

TOWN OF FALMOUTH
SELECT BOARD
AGENDA
MONDAY, SEPTEMBER 26, 2022 – 7:00 P.M.
SELECT BOARD MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

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

7:00 p.m. OPEN SESSION

1. Call to Order
2. Pledge of Allegiance
3. Proclamations
 - a. Eagle Scout Owen J. Lovell, Boy Scout Troop 40
 - b. Suicide Prevention Month
4. Recognition
5. Announcements
6. Public Comment

7:05 p.m. TOWN MANAGER'S PRELIMINARY REPORT

7:10 p.m. COMMITTEE INTERVIEWS

1. Interview, vote and appoint committee members
 - a. Beach Committee – Mark Twichell

7:15 p.m. PUBLIC HEARINGS

1. Flow Neutral Bylaw – Evaluation of Request for Variance – New Creek LLC – 13 Davis Straits, Falmouth (parcel 39 15 049D 004), continued from August 22, 2022 (15 minutes)
2. Wetlands/Dock – Luciano and Debra Cence – Application for Special Permit to replace a failed stone seawall with vinyl sheet piling bulkhead in the waters of Eel Pond located at 353 Edgewater Drive West, East Falmouth (15 minutes)

7:45 p.m. BUSINESS

1. Approve Interim Town Manager Contract (10 minutes)
2. Update on traffic improvements for the Main St. and Scranton Ave. intersection and Route 28 from Falmouth Heights Rd. – James McLoughlin, DPW/Engineering (15 minutes)
3. Town Manager Hiring Process (10 minutes)
4. Cape Cod Country Club Land Donation Memorandum of Understanding (MOU) (10 minutes)
5. As trustees for the Falmouth Affordable Housing Fund, act on an application from the Falmouth Housing Trust for \$100,000 to create a deed restricted affordable single-family house at 33 Pheasant Lane (10 minutes)
6. Report – Shellfish Advisory Committee (15 minutes)
7. Report – Agricultural Commission (15 minutes)
8. Petition Article Presentations for November 2022 Annual Town Meeting (5 minutes each)
 - a. Article #10 – Fund Mass Cultural Council (Alice Kociemba)
 - b. Article #11 – Repeal plastic water bottle ban (Robert P. Volosevich, Jr.)

- c. Article #12 – Repeal plastic water bottle ban (Dana C. Nielsen)
- d. Article #13 – Adopt bylaw for disposal of firearms (Nan Logan)
- e. Article #14 – Adopt bylaw regulating single-use black plastic containers (Malcolm Donald)

9:35 p.m. CONSENT AGENDA

1. Administrative Orders

- a. Approve application to Community Preservation Fund – Old Burying Ground – Ground Penetrating Radar Survey
- b. Board vote to accept the donation from Lawrence-Lynch Corp. for the paving of the Old Dock Road town parking lot in West Falmouth

2. Review and Vote to Approve Minutes of Meetings: Public Session – February 28, 2022; July 25 2022

9:40 p.m. TOWN MANAGER'S SUPPLEMENTAL REPORT

9:45p.m. SELECT BOARD REPORTS

9:55 p.m. DISCUSSION OF FUTURE AGENDA ITEMS

10:00 p.m. ADJOURN

Nancy R. Taylor, Chair
Select Board

OPEN SESSION

3. Proclamations

- a. Eagle Scout Owen J. Lovell, Boy Scout Troop 40

Boy Scout Troop 40

Lynn A Briggs
Troop Secretary
26 Comanche Drive
Falmouth, MA 02540

phone: (774) 836-8188
e-mail: lynnbdream2@gmail.com



BOY SCOUTS OF AMERICA

September 14, 2022

Nancy R. Taylor, Chair
Falmouth Select Board
59 Town Hall Square
Falmouth, MA 02540

Dear Ms. Taylor,

Owen J. Lovell of Boy Scout Troop 40 of Falmouth, Massachusetts, sponsored by Saint Barnabas Episcopal Church, has progressed through the ranks of scouting, and has achieved the rank of Eagle Scout. Owen is a good citizen and a credit to his community and nation.

Here is a statement from Owen about his Eagle Project and what scouting has done for him:

“My project was building a footbridge on the trail behind Tony Andrews Farm. The original bridge was just two planks across a stream supported by a log in the middle. My father and I spoke to a hiker who said he had skied across the planks, and that he had seen someone cross with a baby carriage. We decided a better bridge was needed. We designed a bridge that had a truss to keep it stiff and eliminated the log in the stream. After getting approval from the Conservation Commission, we pre-assembled the trusses, then drove to the site where the troop and I built the bridge. We had a lot of help, so everything went very well.

