

TOWN OF FALMOUTH
SELECT BOARD
Meeting Minutes
Open Session
MONDAY, MAY 9, 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.

Select Board 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; Maura O’Keefe, Town Counsel.

1. **Chair Brown called the open session to order at 6:30 p.m. and motioned to convene the executive session under M.G.L. c.30A s.21(a)(3) – to discuss strategy with respect to collective bargaining – AFSCME Units A, B and C because to not go into executive session could prejudice ongoing negotiations. Mr. Patterson seconded the motion. It was followed by a roll call vote in Open Session to go into Executive Session for the purpose of discussing the above-listed items, and to return to Open Session after discussion. Roll Call Vote: Ms. English Braga, aye; Chair Brown, aye; Mr. Patterson, aye; Ms. Scott Price, aye. Dr. Taylor, aye.**
2. Chair Brown reconvened the open session.
3. Pledge of Allegiance
4. Proclamations
 - a. Police Week – May
Ms. Scott Price read the proclamation in the packet as a motion. Second Mr. Patterson. Vote: Yes-5. No-0.
 - b. Eagle Scout James Walden, Troop 38
Mr. Patterson read the proclamation in the packet as a motion. Second Ms. English Braga. Vote: Yes-5. No-0.

Mr. Walden’s project was at the Waquoit Bay Reserve, removing wisteria foliage from the visitor’s center, added mulch and cleaned the area.
 - c. Eagle Scout Logan Moniz, Troop 38
Ms. English Braga read the proclamation in the packet as a motion. Second Mr. Patterson. Vote: Yes-5. No-0.

Mr. Moniz’s project was to clear the East Falmouth Elementary and create an outdoor classroom. They also rebuilt the buddy bench.
5. Recognition
The Select Board (Board) acknowledged the passing of Ed Van Kuren, he was a Zoning Board of Appeals member, Elk, Veteran, and did a lot for the community.

Dr. Taylor recognized Ms. English Braga, thanked her for her leadership and her service to the Town in various capacities; she will be missed and is an incredible mentor.
6. Announcements

Dr. Taylor met with Falmouth High School (FHS) sophomores on their civil action project, their goal is to bring a petition to Town Meeting to encourage local businesses to use eco friendly supplies. They would like to make a presentation to the Board.

Mr. Patterson noted he recently received the Falmouth Water Stewards mailing about impact of fertilizer and what you should and should not do.

Overdose Prevention hosted by the Falmouth Police Department (FPD) and Human Services, 5/16/22 at 6pm at the Gus Canty Center Narcan, training will be available.

Forum on Opioid Use and Prevention to be held on 5/19 St. Barnabas 5:30pm-6:30pm.

Mayflower Public Forum will be scheduled for 6pm on 6/8/22 at the Lawrence School.

Ms. English Braga announced that since the last Board meeting, there was a lot of discussion and meeting with FPD Chief and Road Race coordinators. The Road Race will have 10,000 runners and will encompass folks from the community who can register. These conversations about the year ahead need to start sooner, Road Race put together a security plan to review for future races.

Dr. Taylor thanked Chief Dunne for meeting with them, Scott Ghelfi, and Bob Antonucci to make this happen.

Mr. Patterson motion approval to take Business item # 4 out of order. Second Ms. English Braga. Vote: Yes-5. No-0.

Dr. Taylor motion approval of 10,000 runners for the 2022 Falmouth Road Race. Second Mr. Patterson. Vote: Yes-5. No-0.

Ms. English Braga thanked Jeremiah Pearson and his staff on the plantings for Arbor Day, looks beautiful.

7. Reports; update on beach staffing by Beach Committee representative

Barbara Schneider updated the Board on recruitment of lifeguards and parking attendants. About 28-29 staff are coming back, goal is 58 for full contingent that ten beaches are guarded. Currently they have 27 applications, still feeling about 12-15 short, they will continue to encourage people to apply, learn about bonus programs, and hoping to discuss some part time work. So many lifeguards reached a stage where they journeyed on to internships during the summer season, but some are willing to come back for a couple days a week. Those who are not certified to lifeguard may train the week after school is out and be out working for the 4th of July.

She is working with a civic action project at the FHS, how to get people to throw out their trash in the right place, not leave it on the beach. Tomorrow evening hosting Zoom meeting with a representative from each village association and discussing what each village can do to help with a weekly village area trash pickup. Hoping for some scouts and kids in the area who may be willing to do this for community service.

The Beach Committee did not receive Town Counsel's answers re: unguarded beaches. The Board received the answer, communities in our position would not be held excessively liable in not guarding the beach. Ms. Schneider asked that when the Beach Committee writes questions, that the answers be forwarded to the Beach Committee.

8. Public Comment

Barbara Schneider and Kevin Freil, the Osprey project presented the Board with an osprey print. They have had tremendous success with their project.

