

TOWN OF FALMOUTH
SELECT BOARD
Meeting Minutes
Open Session
MONDAY, JANUARY 31, 2022
SELECT BOARD MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

Present: Doug Brown, Chair; Nancy Taylor, Vice Chair; Megan English Braga; Sam Patterson; Onjalé Scott Price.

Staff present: Julian Suso, Town Manager; Peter Johnson-Staub, Assistant Town Manager; Frank Duffy, Town Counsel.

The Select Board may discuss and vote appropriate action on any item listed on this Agenda unless a different disposition is noted.

1. Call to Order by Chair Brown at 7pm.
2. Pledge of Allegiance
3. Proclamation – Eagle Scout – Matthew J. Briggs, Boy Scout Troop 40
Patterson read the proclamation as a motion. Second English Braga. Vote: Yes-5. No-0.

Matthew Briggs described his project, in March 2020 he coordinated a group of 30 people and their families to restore a trail to prevent eroding, including clearing brush at the old Wald-Fender property.

4. Recognition

Chair Brown recognized the good work by the DPW and Eversource getting power back up quickly after the snowstorm.

5. Announcements
Ms. Scott Price noted tomorrow starts Black History month, activities going on coordinated by the Woods Hole Black History Month Committee, she suggested those interested search online for contact information.

North Falmouth elementary school has sprinkler problem, until replaced and fixed the school will not be able to operate.

6. Public Comment
Richard Duby, Blacksmith Shop Rd., left documentation regarding the Falmouth Police Department (FPD) disposal of firearms, disposal of surplus properties, tangible supply disposition, and a screenshot from website that listed the trade in value.

Dianna Mota, 30 Corte Real Ave., complaining about the condition of the roads. She filed two insurance claims since September. The Town is responsible for it through the excise tax. Is it possible to mandate that this be allocated for road infrastructure only? The tax is collected and goes into a general fund of each city or town, and she was told the revenue goes into a general fund for support of the general operating budget; use is unrestricted. Falmouth residents may not know that this insurance exists. The potholes are not taken care of and, as a result, they get bigger. The excise tax goes to the community, but the road conditions are destroying cars. The Town has neglected to remedy the situation and the Town is responsible for the repairs to her Jeep. She cited MA General Laws related to damage/injury due to defect in the roadways. Mota has spent over \$6,000 on repairs. She left documents with the Select Board.

Maureen Harlow-Hawkes, West Falmouth, Engine 24 taken offline during the storm, there was no engine with the four firefighters assigned to the station. She suggested it may be time to reconsider fast response vehicles, they are affordable, 4x4, and fit in every station.

Mr. Suso advised the Fire Department (FD) identified a replacement engine and is working on that at this time.

Mr. Suso cited the recent house fire in New Silver Beach, first arriving unit was from the West Falmouth Station.

Marc Finneran, Grand Ave., provided a document to the Select Board. Commented on the power line through Worcester Court Park. Electromagnetic fields and the affect to children is his concern and he provided information, citing a particular study. He does not believe this risk is worth the Town receiving \$20 million over 20 years; Mayflower can find another place to run the line. He also stated the notice for Thursday's 7pm meeting at the Lawrence School regarding the Hatchville fire station meeting was hidden in the Enterprise Newspaper.

Dave Moriarty, Falmouth, said Leukemia Association is having a virtual having open house on 2/6/22 at 1pm, it will be Town Meeting style allowing people to call in and ask questions. For more information /registration he suggested contacting Carrie Callas 847-917-6247, mail address carrie@irfmail.org.

7. Vote to Affirm Appointment of Town Counsel

Mr. Suso introduced and recommended Maura O'Keefe as Town Counsel, she was previously the Newton Assistant City Solicitor.

Atty. O'Keefe is looking forward to providing counsel and support to Falmouth. She will start March 7, 2022. She has begun searching for housing, intends to relocate, currently lives in Franklin and is used to an hour commute.

