

TOWN OF FALMOUTH
SELECT BOARD
Meeting Minutes
Open Session
MONDAY, FEBRUARY 14, 2022
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.

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

Staff Present: Julian Suso, Town Manager; Frank Duffy, Town Counsel; Scott McGann, Health Agent.

1. **Chair Brown called the open session to order at 6:30 p.m. and Taylor motioned to convene the executive session under M.G.L. c.30A s.21(a)(3) – Review and discuss proposed workers’ compensation settlements for town employees because to not go into executive session could prejudice ongoing negotiations. Scott Price seconded the motion. It was followed by a unanimous roll call vote in Open Session to go into Executive Session for the purpose of discussing the above-listed item and to return to Open Session after discussion. Roll Call Vote: English Braga aye; Patterson, aye; Taylor, aye; Scott Price, aye; Brown, aye.**

2. Chair Brown reconvened the open session at approximately 7 pm.

3. Pledge of Allegiance

4. Recognition

Ms. English Braga recognized the life and passing of Shirley Baker who was tragically killed by a car accident about a week ago. She managed a lot of the wonderful places we enjoy going into. Owned the Black Duck, a special place in Woods Hole. She would put homeless people up in hotels when it was cold and make sure they had hot meals. She did things silently and impacted others’ lives.

5. Announcements

Chair Brown said One Falmouth Telethon on Wednesday at 6pm on FCTV highlighting a number of organizations in Town that do a lot of good work.

Ms. English Braga said the Volunteers in Public Schools (VIPS) is doing their “I Love VIPS” fundraising and she suggested giving what you can give. They do incredible things.

6. Public Comment

Maureen Harlow-Hawkes, 9 Old Dock Rd., commented on the SAFER Grant to get help for the Fire Department. She emailed the FFD Chief on 2/3/22, he replied that no application was made for to SAFER Grant to fund personnel. She then reached out to Mr. Suso on 2/7/22, she read the email into the record. Mr. Suso said the proposed fiscal year 2023 operating budget includes 3 firefighters, so there is no need to pursue a SAFER Grant for firefighters because the Town has the funds. She then reached out to Lance Harper, FEMA, who attached the SAFER grant application, so long as the positions are not employees at the time of the award, they are eligible. Why is the Town Manager not pursuing the grant? This has been a funding source for eight other Cape Cod communities.

Dave Moriarty, Falmouth, asked when the request for proposals (RFP) for turbines would be issued. Mr. Suso stated that it would be out next month.

TOWN MANAGER’S PRELIMINARY REPORT

The Town Manager reviewed the agenda items.

COMMITTEE INTERVIEWS

1. Affordable Housing Committee: Stephen Craft
Mr. Craft addressed the Select Board (Board) and said that his previous experience relates to policy and residential development, mainly in urban areas. He has been attending meetings for about six months, getting familiar with their work. In 2020 he completed his masters at UMASS Boston, has taken classes in relevant subjects.

Patterson motion to appoint Stephen Craft to a term ending 6/30/24. Second Taylor. Vote: Yes-5. No-0.

2. EDIC:
Adrian Merryman
Mr. Merryman addressed the Board and stated he is interested because he has been coming here since he was a child, this has been his permanent home since 2003. There has been a change in paradigm since Covid-19, brings opportunities and challenges. He would like to serve on the EDIC and give back to the community. He brings experience in global finance, venture capital, banking, finance, and technology.

Patterson motion to appoint Adrian Merryman to term ending 6/30/24. Second Taylor. Vote: Yes-5. No-0.

Mark Lowenstein, 537 W Falmouth Highway
Mr. Lowenstein addressed the Board, he spent his career in the high-tech field, was a member of the Rutland County Economic Development Commission, is involved in SCORE, and he has noticed that Falmouth has a mixed economic environment here. He got involved with the EDIC to assist with distribution of the Covid-19 grants.

Scott Price motion to appoint Mark Lowenstein to a term ending 6/20/22. Second Taylor. Vote: Yes-5. No-0.

Those individuals interested in getting involved, there are opportunities to serve on committees and vacancies are listed on the Town website.

7:30 p.m. PUBLIC HEARINGS

1. Wetlands/Dock Hearing – Daniel M. Solien and Kris M. Horiuchi – construct, permit and license a stairway, walkway and boat launch in the waters of Coonamessett Pond at 95 Atamansit Road, Hatchville

Ms. English Braga read the public hearing notice.