Tom Weaver, Falmouth Bike Lab has been in operation in the Town since 2013, over 1,000 bicycles rehabbed and rehomed to people. They are open Thursdays 7pm-830pm for bike distribution. Bikes are donated, rehabbed, then given out free of charge to anyone who needs a bike. John Wesley Church has hosted them, the church is expanding their youth program, they need the space. The Bike Lab is looking

for a new home, about two car garage size. Any suggestions are welcome. Mr. Weaver's email t3weaver@gmail.com.

Unidentified person asked who is authorized to sign contracts in town government? Mr. Suso said the Town Manager, Mr. Brown explained they do not answer questions during public comment but can meet at the Town Manager's office with that question.

Dianna Mota, noted that Sgt. Guthrie and Chief Dunne said they wanted to keep the guns for the officers to use until they are trained on the new weapons. Then they say they want to trade with Powderhorn, everyone knows what Powderhorn does, so she would like to know why the FPD would ask them for a quote. Ms. Mota is disappointed that Chief Dunne and Chief Smith do not attend Board meetings. She does not like to see the Board hand out residency waivers. The Board never addresses the community or their opinion.

Dr. Taylor requested a point of order and asked Chair Brown to control the outbursts of Ms. Mota. Second Mr. Patterson.

Ms. Mota noted a restaurant with two floors was discussed at a Board meeting, but abutters were not consulted. She would like to see the Pheasant Lane house moved to another location this month. Taxpayers are not consulted. She requested an itemized list of special counsel and why we are paying them when there is already a Town Attorney. She asked if anyone on the Board is licensed, bonded, and insured to handle money. She would like Board members' tax returns. She questioned the need for Executive Sessions-why the community cannot know what is going on? Real Estate venture capitalist are reason behind the housing shortage. 78% of our revenue goes into a Falmouth Housing Account.

Dr. Taylor requested a point of order and asked Chair Brown for the outbursts to be controlled, this is a repeated issue and Mr. Patterson already seconded her motion.

Dave Moriarty, resident, 5/4/22 Wind 2 was paid off, \$975,000 was accepted by the MA Water Resource Trust after 12 years. It was a regulatory agreement, never a grant, it was a loan. We have always protected the environment on Cape Cod, renewable energy from fish and aquatic resources. Cape and Islands are a treasure that need to be protected by the people; look to elected officials for support and Mayflower Wind is not welcome in Falmouth.

Ms. English Braga noted the Board cannot engage in conversation during open comment due to MA Open Meeting Law.

Sandy Faiman Silva, Precinct 2, asked that a future agenda item include a report on the Task Force for Workforce Sustainability authorized by a previous Town Meeting.

Mark Farmer, East Falmouth, talked with Mr. Suso about a position for a grant writer, he is retired schoolteacher. We have a lot of physical things, technical grants, had a grant writer who searched for the money. He also taught at a university, he had an attorney on staff who was a grant writer.

TOWN MANAGER'S PRELIMINARY REPORT

Mr. Suso noted all is in order for two entertainment licenses and one day liquor license request. Asked to approve updated list of officers for the EDIC, working with consultant and Bourne to continue design of the Shining Sea Bikeway extension north of Bourne. Asking the Board to approve Juneteenth as a holiday for Town employees, this is in several but not all union contracts. Apportion of betterments to be discussed. The Board will hear annual update from our colleagues at Joint Base Cape Cod (JBCC). Disposition of items valued less than \$10,000, town counsel suggested a couple amendments he recommends be considered. George Spivey provided a preliminary report on his activities.

MVP action support requested has been withdrawn for further review and consideration at future date.

CONSENT AGENDA

1. Licenses
 - a. Approve application for Entertainment License – Pickle Jar Kitchen – 170 Main Street

- b. Approve application for Sunday Entertainment License – Quicks Hole Taqueria – 28 Water Street, Unit C, Woods Hole
- c. Approve application for Special One-Day Liquor License – Striper Fest – Marina Park – 9/24/22
Chair Brown asked if there is a new plan to manage the parking. Mr. Johnson-Staub noted no conflicts with other events this year, raised the parking issue and organizers assured them the Marina parking spaces will be left available. They provided information that indicated those spaces were left vacant in past years.

Ms. English Braga motion approval of Licenses a, b, c. Second Mr. Patterson. Vote: Yes-5. No-0.

2. Administrative Orders

- a. Vote to retroactively approve application for Municipal Vulnerability Preparedness (MVP) Action Grant for permit-level design to increase the coastal resilience of the Woods Hole sewer force main, and vote to sign letter of support
- b. Approve request from Cape Cod Guang Ping Tai Ji Quqn Club for a waiver/reduction of the special event permit fee for the Practice and Teach Tai Ji practices at Marina Park
- c. Approve request from ArtsFalmouth, Inc. for a waiver/reduction of the special event permit fee for the Arts Alive Festival at Peg Noonan Park and Library Lawn
- d. Vote to approve request for variance to sign code Section 184-30 – Off-premise promotional/ special event signs – Spring at Spohr
- e. Vote to approve appointment of EDIC officers: Tom Feronti, Vice Chair; Mark Lowenstein, Clerk; Christopher Land, Chair and Kevin Holmes, Treasurer
- f. Vote to approve application for a grant to the Mass Trails Program for the Extension of the Shining Sea Bikeway into Bourne
- g. Vote to approve Juneteenth as a Town holiday
School Dept honored it last year and will continue to do so.