Ms. Scott Price motion to affirm the appointment and waive residency requirement. Second Mr. Patterson. Yes-5. No-0.

TOWN MANAGER'S PRELIMINARY REPORT

Mr. Suso provided preliminary comments on the agenda. Noted recommendation from Amy Lowell and Scott McGann for waiver of the flow neutral bylaw. Wastewater capacity is sufficient to accommodate the proposal and a Title V system could have been used.

Revisit the Select Board's earlier vote preference for potential Municipal Light Plant Board, to assist the Select Board it was placed on the agenda should you choose to vote it and consider adopting articles for Town Meeting. Letter from Michael Palmer, Clerk, regarding concerns potential consideration placing this item as special election and he recommends allowing it to move to May 2023 annual election. A special election would cost about \$10,000; most for costs associated with printing and preparation of the ballots.

There are 38 potential articles for April Town Meeting, including 6 petitioner articles.

St. Barnabas is seeking a routine variance for signage for annual seasonal events, been held consistently, he recommends favorable consideration by the Select Board.

Representative from the County regarding: ARPA funds, discussion of potentially making that available to municipalities. Falmouth got about \$3 million, county got \$41 million based on population. The Select Board sent a letter through Peter Johnson-Staub to the county. Mr. Suso suggested submitting a follow up letter suggesting the County make the ARPA money available to the municipalities based on population.

Ms. English Braga asked Town Council whether a conflict exists and if Chair Brown needs to recuse himself from the vote due to his roles with the County and the Town. Mr. Johnson-Staub stated there is no conflict. Atty. Duffy will review the issue, Conflict of Interest Law, and determine the answer.

7:30 p.m. PUBLIC HEARINGS

1. Application for a New All Alcoholic Beverages Common Victualler License – Limani, LLC located at 284 Main Street, Falmouth

Ms. English Braga read the hearing notice.

Mr. Suso noted there was transposition on the address, the 2 and 8 were reversed, but all information the Select Board has, and the notice are correct.

Natalia Demertsidis. Greek authentic cuisine, doing well for last two months. Town has welcomed them. She is the manager and TIPS certified. Chair Brown explained that she is responsible for the liquor service event when not present.

Ms. English Braga motion approval. Second Dr. Taylor. Vote: Yes-5. No-0.

2. Application for a New All Alcoholic Beverages Common Victualler License – Woho, LLC d/b/a Provisions located at 87 Water Street, Units 1 and 2, Woods Hole (**10 minutes**)

Ms. English Braga read the hearing notice.

Bob Ament, representing Colleen Parish and Jeff Parish, who have lived in Falmouth since 1988. History of operation of restaurants and a food market in Falmouth. Reviewed their experience working in Falmouth markets, including liquor service. The restaurant will be located at 87 Water St., second floor has a total 67 seats. The Manager is TIPS trained, ServSafe trained, and trained in allergy awareness. 850 people signed petitions or wrote letters supporting the restaurant. When business is so slow that they cannot operate, it can be challenging to remain open year round; hopefully the restaurant will help them sustain the market and if they can be open year round, they would like to.

Ms. English Braga noted the Parishes have had a number of establishments and she is not aware of any issues. Entertainment license did not get public notice, so they will do it at another meeting.

Dr. Taylor asked about accessibility; there are 5 seats behind the store and 16 seats proposed for a ground level patio that is handicap accessible. There is no elevator to the second floor.

Public Comment: none.

Ms. English Braga motion approval. Second Dr. Taylor. Vote: Yes-5. No-0.

3. Wetlands/Dock Hearing – Nina’s Marina Realty Trust – Install new vinyl sheet pile bulkhead adjacent to and landward of existing licensed timber bulkheads, and removal of existing tongue and groove timber sheathing, located at 306 Scranton Avenue, in the waters of Falmouth Inner Harbor, continued from December 6, 2021, and January 10, 2022

Ms. English Braga read the hearing notice.

This hearing was continued from 12/6/21 and 1/10/22.

