Patterson: To close the hearing Second: Onjalé Scott Price Vote: Yes – 5 No – 0**

Sam Patterson noted the critical service that taxis provide to Falmouth residents. Clarification on the change(s) was then discussed. Chair Taylor read aloud again the email sections detailing the rate change - on the email, parts A and B dealing with rate change and rate for waiting – saying that this is what the Board is voting on. Mr. Brown noted an additional error in another section of the email, but it was not to be part of the vote.

**Motion by Onjalé Scott Price: To approve the amended proposed fee schedule Second: Sam Patterson Vote: Yes – 5 No – 0**

**BUSINESS**

Vote to Approve Borrowing Anticipation Note Sale

Peter Johnson-Staub said his summary in his earlier report had covered the details of this issue. He said he would need a vote from the Board to approve a motion drafted by bond counsel included in the Select Board packet. Mr. Brown asked Mr. Johnson-Staub what made this offer the most advantageous. Mr. Johnson-Staub said it was an analysis of 2 factors, the premium and the interest rate, that produced the best package.

**Motion by Onjalé Scott Price: To approve as written in the vote of the Select Board in the packet Second: Sam Patterson Vote: Yes – 5 No – 0**

Vote to Adopt FY2024 Budget and Submit it to the Finance Committee

Alice Kociemba, chair of the Falmouth Cultural Council, was invited by Chair Taylor to make a request to include a line item of \$10,000 in the Town's FY2024 operating budget for the Falmouth Cultural Council. Ms. Kociemba underscored the value in tourism and revenue that arts programs, such as Arts Alive, bring to the Town and reiterated the one-time allocation that November Town Meeting awarded the council. She said that an alternative to a line item in the budget would be a petition article in April.

Ensuing Board discussion on this request included the following points:

- That a line item vs. a one-time allocation would mean funding comes from regular revenues and is part of the annual budget
- Concern for setting a precedent for other committee regarding requests for funding
- Acknowledgement of the value that the arts bring to the Town
- That a petition article could include a request to be part of the annual budget
- That presenting yearly petition articles places a significant onus on a group comprised of regular citizens
- The desire to be fair regarding funding requests, acknowledging that many groups were denied their requests
- The strong message at November Town Meeting to go to the Select Board with the budget request

The Board discussion then focused on the appropriate process for showing their support of the cultural council's request. Members enumerated pros and cons of showing support now vs. showing support at April Town Meeting, and what Town Meeting action might look like if that were the process used. The cultural council chair urged the Board to support the request with their approval now.

**Motion by Doug Brown: To include the \$10,000 request from the Falmouth Cultural Council in the budget for consideration by Town Meeting Second: Sam Patterson Vote: Yes – 5 No - 0**

The Board moved on to make positive comments about how well-presented and understandable the budget was this year. Facilitating this were the extra meetings the Board held during budget preparation. Mr. Patterson asked about the percentage of the operating budget going to salaries. Peter Johnson-Staub said that approximately 52% of this year's budget goes to salaries, not including benefits. If including benefits, he said it would still be under 80%.

**Motion by Onjalé Scott Price: To approve the FY2024 budget and send it to the Finance Committee**

**Second: Sam Patterson Vote: Yes – 5 No - 0**

Vote to Adopt Multi-Hazard Mitigation Plan

Peter Johnson-Staub explained that a confirming vote is required following FEMA approval.

**Motion by Onjalé Scott Price: To approve Second: Sam Patterson Vote: Yes – 5 No - 0**

Cape Light Compact Update on Electric Rates

Matt Patrick, Falmouth's representative to the Cape Light Compact, introduced Maggie Downey, the group's director, who led a Power-Point presentation entitled "Winter Pricing Update and Mitigation Strategies" included in the Select Board packet. The Board asked questions about various services and costs, and who is eligible. They also thanked Ms. Downey for the presentation.

Veterans Council Committee Mission Statement

Chair Taylor read the proposed mission statement aloud.