Ms. English Braga motion approval of Administrative Orders b-g. Second Ms. Scott Price. Vote: Yes-5. No-0.

3. Approve 2022 Seasonal/Annual License Renewals:

BOWLING ALLEY LICENSE

Town Hall Partners d/b/a Timber, 23 Town Hall Square

LODGING HOUSE LICENSE

Woods Hole Passage, 186 Woods Hole Road, Falmouth

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

4. Review and Vote to Approve Minutes of Meetings:

a. Public Session:

March 5, 2022

April 11, 2022

b. Executive Session:

February 28, 2022 (#1, #2 and #3)

March 9, 2022

March 14, 2022

April 11, 2022

Ms. English Braga motion approval of item 4 with edits. Second Mr. Patterson. Vote: Yes-5. No-0.

The edits were provided in writing to the Town Manager.

COMMITTEE INTERVIEWS

1. Interview, vote and appoint member to Agricultural Commission: Jack Simonds
Mr. Simonds grows vegetables, supports Falmouth cultural pursuits. He attends meetings, was on the commission but had difficulty doing Zoom meetings so he resigned. Chair Schwalbe asked him to reconsider, so he had to get reappointed.

Ms. Scott Price motion approval to a term ending 6/30/22. Second Dr. Taylor. Vote: Yes-5. No-0.

7:30 p.m. PUBLIC HEARINGS

1. Vote to Adopt Amended Order of Betterment Assessment for the Little Pond Sewer Service Area (Kendall Lane). Continued from 4/25/22.

Attorney O'Keefe said there are things that may not have been considered yet. When a larger project, it would get its own unique betterment. One reason you do not reopen a betterment to redistribute it is to conserve municipal resources; recording against each title, recording of liens to discharge the betterments; talking hundreds of thousands of dollars to add 20 SEUs to what was originally 1,600. It is not meant to keep tweaking bit by bit every time, there are a couple other houses added to the development. This will happen again, but in smaller pieces; once you do a larger project, you start a new assessment for the discreet projects that are added to the system. If we were to add 21 houses at the same flat amount that was charged to the original properties that were assessed a betterment, that would not be feasible.

Mr. Johnson-Staub said every time there is a new sewer expansion, that is a new project. It may appear inequitable that 21 units are paying a little less than others, however there is no mechanism in the Statute to do a lookback period.

Chair Brown asked if the next sewer area betterment could have language, they will still pay the same betterment amount for each dwelling unit.

Atty. O'Keefe said statute is written to attach to a lot but cannot go back and change the vote when the assessment was made. We cannot modify the language in the statute, even for a 40B which waives local zoning, but does not allow for removal of a State statute.

Ms. English Braga motion to adopt the amended order of betterment for the sewer system area, 4/25/22 public hearing that was continued.

Public Comment:

Marc Finneran asked if someone has a lot that has the ability to have more dwellings built upon it, will they be let in for free. Already planned, apportioned a dwelling unit assignment and assessed.

Ms. English Braga said the betterment is for the connection to the sewer system.

Ms. English Braga motion to adopt the amended order of betterment for the sewer system area. Second Mr. Patterson. Vote: Yes-5. No-0.

BUSINESS

1. Joint Base Cape Cod (JBCC) Commanders' Briefs on JBCC Initiatives, Projects and Issues (**20 minutes**)

Brigadier General Christopher Faux, JBCC Executive Director introduced Colonel Matthew Porter; Colonel Timothy Gordon, Commander Tim Sheehan; Captain Sean Hannigan.

B.G. Faux reviewed the economic impact via overhead presentation. Impact around \$600 million dollars.

Interaction with the Community Executive Director: Oversight Group, Military Civilian Community Council (MCCC), interagency cooperation, and future vision for JBCC. They command by committee. The MCCC has over 100 invites to the public, good opportunity for Town representatives to get up-to-date information. Municipal Training Committee; there is a big gap in law enforcement training, working closely with police chiefs, saving money for communities by having an academy so close, keeping expenses down for the police departments.

JBCC wants to maintain readiness while working with the community.