Mike McGrath, Holmes and McGrath, explained the existing bulkhead is old and leaking material, proposing to rebuild the bulkheads and reviewed a plan via PowerPoint, described the area. Access for work was shown on the plan. Reviewed a map of one of the two sections, materials, existing materials and proposal to drive tongue and groove sheathing. Tie rods will be welded. Building new sand filter behind the boardwalk to catch the surface run off. They have an order of conditions, asked for an amended order of conditions, but it has not yet issued. This is appropriate for a Special Permit because of the benefits of stopping silt into the harbor, improve structure on shores of Falmouth inner harbor, intercept surface run off and pipe it as far as they can from the harbor. Piles will be driven in, they could be vibrated in, if possible.

Public comment: none.

Ms. English Braga motion to close hearing. Second Mr. Patterson. Vote: Yes-5. No-0.

Ms. English Brags motion approval. Second Ms. Scott Price. Vote: Yes-5. No-0.

4. Wetlands/Dock Hearing – Daniel M. Solien – Installation of a light duty dock in the waters of Coonamessett Pond at 91 Atamansit Road, Hatchville

Ms. English Braga read the hearing notice.

Jeff Ryther, BSS Design, representing the applicant. The dock comprises of a 4 ft. wide walkway and fixed dock 8'x12' at the end. They would like to license the existing stone riprap. Maximum area that the Conservation Commission allows for this type of dock is 100 square feet at the end; they are at 96 square feet. There is a ladder for swimming. Have an Order of Conditions, Harbor Master has no problem. Five horsepower engine is the limit on the pond and will be added as a condition.

Public comment: none.

Ms. English Braga motion to close the hearing. Second Ms. Scott Price. Vote: Yes-5. No-0.

Ms. English Braga motion approval with reminder of the existing limitation for the horsepower. Second Dr. Taylor. Vote: Yes-5. No-0.

5. Wetlands/Dock Hearing – George Psychojos – Construct a pier, ramp and float in the waters of Siders Pond at 94 Emmons Road, Falmouth

Ms. English Braga read the hearing notice. The Select Board received new orders of condition today.

Jeff Ryther, BSS Design, representing the applicant. Propose to construct a pier ramp float, described the 8'x12' float, length is 25', built at shoreline, use for boating and swimming. The soundings are deep. The float will most likely be seasonal.

Public Comment: none.

Dr. Taylor motion close the hearing. Second Ms. English Braga. Vote: Yes-5. No-0.

Ms. Scott Price motion approval. Second Dr. Taylor. Vote: Yes-5. No-0.

6. Flow Neutral Bylaw – Evaluation of Request for Variance – Jeffrey and Donna Stearns – 156 Teaticket Highway, East Falmouth (parcel 39 14 026 000)

Public hearing published 1/14/22 in Falmouth Enterprise.

Michael Leary, ML Construction, applicant unable to be present due to snow.

Ms. English Braga said this creates office space and an apartment.

Public comment: none.

Dr. Taylor motion close the hearing. Second Ms. English Braga. Vote: Yes-5. No-0.

Ms. Scott Price motion approval. Second Dr. Taylor. Vote: Yes-5. No-0.

BUSINESS

1. Discuss and Vote preference for potential Municipal Light Plant Board

Mr. Patterson noted about \$10,000 for a special election.

Mr. Suso said that to proceed with requesting a special act and this election be held with November state election. This will be a warrant article, draft article 27, and would be included; ultimately it is up to Town Meeting to decide and decide Articles 25 and 26.

David Moriarty asked if Petitioner's Article 22 could be delegated for internet only.

Mr. Johnson-Staub noted this is a petition article, the Select Board cannot change the petition article, must be printed and submitted by the petitioners; the petitioners could move a substitute main motion if so inclined or there could be an amendment by the Select Board or anyone at the Town Meeting to make it more explicit that it is for broadband, not electricity.

Chair Brown suggested the explanation include this information.