Mr. Solien addressed the Board, described the dock, it is a 4 feet wide by 47 feet long aluminum structure, with steel pipes, and wood decking. There is a stairway into the pond and a kayak launch, a sloped section of the dock with rollers on it to get in and out of the pond safely while staying dry. All activity related to getting in and out of the pond with the kayak occurs away from shoreline and does not disturb the natural condition of the pond shore. The stairway up the hillside to the dwelling is included. The Conservation Commission (Concom) policy is to have docks extend to point they can reach 3 ft. depth of water, the 47 ft. dock achieves this. This has been reviewed and approved by Harbor Master and Concom hearing with no environmental concerns, Order of Conditions issued by Concom, and received letter of support from the MA Division of Marine Fisheries which wants it installed before April of each year, so it does not upset the schedule of the spawn. He is aware of abutter correspondence, all have expressed support for this project.

Chair Brown noted many opposition emails were received regarding this dock, noting the size, aluminum construction, and found inappropriate for the natural setting.

Mr. Solien said design of the dock is to enable use of the kayak from the end of the dock, fishing, swimming, other activities. The whole dock is a manufactured system, the ramp is an engineered

component. In this day and age docks are constructed of aluminum because they are lightweight to take in and out of the water. There are other docks on the pond, he can see docks from his properties. A similar, nearby dock was approved within the last two weeks by the Board, his dock is longer, and has the addition of the kayak ramp. This allows for storage of a kayak dockside. There is no place to store a kayak on land here because there is only about 3 feet between the road and the pond; unless it is stored on the dock, it would be inevitable whatever storage found would be disturbing to the environment. This is an elegant technique of providing for kayak activities with minimal effect on the shoreline. He has looked for the best solution given the conditions surrounding them.

Mr. Patterson questioned whether people have standing to prevent this from being issued, it meets all the requirements, short of a covenant that prohibits a dock.

Ms. English Braga noted people would not be kayaking/canoeing in the area of this dock because the water is so shallow. People buy property on the water so they can enjoy activities on the water.

Mr. Solien noted water depth involves other concerns in addition to the propeller of the bottom. Water safety for children who might go off a dock, dive into water shallower than three feet, he does not want to create a risk to someone for injury. The Concom held a public hearing for this proposal, staff had no concerns, none raised by the Concom, none raised by the public or abutters. They have invested time and energy to improve the properties they have purchased while preserving the structures.

Public Comment:

Jon Manchelli, 50 Fox Run Ln., his concern is the size of the dock. Mr. Solien got approval for a dock at another property, it is only 24 feet in length. This is a new dock on a property that does not border the pond, but they have deeded easement to use that roadway, now they want a brand new dock 47 ft. long, would be the largest structure on the pond. Most docks are small wooden docks. There are dozens of kayakers that use the pond, they get in from the shoreline. The need for something of this magnitude is out of scale with what the pond represents. This is a metal structure that will take away a little of the beauty of the pond. Mr. Solien has two docks, totally new to the pond. There is nothing else like it on the pond. The pond is a gem, and a number of people are against something of this size.

Mr. Solien noted the pond community is changing, it used to be used for motorsports, he is working within the rules, with context of materials common at this time. The decking will be wood.

Bob Ament, not representing Mr. Solien, he is an almost abutter, he is familiar with the property, rights that go along with it. He drafted all documents that conveyed rights to use the water and install a dock. Solien's ownership goes to the water, the other properties have an easement. They own to the water, putting dock on their own property, and the deed reserves the right for them to do so. All direct neighbors have no objection to this. Ament has canoed on Coonamessett Pond, if he thought with this dock, with its low profile, located more than 2,000 ft. from closest residence to Lochstead that the only people impacted by this dock would be those canoeing or kayaking by, should not prevent the homeowner from enjoying the pond and have a dock that is necessary because of the topography, steep hill from the driveway that goes along the water. The benefit to the homeowner outweighs the minimal impact of anyone going canoeing or kayaking by. He fully supports this, and the other immediate neighbors do as well. The aesthetics do not outweigh the need to have this dock for this property. There are at least 6-8 docks on the pond at this time.

Marc Finneran said it sounds like the applicant has jumped through all the hoops and many of the other docks would not be permissible as they are today because they are on the edge of the pond. It would be wrong to deny the dock if he is completely compliant.