Colonel Tim Gordon, Vice Commander 102nd wing, part of MA Air National Guard, 1,200 members, 400 full time. Reviewed the wing groups, surveillance; cyber intelligence; cyber engineering and installation of communication lines/radar/navigation systems at Air Force and Air National Guard installations; Medical group with mission that wing members are fit to fight and homeland response support mission to support domestic emergencies that require medical attention. During the pandemic 98% of their group was activated in some capacity. Transforming the base to cyber intelligence, less buildings and less land needed for this mission. Since 2018 they have invested over \$30 million in their infrastructure and more in planning phase. Domestic operations support to MA over the last two years, covid support 120,000 days of support, security 1,300 days, 1,700 days in Washington DC for inaugural support.

Lt. Colonel Tim "Skip" Sheehan, Cape Cod Space Force Station name change last year. Mission includes missile warning and tracking space objects up to 5 kilometers in space. Cape Cod Space Force Station 6th Space Warning Squadron. Team of airmen and guardians who operate the radar, about 130 people. US Space Force is changing, holistic health is a priority, how can we take care of people as human beings and looking for a year round assessment of how they are doing.

Commander Officer Dave McAdam, Coast Guard, reported the Coast Guard has 176 active duty civilians on JBCC, responsible for the area New Jersey to the Canadian Border. They do search and rescue, fisheries and transnational fish enforcement, support drug operations in the Caribbean. Largest all volunteer air force, about 200 members, who help them complete all these missions. Last March they were involved in search and rescue Hurricane Ida Response, responded to Haitian earthquakes, Hurricane Henri preparation for maritime transportation. Counter drug and migrant interdiction deployments to the Caribbean, worked with the US DEA on Nantucket intercepted hundreds of illegal pills. They make sure the fishing industry is enforced to keep the living marine resources viable into the future. They have won many awards, these are the people living in the community, buying homes, and setting up their lives here. Air Station Cape Cod operates aviation assets, Woods Hole operates the marine assets. The Coast Guard will be able to respond to wind farms, they do not anticipate larger staffing levels.

Captain Hannigan, provide mission support including, safety and security, port security, NE Fisheries center, and patrol boats. Reviewed their service areas. Provide regional information from local resources, they also have 150 family homes on base.

Colonel Porter, Army Commander at Camp Edwards, training site, manages the base. They have a Director of Public Works, Security, Environmental Resource, other units are tenants of the base: aviation, EOD, Engineering, cyber, regional training institute, Barnstable Dispatch in Fire Station, Army side of the cleanup. Soldier training 2021, 7,716 man days for military personnel, 214 man days for civilian personal (law enforcement). Range complex has a lot of simulators to ready soldiers, use a large amount of land, 15,000 acres used for maneuvers. Natural Resource Management, water cleanup, training, 41 listed species reside on the base, and they have a robust ecosystem. They have done bird tours and community engagements with tours on base. Wildland Fire Management, they conduct wildland fire mitigation /prescribed burning, this year they have 22 days and 600 acres.

Initiatives include range modernization, decommissioned 2 ranges, restored one 25 meter range and made it wider. This will be an agenda item on the EMC meetings. Multipurpose machine gun range has not progressed further from the last time they met. Went through the MA Environmental Policy Act (MEPA) process; now awaiting the community advisory council vote, waiting for sole source aquifer review to be complete, likely will not be until possibly the winter.

Future projects were reviewed, modernizing what they already have. Adding 6 lanes to the 10 lanes. Building a new armory in 2025, new physical fitness standard and need for track and a field, they have the

location and design, and are awaiting funding. Unit Training Equipment Site, has been built and moving in, Phase 2 will be to build the cold storage next to it. Continuing to demolish old WWII structures. Contact Kathleen Kovla, Community Relations, 330-202-9307.

The Board's desire to discuss impacts of Mayflower Wind is possible but would require more time than they have this evening.

2. Discussion of Select Board policy for disposition of items valued less than \$10,000.00

Draft policy in the packet was reviewed, Chair Brown said that he spoke to someone at the MA Inspector General's Office, who told him that given the nature of weapons and a unique item, he was not really of the opinion to limit purview to \$10,000 or less.

Ms. English Braga noted the policy is broad enough, language is "may" and it outlines a general process. The bigger issue will be how the policy will be implemented. When does the Board become involved, if they do. Most of these things are what the Town Manager does; is there a piece of this that needs to involve the Board. The Board does not need to know what is being done with a desk; is it just weapons, is there something the Town owns that the Board wants to weigh in on, if not this policy is fine. This conversation started by this Board wondering if they need to create a policy and if the process needs to include the Board.

The Board discussed weapons, toxic waste, public health issues, commodities treated uniquely in the marketplace, such as firearms and cranes, that could be the triggering language. Possible language was discussed by the Board. The Town Manager will work with Town Counsel, notification of proposed disposition, then the Board would direct the Town Manager.

Mr. Johnson-Staub asked Town Counsel for input regarding the Charter implications, under which procurement is under the Town Manager, not the Board.