Atty. Duffy noted the statute is confusing, it allows the Town to adopt legislation to create a municipal light board with original purpose was for light plant; over the years it has included broadband. FalmouthNet is only broadband, no interest in electricity. The article notifies people what they will talk about and then motion made. The explanation is not part of the vote, care should be made in coming up with the motion at Town Meeting.

David Moriarty asked that this go through the normal procedure. Chair Brown explained this is to elect the five-member board and hire a manager for operations.

Ms. English Braga noted that only broadband has been discussed, likely there will be an amended motion at Town Meeting, something specific that says broadband internet.

Chair Brown motion to petition the State to allow a special election to be held at the same time as the State General Election in November 2022 for the purpose of determining this Municipal Light Plant Board.

Dr. Taylor cannot vote for that given what it will do to the Town Clerk and the Town Clerk is not in favor of it.

Marc Finneran asked if they have option of doing it during the primary.

Atty. Duffy noted the Select Board is allowed to call a Special Election to fill a vacancy on the Select Board at any time, for any other special election you need special legislation.

Mr. Suso noted the Town Clerk said it is the printing of the separate ballot that represents the increased cost.

Ms. Scott Price asked how long it takes Special Legislation to pass, Suso explained that they rely on their local State representatives to move that forward. It is widely variable. Town Meeting would act first, then they would reach out to seek approval through the General Court and communicate directly with the legislative delegation.

Atty. Duffy noted if decided to petition the General Court for special legislation, his office would draft that petition. The Town chooses the timeline and it's very short.

Ms. Scott Price asked if the Select Board decision on this will affect how Town Meeting votes on Articles 25 and 26.

Ms. English Braga noted Town Meeting generally makes the right decisions, issues are hashed out, and she likes to put more rather than less to Town Meeting.

Ms. English Braga motion to petition for a special election for Municipal Light Plant Board if it should be voted by Town meeting in November, 2022. Second Mr. Patterson. Vote: Yes-3. No-2. (Dr. Taylor and Ms. Scott Price)

2. Vote Articles and Execute Warrant for April 2022 Annual Town Meeting

Mr. Suso noted the schedule is on adjacent page to the warrant, tonight the Select Board will vote to execute, approve article.

The articles were read by Chair Brown.

1-5

6-12

13: Ms. Scott Price noted grammatical errors.

14: There has been an estimate identified, about to execute a contract with an engineering firm for design, it will be in motion.

15

16: Estimate will be in the motion.

17:

18-21: Acquiring property for sewer: no intent to exercise eminent domain.

22, 23, 24
33

Mr. Patterson motion to include draft articles 1-38 on the warrant. Second Dr. Taylor. Vote: Yes-5. No-0.

3. Request for Variance to Sign Code – Chapter 184-30 (C) Special Events – St. Barnabas Church, 91 Main Street, Falmouth

Reverend Will Mebane thanked the Town for taking care after the storm. Placement of temporary signs on the property, they are very active community, and they are allowed 2 signs a year for 7 days. Their lobster on the lawn is a 40-day event, asking for exemption from that code. They have a number of events, they want to be in compliance.

Ms. Scott Price disclosed that she is a member of St. Barnabas.

Mr. Suso said it is an annual requirement to come in, easy to replicate this package annually.

The Select Board noted the signage is important.

Ms. English Braga motion approval. Second Dr. Taylor. Vote: Yes-5. No-0.

4. Discussion on distribution of County ARPA Funds

Mr. Johnson-Staub noted issue that came up in meeting; allocate the funds based on population; this is how the funds were allocated to the County in the first place and this is the basis all other counties have done. Eric Turkington provided explanation around this item.

Mr. Patterson motion to direct the Town Manager to transmit a follow up letter asking that ARPA Funding be redistributed to Cape Cod municipalities based on population as originally allocated by the federal government. Second Ms. Scott Price. Vote: Yes-5. No-0.

Mr. Suso noted any discussion may also imply a vote because that is all they are legally required to do.