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

Patterson motion approval. Second English Braga. Vote: Yes-5. No-0.

2. Application for an Alteration of the Licensed Premises of an All Alcoholic Common Victualler License – Shipwrecked, LLC at 263 Grand Avenue, Falmouth

Ms. English Braga read the public hearing notice.

Kevin Klauer, representing the applicant. Rob Loewen present and manager of the license. The business was purchased from the British Beer Co, operated now as Shipwrecked. There is no change to number of seats, reached out to Planning, Zoning, Building Dept., Fire Dept.; none expressed concerns. The Zoning Board of Appeals (ZBA) modified the special permit as required, covenant with Town. Second longest coastline in the state but have few options for outdoor dining near the water. This was a nice addition to the Town.

Chair Brown noted a lot of correspondence in favor, there was one that was concerned of music playing after 11pm. Approval for music was for acoustic music.

Public Comment:

Marc Finneran, it seems when they first came in looking for entertainment license, the Board chose to paint them with the same brush as the Black Dog and complaints of loud outdoor music. But the Black Dog was not denied acoustic amplification, they were given a noise level and the manager was measuring the music to make sure they were in compliance. Those things were done because there were numerous complaints. He thinks this amplification puts an undue burden upon them and he feels it should be saved for perhaps future complaints; this is not fair or equitable and he does not understand why this was applied to them initially and nowhere else in town initially.

Ms. English Braga noted there were a lot of complaints, the concerns were addressed by the applicant, and there have not been many complaints since.

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

English Braga motion approval. Second Patterson. Vote: Yes-5. No-0.

BUSINESS

1. COVID-19 update and discussion of mask mandate – Scott McGann
Scott McGann, Health Agent, reviewed the Covid-19 numbers, incidence rate, hospitalizations, vaccination 96% have had at least one dose, 86% fully vaccinated of eligible people. Plenty of availability of vaccine. Face Covering requirement, the Board of Health decided to wait a little longer to discuss, so no recommendations at this time. The (Department of Elementary and Secondary Education) DESE and CDC are lifting masking requirements on 2/28/22.
2. Presentation – Complete Streets – Cape Cod Commission
James McLoughlin, Town Engineer, and Colleen Medeiros, Cape Cod Commission Transportation Program Manager, are preparing the second tier of the program with MA DOT, third tier would make the Town eligible to apply for grants.

Medeiros reported the second public meeting held on 1/19/22, all information on this project is on the Cape Cod Commission website. She accessed the project viewer, a complete street is something for all modes of travel and all ages. MA DOT made this funding program available, they are pushing Complete Streets statewide, this grant funding is so municipalities can access up to \$400,000 grant towards the project. The Town will submit a list of projects to the State by 4/1/22 and the State will review and determine any that are eligible. Every three years a municipality can seek another \$400,000. Reviewed the prioritization plan. They have looked at the bike plan, there are also intersection projects.

A public meeting was held last year, reviewed a map of the Town and one can see where the difficult and challenging areas are in Town. They received a lot of public input, about 300 project ideas.

Public comment period ends Wednesday.

The survey can be found on the Cape Cod Commission website under our work, then transportation, then projects or google Falmouth Complete Streets.

Chair Brown asked about shared use paths, are those more difficult to implement than sharrows (striping/markings)? Medeiros explained that the larger paths allow for different ages and abilities to use the path.

Chair Brown sees bikers often on Thomas Landers Road, he thought it would be wise to widen the roadway to allow for a bike lane until a shared use path can be engineered and designed. Medeiros said it is up to the Town, you would have to look at feasibility and expense; can look at short-term and long-term goals for Thomas Landers and Brick Kiln Roads, they could apply for cost sharing.

3. Petition Article Presentations for April 2022 Annual Town Meeting (**5 minutes each**)

a. Present Petition Article #23 – Victoria H. Lowell

Victoria Lowell, Precinct 1 Town Meeting member, said that the erosion on paths at the punchbowl explanation in the Board's packet. Beebe Woods under is under the Concom jurisdiction, in 2004 the Concom asked for volunteers to come up with a management plan for the woods, it was submitted to the Concom. Erosion was a major issue, in 2006 it was bad and expected to get worse. Photos were reviewed via computer of the current area of erosion. This is a heavily used natural park and a prized destination. They need to figure out a way to get safe access. She knows the Finance Committee will not recommend it at this point. It will go before Town Meeting in the fall as part of a capital plan.