Atty. O'Keefe reminded all that the role of the Board is policy creation, the policy empowers the Town Manager to act. Here by creating this policy, the Board is allowing the Town Manager to go forth with the process. The permission is granted already by the policy.

Mr. DUBY, in lieu of the fact a contract was signed after this discussion, so the intent of the Board at that time was to address the issue of dangerous items. He has a problem with the process, but it went forward without giving weight to what was discussed at the 3/5/22 Board meeting. What the Board is doing right now, if this goes forth, when would this take effect?

Ms. English Braga noted that policy is created that empowers the Town Manager but still seeks authority regularly for specific actions.

Nan Logan, Falmouth Precinct 1, she thanked the Board for the thoughtful approach to this concern they have and the approach to raise the issue solve the problem going forward.

3. Discussion of Diversity, Equity and Inclusion Officer position

Mr. Suso provided an update. In packet is Mr. Spivey's summary of related projects, which Mr. Suso reviewed. New programs include the Seafarer initiative-boat repair, Sea Education high school program, cultural awareness initiatives at FHS, sea life experience with NOAA, coordination of student visits at aquarium, Cape Cod Voices, and Cape Cod Coast Guard facility in Woods Hole. Ongoing programs include after school academy, Ma Maritime Academy, St. Barnabas, and No Place for Hate. He is involved in ongoing discussions on expanding the role, currently Mr. Spivey is working 25 hours per week. Mr. Suso thanked Mr. Spivey for all he does as Acting DEI Officer.

Ms. English Braga thought the school was going forward to hire and fund their own full time, she would like to see the Town fill this position. They have had a challenge drawing great candidates, due to housing issues, most of Spivey's initiatives are school oriented. She would like to see the job posted.

Ms. Scott Price noted the biggest challenges may include salary, average salary to afford a home in Falmouth is \$182,000, she would like to see what they could do to encourage people to apply at what the Town can afford; what will the priority be when making a salary range.

Mr. Suso noted there was an appropriation for salary, limited until it is changed.

Dr. Taylor said at this point the School Department and the Town would each pay half the salary. Whatever barriers appear to be in front of us, we need to fix them and hire the position.

Mr. Suso reported that compensation is a concern and the need to live within the appropriated funds. It would be the same salary with a different workload.

They could hire a full time person now at the same salary, the Board wants to post it. When planning for budget for the fall, may want to think about increasing the salary.

Ms. English Braga motion to repost the position as soon as possible. Second Dr. Taylor. Vote: Yes-5. No-0.

4. Discussion and vote on Falmouth Road Race, Inc. appeal of the decision of the Town Manager regarding the number of participants for the Falmouth Road Race special event
This item was addressed at the beginning of the meeting.

5. Town Manager response to performance evaluation summary

Mr. Suso read the following statement:

REMARKS TO SELECT BOARD MEMBERS ON SUMMARY PERFORMANCE EVALUATION

Monday, May 9, 2022

Good evening. I thank members of the Select Board for the opportunity to comment upon the present Performance Evaluation, as provided for in my current three-year Employment Agreement unanimously approved by Board members in March 2021. I have and will continue to take very seriously any and all constructive criticism of my performance as Town Manager.

Background Issues of Major Concern

Two serious issues of major concern have arisen within this evaluation period which undermine the credibility of this Summary Performance Evaluation. First, just a few months following the approval and execution of my present Employment Agreement, I received a very threatening, written communication from Select Board Chair Doug Brown which included multiple unfounded accusations, and which directed me as Town Manager to act in a manner inconsistent with and violative of the Falmouth Home Rule Charter. These same written accusations and threat to terminate are a matter of public record. Following several weeks of diligent but unsuccessful efforts to secure a meeting with the full Board to productively review and discuss these attempted Charter violations, I recognized that my only reasonable alternative was to file a written request with the Board for a hearing on a Complaint Against a Public Officer. This hearing was ultimately held on November 8, 2021.

The lengthy minutes were recently approved by the Select Board and were directed to be released to the public. A copy is posted on the Town website and is attached to this response. These minutes provide full details of this unprecedented circumstance with which I was unexpectedly confronted and threatened. As Town Manager, I am sworn to uphold and honor the Falmouth Home Rule Charter and I operate with a clearly defined professional code of ethics. This is a responsibility that I take very seriously. I recognize that my responsibility to pursue this egregious Charter violation was not a pleasant situation for members of the Select Board. It appears that one or more members were very negatively influenced by this action that I deemed necessary to uphold my Charter-defined duties as Town Manager. This negativism and open hostility were particularly evidenced in the comments of Board member Mr. Sam Patterson, as the minutes reflect. At the November 8 hearing, it was the voted determination by all other members of the Select Board that the complaint that I was compelled to file was upheld – affirming that Select Board Chair Doug Brown

had indeed violated the Falmouth Town Charter, including his written threat to terminate my employment. Although he subsequently agreed to have Vice-Chair Dr. Nancy Taylor oversee this performance evaluation, Mr. Brown nonetheless inappropriately participated in this process.