My time in scouting has made me more adventurous, and more in touch with nature. As an autistic person, scouting has helped me to improve my social skills and it has made me more confident when talking to people I don't know. Scouts are active in the community, so we get used to talking with people and explaining the things we are doing. The skills I have learned will help me to be independent in the future.”

Please consider presenting a commendation from the town recognizing this fine individual, to be read at his Eagle Court of Honor Sunday, November 27, 2022 @ 2:00 pm @ St. Barnabas Church, Falmouth, MA. He wishes to extend an invitation to attend the ceremony to you as well as your colleagues, Onjale' Scott Price, Samuel H. Patterson, Douglas C. Brown, and Edwin (Scott) P. Zylinski II.

Thank you,

Lynn A Briggs, Troop 40, Boy Scouts of America



PROCLAMATION

WHEREAS: Owen J. Lovell of Boy Scout Troop 40 has successfully completed qualifications for the rank of Eagle Scout, a rigorous and demanding process that teaches patience, perseverance and teamwork, and requires strong goal setting; and

WHEREAS: Owen J. Lovell met these challenges with aplomb and shall be recognized as an outstanding representative of his family, his troop and his community; and

WHEREAS: The Boy Scouts of America, long acknowledged for building fine citizens, calls for Special Court of Honor to award its highest symbol of achievement to those who complete this rank; and

WHEREAS: Owen J. Lovell is now an Eagle Scout with all its rank and privilege;

NOW, THEREFORE, We, Nancy R. Taylor, Onjalé Scott Price, Samuel H. Patterson, Douglas C. Brown and Scott Zylinski as Select Board of the Town of Falmouth, do hereby declare and PROCLAIM

OWEN J. LOVELL AS EAGLE SCOUT

IN WITNESS WHEREOF, we have hereunto set our hand and caused the Great Seal of the Town of Falmouth to be affixed on this 26th day of September, 2022.

Nancy R. Taylor, Chair

Douglas C. Brown

Onjalé Scott Price, Vice Chair

Scott Zylinski

SELECT BOARD

Samuel H. Patterson

OPEN SESSION

3. Proclamations

b. Suicide Prevention Month

Diane Davidson

From: Weir, Maura <mweir@capecod.edu>
Sent: Thursday, September 1, 2022 9:40 PM
To: Weir, Maura
Subject: Suicide Prevention Month Town Proclamation
Attachments: Proclamation Suicide Prevention Month2022.docx; SuicidePreventionSummit_2022.pdf

September 1, 2022

Dear Board of Selectmen:

Each year, we lose more than thirty-five Cape & Island residents to suicide. For each of these suicide deaths, it is estimated more than thirty people are affected. Suicide is a public health issue in our communities; and we need your help to help us reduce the rate of suicide on the Cape and Islands which stands at

In recognition of National Suicide Prevention Month, the Cape & Islands Suicide Prevention Coalition is once again seeking to have September recognized as suicide prevention month in all of the towns on Cape Cod.

We aim to recognize this painful and often hidden part of our communities, to demonstrate our commitment to suicide prevention, and to send a message of hope to those struggling, grieving, or affected in any way by suicide. We know that by decreasing the stigma that surrounds suicide, we increase the likelihood that someone will reach out for help.

Please accept this proclamation request for the selectman's agenda for a September meeting (Sample proclamation wording is attached) we appreciate your consideration for this request, and look forward to hearing from you.

The proclamation can be emailed to me at capeandislandspc@gmail.com or mailed to me at: Cape and Islands Suicide Prevention Coalition, P.O. Box 119, Barnstable, MA 02630.

Please spread the word if you can about the September 8th Suicide Prevention Ribbon Ceremony at 1pm at Cape Cod Community College about the first ever suicide prevention summit on September 16th. I have attached flyer.