b. Present Petition Article #24 – Patricia P. Johnson

Patricia Johnson, North Falmouth, explained this article relates to the noise caused by gas leaf blowers, she noted two episodes of others using leaf blowers measured at over 80 decibels. Three towns in MA already voted and installed leaf blower regulations. The State of CA established a requirement that no gas powered lawn equipment are allowed to be sold in CA; many towns in CA have a ban on gas powered leaf blowers since the 1990's. She is not looking to ban leaf blowers, it is the first step for reasonable regulations for usage including time of day and time of year they can be used. So, landscapers have time to convert to electric leaf blowers that are quieter, healthier for operators and the environment. Electric and battery powered leaf blowers fall under 67 decibels. There is potentially financial benefits to converting over to electric and battery, there may be funding available through the State, if it is successful in the legislature.

c. Present Petition Article #25 – Courtney Bird (FalmouthNet, Inc.)

Art Gaylord, FalmouthNet, explained this is the second vote of two required by MA General Law to establish a municipal light plant.

d. Present Petition Article #26 – Courtney Bird (FalmouthNet, Inc.)

Art Gaylord, FalmouthNet, explained this is for establishment of a Municipal Light Board to oversee operations and management of the light plant. The light board should be three or five people, he recommends five people with staggered terms of 1, 2, and 3 years. The light plant board can only take Town approved actions and the Town may not want to limit future use. It is not the intent of FalmouthNet to do anything beyond broadband.

Chair Brown noted comments were received from individuals that would like to have more detail in the article that it is for broadband internet.

e. Present Petition Article #28 – Rosemary Carey

Rosemary Carey, North Falmouth, co-petitioner on this article with others. The Article asks for the Town to create a Sustainability Director. Asking Town Meeting to vote establishment of the position and outline next steps. It is critical the Town take meaningful action in the next few years because MA is expected to receive over \$9 billion from the Biden infrastructure, having this position in place will help Falmouth secure those grants and implement the programs. They hope the Board will recommend the article as printed. Steps that need to be created are laid out in the petition article, guided by the consultant. This position funding is dependent on the consultant recommendation, if long term it will likely have to be incorporated into the operating budget.

- f. Present Petition Article #29 – Jordan Frye
According to Chair Brown, Ms. Frye requested withdrawing this article.

4. Discuss and vote revisions to Special Events Policy

Chair Brown explained that at a 1/15/22 meeting to discuss Charter Review recommendations and how the Board may improve efficiency, they considered Special Events being approved internally by staff. This would leave more time during Board meetings for more substantive subject matter the Board needs to talk about.

The Board discussed the policy and determined that they would like to see another draft which includes the following changes: changing limiting negative impacts to managing negative impacts; add the School Department to the list of organizations that do not need approval; emphasis on recycling, trash; and what the denial options are, including appeal to the Board.

Ms. English Braga raised comment from Alan Robinson and Linda Davis, requesting to include clear language in the policy about what people do with the waste from their events. So that disposal of trash is in line with how the community disposes of waste.

5. Discuss Pilgrim Nuclear Power Plant decommissioning elements and possible letter of concern

Chair Brown attended a Duxbury Select Board Meeting, representatives from the MA Legislatures expressed concern that the Nuclear Regulatory Commission (NRC) sometimes approve discharges into water ways. If there is enough concern, they may take another look at it. He does not believe it is a good idea to release that water into Cape Cod Bay.

Ms. English Braga is concerned that a lot of shell fisherman are concerned because this can harm their product because they live in an area where radioactive water was discharged. This has been a couple tough years for that industry; the economic impact and having harm to that even if there is a guarantee it will not actually harm anyone, the perception alone could cause harm. Dr. Taylor noted they are spending a lot of money on water and water treatment and questioned why we would put anything in the water that would damage shellfish.

Public Comment:

Marc Finneran's understanding is the levels of this water are monitored by the Nuclear Regulatory Committee and this exercise has been part of the everyday maintenance of that plant since it was built. Levels are low, nothing out of the ordinary, and regular maintenance. Why there is a great concern all of a sudden, if his information is correct, seems to be unfounded. He would like to know if that is correct. It is the same level it has always been. He was told this water was below the standard. Before writing this letter, it may be appropriate to answer Finneran's questions.