Second, the Falmouth Town Charter assigns the Town Manager the responsibility to function as the appointing authority for the Town and its staff positions. In August 2021 Select Board member Megan English Braga submitted an application as a candidate for the Town Counsel position being vacated due to the pending retirement of Frank Duffy. Shortly after, I was unexpectedly contacted by Select Board Vice-Chair Dr. Nancy Taylor who encouraged me to consider Ms. English Braga for appointment to the Town Counsel position. Although Ms. English Braga was one of three finalists for this position, I did not select her for the appointment as Town Counsel in January 2022. Under this circumstance, it would have been most appropriate for Ms. English Braga to recuse herself from this annual evaluation process given the clear appearance of potential conflict with this very significant personnel decision made just a few weeks earlier by me. Although the November 8 minutes referred to above included her strong statements of support for me, just a few months later and following the decision on the Town Counsel appointment, Ms. English Braga for the first time ever included a “needs improvement” determination only in the two categories of “leadership” and “public relations” in my performance evaluation. In the numeric score Summary Evaluation, Ms. English Braga carried forward her “needs improvement” score even though her scores in 9 of the total 11 categories were all either “meeting or exceeding expectations.”

There are legitimate questions as to the respective motivations of these **two** Select Board members. Further, there is no way to reconcile the summary provided for the numeric scores or the selected comments with actual, documented job performance.

Analysis of Summary Evaluation

The Summary Evaluation Report, with the exception of the first of the four summary paragraphs, included universally negative comments selected from Board members evaluations. None of the positive comments from Board members were chosen to be included in the final three paragraphs.

There is a reference to “recent resignations of Town employees, specifically at the upper management and director positions.” While there have been several such vacancies over the past twelve months – only two of them involved resignations. The fact is that the vast majority of staff vacancies involved employees leaving due to retirement. All such major staff vacancies have now been permanently filled with well-qualified professionals with the sole exception of the Building Commissioner position which is being very ably staffed on a transitional basis by a State-certified, professional Building Commissioner while this remaining search is ongoing. Regarding the two resignations, these involved personnel matters which are confidential under Massachusetts Statutes.

Although the third paragraph acknowledges that the Town Manager has appropriately responded to all requests for updates on a specific Affordable Housing project, this is nonetheless presented in a negative light – choosing to be critical and suggesting that by not providing “regular (public) updates” that the Manager is therefore somehow lacking in “leadership in affordable housing” in spite of the considerable evidence to the contrary. Demonstrated progress in completed Affordable Housing construction has been consistent and ongoing over the past five years, the Town’s Affordable Housing Plan has been updated and adopted and the Falmouth Affordable Housing Fund now has financial resources available at an all-time high to encourage and facilitate this mission-critical construction. As recently as July 2021 Governor Charlie Baker and Lieutenant Governor Karyn Polito both visited Falmouth for a formal public gathering in a round table discussion on Affordable Housing which I participated in. This included congratulating the Town and acknowledging the recently completed and highly successful Little Pond Place Affordable Housing Project which the Town sponsored in successful partnership with the Falmouth Housing Corporation on the Town-owned parcel on Spring Bars Road.

The fourth paragraph suggests that “...there is very little rapport between Mr. Suso and the public.” It is further suggested that “...it is constant and it plagues almost every project or policy the Select Board wishes to advance.” Also suggested is that “...many people consistently cite a lack of trust in Mr. Suso...” This continued, selectively chosen negativity is **CLEARLY INCONSISTENT WITH** the positive comment from the Select Board and included in the single, positive first paragraph: “Most of the projects ultimately

*managed by the Town Manager have come in on time or earlier, and on budget or underbudget.” The facts clearly confirm that Falmouth voters have consistently trusted and overwhelmingly supported multiple, proposed debt exclusions during my tenure as Town Manager – the \$9.7 Million new Senior Center, the \$41 Million new Water Filtration Facility and the \$37+ Million wastewater expansion into the Little Pond Service area are three such examples. In May 2020 Falmouth voters strongly supported the first permanent Town override in **over thirty years**, to allow the hiring of eight additional full-time firefighters to enhance public safety. At their April 2022 Annual Meeting, Town Meeting members approved the proposed \$146 Million operating budget for FY2023, continuing a trend in consistent support for Town budget operating initiatives. Any suggested lack of trust by the public has not been borne out by the demonstrated facts. As Town Manager, I have the responsibility to make many challenging and mission-critical decisions on behalf of the Town, some of which unavoidably involve controversial issues.*

In concluding the fourth and last evaluation paragraph, it is stated in summary that “...Mr. Suso tends to resist or fails to support planning to address the growing risks of: inadequate workforce affordable housing; environmental degradation due to inadequate sewage treatment; predicted property and infrastructure damage due to flooding from sea-level rise, and increased storm damage caused by global warming.” I have already commented on the Town’s successful Affordable Housing initiatives. I have also noted the substantial initiatives in the water and wastewater areas in protection of the Falmouth environment. The remaining two “goals” represent the individually-advocated goals of a member of the Select Board. These suggested goals were not included in the voted and adopted goals set for the Town Manager and upon which the Town Manager, by written agreement, was to be evaluated.