Mr. Suso noted the Cape Cod Managers Association recommended what the Select Board had just voted.

Marc Finneran commented that if all other counties in the State are distributing based on how the federal government distributed by population, could we have grounds to sue the County if they distribute it differently? Mr. Johnson-Staub said there is no indication that the County must allocate the funds to the Towns and, if so, by population.

CONSENT AGENDA

1. Licenses
 - a. Approve application for a Change of Manager of an all Alcoholic Common Victualler License – Cape Cod Country Club, located at 48 Theater Drive, Hatchville
Dan Noble, Serve Safe, TIPS, allergen certified within the last 60 days.
 - b. Approve application for a Change of Address of a Wine and Malt Beverages License – New Golden Dynasty Restaurant, Inc., located at 13 Davis Straits, Unit #7, Falmouth
2. Administrative Orders
 - a. Approve 2022 Seasonal Population Increase Estimation Form for submittal to the Alcoholic Beverages Control Commission
 - b. Approve Grant of License to Shanklin Family Real Estate Trust to maintain a stockade fence, gate and hedges encroaching onto the street layout of Central Avenue at 490 Central Avenue
 - c. Vote to approve request to extend the term of the Edward Marks Building Committee until 12/31/24
 - d. Approve request for a waiver of the sign permit fee, Chapter 184 Section 12, from Unitarian Universalist Fellowship of Falmouth, 840 Sandwich Road

- e. Authorize the Town Manager and Town Counsel to respond to Open Meeting Law complaint filed by David Moriarty re: Select Board meeting of January 15, 2022
- f. Authorize the Town Manager to transmit a letter of support of Marine Biological Laboratory (MBL) grant application for funds to repair the seawall in Waterfront Park in Woods Hole

Dr. Taylor motion approval. Second Ms. English Braga. Vote: Yes-5. No-0.

3. Review and Vote to Approve Minutes of Meetings

- Public Session –
December 20, 2021

Mr. Patterson motion approval as edited. Second Ms. Scott Price. Vote: Yes-5. No-0.

January 3, 2022

Ms. English Braga motion approval as edited. Second Dr. Taylor. Vote: Yes-5. No-0.

TOWN MANAGER'S SUPPLEMENTAL REPORT

Mr. Suso reported he attached to his report a summary recruitment update for Town positions.

Joined the Finance Committee's weekly meeting. Joined the EDIC on presentation on alternatives for the depot property. The Sandwich Road Fire Station Building Committee public meeting to review design and take public comments will be held on 2/3/22.

SELECT BOARD MEMBERS' REPORTS

Ms. English Braga received some concerns about the EDIC redevelopment plans for the Falmouth Station, neighbors had a concern about the 1/26/22 web format meeting. This will be a community project and she heard from a few people with that same concern; this was not something they were aware it was progressing the way that it was. Chair Brown reported he has been attending meetings and advocating to keep the shared parking in the back, he will continue to do so. Trying to get them to keep an open mind about that. Patterson said that he is on the EDIC Board, all has been taking information, deliberation, and no decisions have been made. Chair Brown voiced concern that the last meeting was a summary of comments received, they did not include any comments that he made each time about the Elks Club.

Chair Brown announced a joint meeting was to be held with the Transportation and Bikeways/Pedestrian Committees on Wednesday via Zoom to review how Complete Streets prioritization plan.

Mr. Patterson is part of EDIC meetings, tried to attend the MMA annual meeting and did not find it useful. Watched Mayflower Wind webinar where they explained the project they are doing and how they will route half their power through Brayton Point, the other half they want to route through Falmouth to connect to the grid.

Dave Moriarty asked if the Select Board could ask Mayflower Wind to put on a presentation to the Town as soon as possible. The Select Board noted they expect a presentation soon.

Ms. English Braga motion to adjourn at 9:30 pm. Second Mr. Patterson. Vote: Yes-5. No-0.

Respectfully Submitted,

Jennifer Chaves
Recording Secretary