Chair Brown said that some folks asked why they will not disclose the levels, and this is one million gallons. The letter is in hopes of receiving the information; in furtherance that this is a concern that requires more information before the decision is made.

Janet Azarovitz, Precinct 5, she brought this issue to the Board to ask for this. The plant has been an issue for years, the NRC members become part of the industry when they leave the NRC. It is asking consideration of the Governor. Standards are set, but there are a lot of radio nucleons that are not filtered out. This letter asks for the public to have some input into what is going on.

Price motion to approve the letter presented be sent to the NRC. Second Taylor. Vote: Yes-5. No-0.

CONSENT AGENDA

- 1. Licenses
 - a. Approve applications for Entertainment License and Sunday Entertainment License – Woho, LLC d/b/a Provisions, 87 Water Street, Unit 2, Woods Hole

- b. Approve application for a Change of Manager of a Common Victualler License – The Stand, located at 75 County Road, North Falmouth

2. Administrative Orders

- a. Vote to allow Auto Camp to withdraw its application for a liquor license at 896 Palmer Ave. without prejudice and waive the one-year limitation of G.L. Ch. 138, s. 15A for resubmission of the same

Attorney Jeannie Kampas, representing Auto Camp. They did contemplate a liquor license pending approval by the Board. They want to withdraw without prejudice so they can reapply. Liquor licensing statute has a provision saying the same applicant is precluded from applying for the same license at the same location within one year. Here they are looking to withdraw and have ability to refile within one year. They have some Board of Health issues regarding a septic system on site and want to resolve those first.

836 Palmer Ave is the correct address.

Patterson motion approval. Second Scott Price. Vote: Yes-5. No-0.

- b. Vote to approve request for a waiver of the sign permit fee, Chapter 184 Section 12, from St. Barnabas Church, 91 Main Street
- c. Retroactive authorization to submit grant application request to Cape Cod Commission for Recreation/Open Space Plan update and Economic Development Guide

English Braga motion approval of the License items 1 and 2; Administrative Orders b and c on the consent agenda. Second Patterson. Vote: Yes-5. No-0.

- 3. Review and Vote to Approve Minutes of Meetings held
Public Session
January 10, 2022

Patterson motion approval as edited. Second English Braga. Vote: Yes-5. No-0.

January 15, 2022

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

TOWN MANAGER’S SUPPLEMENTAL REPORT

Finance Committee will meet Wednesday and are reviewing the operating budget.

The next Board meeting will be 2/28/22.

Town hall and administrative offices closed 1/21/22.

SELECT BOARD REPORTS

Mr. Patterson:

Attended the following-

Cape Cod and Islands Municipal Leaders Association. The CEO of the Housing Assistance Corporation gave a presentation on accessory dwelling units, a way to provide affordable housing. Presentation from county staff in charge of septic management loan program that is available to anyone who needs to update septic system, sewer hookup, or alternative system.

Virtual presentation on the Sandwich Road fire station

Affordable Housing Committee meetings

EDIC meetings

CPC meetings

Boy Scout court of honor for Eagle Scout Matt Briggs.

Chair Brown:

Mr. Suso and Chair Brown talked about the policy book, it is very large, does the Board want to take a look at it? Mr. Suso is working on updating about 12 policies, the Board could look at all policies that could be updated or omitted. New policies include consideration of the surplus policy, Transportation Committee embarkation fee, and there may be other policies overlooked that could be in place. Does the Board want another Saturday meeting to look at policies. 3/5/22 8:30 a.m.-11:30 a.m. Mr. Suso will review agenda, it is a good time to think about what to do with an onboarding packet for new Select Board members.

DISCUSSION OF FUTURE AGENDA ITEMS

Invite the Diversity and Inclusion Officer to a meeting.

Affordable Housing funds update and discussion. Is there something the Board should do to entice developers to get that money?

Is there update on the Falmouth Housing Corp. Scranton Avenue project? Mr. Suso said they received their comprehensive permit from the Zoning Board of Appeals (ZBA), they can take next step to get State funding. Working internally on potential roadway improvements on Main St.

The WHOI Sustainability Coordinator presentation to the Select Board; she has received a lot of grant money, doing it for 2-3 years, and gave presentation to the Rotary Club.

ADJOURN

Patterson motion to adjourn at approximately 10:00pm. Second Taylor. Vote: Yes-5. No-0.

Respectfully Submitted,

Jennifer Chaves
Recording Secretary