Following my Preliminary Comments to the Board on this Annual Evaluation presented on Monday, April 25 a question was raised from Select Board member Ms. Onjalé Scott Price as to whether the Board was limited to the four goals expressly stated in the goal evaluation or were “other factors” to be considered? There was an immediate response from Ms. Megan English Braga who suggested that the addition of other factors was appropriate. To clarify the facts, I attach a copy of an excerpt from the Town Manager Employment Agreement which clearly states under the section on “Town Manager Evaluation” as follows: “...annually the Board and the Town Manager shall define the goals and objectives which they determine necessary for the proper operation of the Town and the attainment of the Board’s policy objectives...said goals and objectives to be reduced to writing.” There is no provision in our joint, written Agreement for individual Select Board members to unilaterally generate their own personal goals or other factors for the Town Manager and to evaluate the Town Manager on their individual chosen goals. By written agreement, all goals must be specifically identified, voted and approved by the full Board.

Concluding Comments

A reading by an objective party will, I believe, confirm that this Summary includes comments that are generalized, significantly lacking in specific facts and furthermore, internally contradictory as noted. I want to thank those members of the Board that employed a fair and constructive approach to this performance evaluation. As I noted on April 25, having successfully achieved each of the written, jointly agreed-upon Goals, it is puzzling that some members chose to rate me as “needing improvement” in that area.

Even with the reviews that were retaliatory or improperly biased, the numerical average of all categories averaged slightly over a “2,” which is defined as “meets expectations” under the standards agreed upon by the Select Board (see attached spreadsheet). An overall rating of “needs improvement” is not justified by supporting facts, objective criteria or by the members’ own numerical ratings. For those members that rated me poorly in areas such as leadership and work relationships, I am left to wonder how I would have been rated if I treated Town employees in such a disrespectful and arbitrary manner.

In summary, I consider this performance evaluation process and the results of that process to be incompatible with acceptable professional standards and a direct violation of my Employment Agreement with the Town of Falmouth. A copy of this response should be included in my personnel file. Thank you.

Mr. Suso requested his response be memorialized in the meeting minutes and a copy in his employment file.

Ms. English Braga said that in September 2021 when an email was sent, Mr. Suso called her and they had numerous conversations on the best course of action for that difficult situation. It took awhile to sort that out, then Dr. Taylor stepped in as Vice Chair to make sure there was a professional, appropriate, and constructive meeting in which the Board supported Mr. Suso, and Chair Brown took responsibility for sending the email. It was done methodically and thoroughly. Ms. English Braga said she now has a job with the Trial Court so to indicate that she has a retaliatory feeling against him is deeply insulting, she has supported him, to indicate that she would be so short sighted that we would not be thrilled to have someone with Attorney O'Keefe's expertise work for the Town. The comments she made are based on fact that for over 6 years she has spent a significant amount of that time, particularly in the last year, speaking with constituents about negative feelings and negative connotations that many in the public have connected with our Town Manager. When he puts something forward, she is inundated with calls, visitors, and there is not a level of trust there. Fact that Mr. Suso would think the Board is making this up, that we would gain from tearing you down is indicative of the problem. Failing to recognize there is a disconnect with the public is part of what makes this job very hard for the Board. The Board should be able to lean on the Town Manager and it should be a team effort. The Board is in a position that she has not seen in the last six years, she hopes the Town Manager would recognize that there is not a person on this Board who has anything to gain by not being perfectly honest with their perception of the Town Manager's work. Missed opportunity to say what is happening, what is going wrong, and where can we have better communication. She hears from staff, department heads, Townspeople, and not all are negative about Mr. Suso, there are lots of positive things that have happened. When we hear this and are being presented with it, that is part of their evaluation of whether Mr. Suso is able to get important work done for the Town.

Chair Brown said that when he sent the email, he was trying to work towards a solution, instead Mr. Suso sent it to all other Board members. The Board is responsible for any open meeting violation the Town Manager perpetuates even though individually the Town Manager is not. He felt they were not getting information the Board needed to function appropriately. He hoped to build a stronger, better relationship and it turned another way. The way it was handled was unfortunate. Chair Brown feels there is a culture where people do not feel the ability to speak freely, there are control issues, people are not rewarded for being open and candid with the public. There has been little to no action on some items the Board voted on, including; coastal resiliency issues. Nothing in the Board meeting packet on several items last few months, information that should have been in there. Since their problem, it has gotten worse, not better. The problem of Mr. Suso not willing to share information with the Board.