**Motion by Nancy Taylor: To accept the mission statement from the Veterans Council Second: Sam Patterson Vote: Yes – 5 No - 0**

Ferry Embarkation Fee Legislation Letter

Doug Brown voiced support for the two towns that brought the issue forward and said that he thought it was good for Falmouth as well. Ms. Scott Price pointed out that commuters and students are exempt from the new raised fee.

**Motion by Onjalé Scott Price: To approve sending the letter on behalf of support for the increase of fees**

**Second: Sam Patterson Vote: Yes – 5 No - 0**

License - Approve Application for a Change of Manager of an All Alcoholic Common Victualler License – Cape Cod Country Club, located at 48 Theatre Drive, East Falmouth

A representative for the applicant was present to address questions, but there were none.

**Motion by Onjalé Scott Price: To approve Second: Scott Zylinski Vote: Yes – 5 No - 0**

**CONSENT AGENDA**

Chair Taylor read out the items on the consent agenda below.

1. Licenses
  - a. Approve application for two Special One-Day Liquor Licenses – Falmouth Theatre Guild, located at 58 Highfield Drive, Falmouth – January 20, 21, and 22 and January 27, 28, and 29, 2023. Friday and Saturday service to be 6:30 pm to 9:30 pm and Sunday service to be 1:00 pm to 5:00 pm.
  - b. Approve application for a Common Victualler License – Cape Cod Bagel, Inc., located at 419 Palmer Avenue, Falmouth
2. Administrative Orders
  - a. Approve Eversource petition to install a new handhole to be labelled 433/H4 and to install approximately sixty (60') feet of conduit and cable under town road Hudson Street starting at existing pole 433/4. This work is necessary to provide electric service to 34 Hudson Street.
  - b. Approve Eversource petition to install approximately fifty (50') feet of conduit and cable under town road Allen Avenue starting at existing pole 214/7 northwesterly to one (1) new handhole 214/H7. This work is necessary to provide electric service to 101 Allen Avenue.

- c. Vote to accept donation in the amount of \$1,000.00 from the Sbarbaro Family to the Falmouth Fire Rescue Department donation account

**Motion by Sam Patterson: To approve the Consent Agenda Second: Onjalé Scott Price  
Vote: Yes – 5 No - 0**

#### **TOWN MANAGER’S SUPPLEMENTAL REPORT**

Peter Johnson-Staub distributed a revised report to the Select Board. He briefly explained for the Board’s awareness, but no discussion, 32 Town-sponsored warrant articles that will be for April Annual Town Meeting. Review of articles will occur on January 23.

Mr. Johnson-Staub next provided a staffing update for November and December, which included 13 full time positions across several departments: fire, water, building, police, library, finance, and human resources. He also said there are currently 4 new vacancies in IT, fire department, assessor’s office, and one administrative clerk in accounting that has just been filled. He said the Select board would be meeting on Jan. 23, Jan. 30, Feb. 13, and Feb. 27.

In response to a request from Mr. Patterson, Mr. Johnson-Staub offered to provide a full list of all outstanding vacant positions at the next meeting.

#### **SELECT BOARD REPORTS**

Sam Patterson reported on the following:

- Conservation Commission meeting via Zoom. Mr. Patterson commended the commission on the continuous hard work they do.

Doug Brown reported on the following:

- Waterways Committee met last week.
- Beach Committee will meet this week.

Scott Zylinski reported on the following:

- After having attended many ZBA meetings, Mr. Zylinski raised the issue of needing clarification when disclosures or recusals are required for those serving on boards, committee, and commissions. The Board briefly discussed the best way to go about getting this clarification, including a presentation from Town Counsel on ethics and conflict of interest. Chair Taylor noted it as an item for a future agenda.

#### **DISCUSSION OF FUTURE AGENDA ITEMS**

- Management of Black Beach/Chapaquoit Beach area re unleashed dogs
- Covid-19 update from health agent
- Policy workshop

**Motion by Onjalé Scott Price: To adjourn at 8:50 Second: Scott Zylinski Vote: Yes – 5 No - 0**

Respectfully submitted,  
Carole Sutherland, Recording Secretary