Ms. Scott Price is disappointed at the way Ms. English Braga has been portrayed as retaliatory in this situation. The situation with Chair Brown and emails was one of the most awkward situations she has been in, the Board supporting the Town Manager in that against Chair Brown was the right thing to do. Several comments from her evaluation of Mr. Suso were taken out of context, some things in the summary were things she mentioned. Like anything else, taken out of context of the greater paragraph they were in distorts what they were meant to say. To hear those comments flipped back in a way that is difficult to describe without reading it is frustrating and bring the point there is not opportunity for the growth they would like to see. She included recommendations and examples of how to improve. Ms. Scott Price has spent quite a bit of time talking to people who do not have a lot of trust in the Town Manager's Office.

Mr. Patterson noted he has talked to many citizens, it is not simple. It is a difficult set of complex challenges, and he has run into resistance from Mr. Suso about addressing some things, including creating policy statements in line with what the Board came up with. He has lost the confidence that Mr. Suso has the skillset to manage a complex town like Falmouth with issues that need to be addressed. We are getting behind on them. We need a leader to work with the Town, give the vision and how to balance it fiscally.

Ms. Taylor supported Ms. English Braga's candidacy for Town Counsel, she is glad to have Attorney O'Keefe. Not once was Ms. English Braga retaliatory or spoke negatively; Mr. Suso is way off on that. She spent much time seeing pockets of negativity in the Town, which is expected in certain areas; however, over the past year it has permeated this Town. She spends as much time talking to people trying to present Mr. Suso's argument on how he presents things, she has issues around leadership, such as the DEI position, would have liked to see him get out ahead of that and go for it. The other is the Road Race, the Board was scrambling to meet with FPD Chief and Road Race organizers over the last couple weeks, that was something Mr. Suso could have done.

Ms. English Braga motion to include Mr. Suso's comments in the meeting minutes and Mr. Suso's personnel file. Second Mr. Patterson. Vote: Yes-5. No-0.

6. **Chair Brown motioned to adjourn the open session and convene the executive session under M.G.L. c.30A s.21(a)(2) – To discuss contract negotiations with non-union personnel (Town Manager); discussion and possible vote on action on Town Manager's contract because to not go into executive session could prejudice ongoing negotiations. Ms. English Braga seconded the motion. It was followed by a roll call vote in Open Session to go into Executive Session for the purpose of discussing the above-listed items, and to return to Open Session after discussion. Roll Call Vote: Ms. English Braga, aye; Chair Brown, aye; Mr. Patterson, aye; Ms. Scott Price, aye. Dr. Taylor, aye.**
7. **Chair Brown reconvened the open session.**
8. Select Board final discussion to affirm or modify Town Manager summary evaluation. Final comments from Board members.
9. Discussion and possible vote on action on Town Manager's contract (**15 minutes**)

Ms. English Braga motion to request Mr. Suso resign his employment agreement of March 22, 2021. Second Mr. Patterson. Vote: Yes-5. No-0.

Mr. Suso politely declined and asked the record to show that.

TOWN MANAGER'S SUPPLEMENTAL REPORT

Annual municipal election will be held 5/17/22.

Next regular meeting of the Board will be on 5/23/22.

Town hall and administrative offices closed 5/30 for Memorial Day.

Mr. Suso received a written response from Clean Water Trust offering to work with the Town negotiating the remaining \$2.9 million obligation on Wind 2, procurement, and disposition work on Wind 1 and Wind 2. Mr. Suso clarified the contact with the Clean Water Trust and the \$975,000, that amount is the minimum amount the Clean Water Trust said they would accept in completion of that obligation and still subject to discussion and deliberation with them.

All-purpose trail work begun in preparation for installation of the hawk signal to cross route 28 from the Shining Sea Bikeway into Goodwill Park.

Mr. Suso respectfully declined the suggested request to resign.

SELECT BOARD REPORTS

Mr. Patterson:

This Friday the Cape and Island Municipal Leader's Association meeting will be at 8am at Cape Cod Technical High School and via Zoom.

Chair Brown:

Noted receipt of Dan Gesson's report.

DISCUSSION OF FUTURE AGENDA ITEMS

Dr. Taylor would like the FHS project on civic action to be on the agenda.

Ms. Scott Price would like to have the Affordable Housing Committee meet with the Board along with the Housing Assistance Corporation, which hired a consultant to look at all the land on the Cape and create an overlay map of the vacant land, land that the Cape Cod Commission would like to keep open space, so that it will show the areas that may be available for affordable housing. It would make for a good public workshop.

Mr. Patterson noted the Cape Cod Commission has done studies on how to increase affordable housing and it would be nice to include them in the discussion.

Ms. English Braga motion to adjourn at approximately 10:06pm. Second Mr. Patterson. Vote: Yes-5. No-0.

Respectfully Submitted,
Jennifer Chaves
Recording Secretary