Warm Regards,

Dr. Maura Weir
Chair
Cape and Islands Suicide Prevention Coalition



PROCLAMATION

WHEREAS, September is known as Suicide Prevention Month, a time in which mental health advocates, individuals, prevention organizations, survivors, allies and communities around the country unite to promote suicide prevention awareness; and

WHEREAS, the past year has presented our communities with challenges and led to transitions that, expected or unexpected, welcomed or not, can be unsettling, disorienting, and stressful; and

WHEREAS, the pandemic has changed our fabric of life, and major life changes are environmental risk factors for suicide; and

WHEREAS, we know that connecting, working with, and supporting one another can help prepare us for the future; and

WHEREAS, according to the American Foundation for Suicide Prevention (AFSP), Suicide is the 12th leading cause of death among adults, and the 2nd leading cause of death among individuals between the ages of 20 and 34 in the US; and

WHEREAS, nearly 46,000 people died by suicide across the United States in 2020, with an average of 130 suicides completed daily; and

WHEREAS, each suicide directly impacts a minimum of 100 additional people, including family, friends, co-workers, neighbors, and community members; and

WHEREAS, local organizations like the Cape and Islands Suicide Prevention Coalition encourage all residents to take the time to understand the importance of mental health education and recognize that taking care of ourselves and others includes taking care of mental health; and

WHEREAS, the Town of Falmouth publicly places its full support behind those who work in the fields of mental health, education, and law enforcement;

WHEREAS, all Barnstable residents are urged to play a role in suicide prevention and promote mental health and wellness as we strive towards reducing suicides; and

WHEREAS, September is recognized across the United States as Suicide Prevention Month and provides the opportunity to educate our community about the warning signs for suicide and how to reach out and connect to those experiencing an emotional crisis;

NOW, THEREFORE, be it resolved that we, Nancy R. Taylor, Onjalé Scott Price, Samuel H. Patterson, Douglas C. Brown and Scott Zylinski do hereby **proclaim the month of September 2022, as National Suicide Prevention Month.**

IN WITNESS THEREOF, we have hereunto set our hand and caused the great seal of the Town of Falmouth to be affixed on this 26th day of September, 2022.

Nancy R. Taylor, Chair

Douglas C. Brown

Onjalé Scott Price

Scott Zylinski

Samuel H. Patterson

SELECT BOARD

OPEN SESSION

TOWN MANAGER'S PRELIMINARY REPORT



TOWN OF FALMOUTH
Office of the Town Manager & Select Board
59 Town Hall Square, Falmouth, Massachusetts 02540

TO: Select Board
FROM: Peter Johnson-Staub, Acting Town Manager *PJS*
SUBJECT: Preliminary Report for September 26, 2022
DATE: September 23, 2022

AGENDA TOPICS – PRELIMINARY REPORT:

Committee Interviews:

1. There is one applicant for one vacant seat on the Beach Committee.

Public Hearings:

1. Flow Neutral Bylaw – New Creek LLC, 13 Davis Straits. This hearing was continued from the last meeting. Attorneys for the applicant and the Town have not yet reached agreement on the language for a decision that is satisfactory for both parties. I recommend the hearing be continued and expect to have better information on Monday as to a potential date for the continuance.
2. Wetlands/Dock – Luciano and Debra Cence, 353 Edgewater Drive West. This is a request to replace a failed stone seawall in Eel Pond. The Conservation Commission has approved an order of conditions. No concerns were raised with respect to navigation or shellfish resources.

Business:

1. Approve Interim Town Manager Contract:

The agreement incorporating the changes discussed in executive session was submitted to Town Counsel for review on Friday. Maura has suggested some modifications to the Chair and Vice Chair. The draft in the packet does not include the changes proposed by Town Counsel and will likely not be the document that is ultimately executed.

2. Update on proposed improvements for Route 28 Corridor from Falmouth Heights Rd to Sandwich Rd:

Town Engineer Jim McLoughlin and the consulting engineer will describe the proposed improvements for this section of Route 28. The proposal includes adding a traffic signal for the intersection of Scranton Ave and Main Street and a roundabout for the intersection with Falmouth Heights Road.

3. Town Manager Hiring Process:

Town Counsel Maura O'Keefe has assembled information regarding the scope of work that can be provided by an executive search consultant. A sample scope is included in your packet. Ms. O'Keefe reports that from her preliminary research the cost typically has ranged from \$8,500 to \$14,000. She will be present for the meeting and will be prepared to outline the procurement options and timeline.

4. Cape Cod Country Club Land Donation MOU (Memorandum of Understanding):

The solar developer that is seeking to construct a large scale ground mounted solar arrays at the golf course seeks to donate the land (or a portion of it) to the Town and lease back the right to construct and maintain the solar arrays. The donation was reviewed by our land use staff in concept. Associate Town Counsel Brian Tobin has reviewed the MOU as to form and has provided a brief overview for your packet. I recommend approval.

5. Act on application for funds from the Falmouth Affordable Housing Fund (FAHF) from Falmouth Housing Trust for 33 Pheasant Lane:

The Select Board previously voted to approve a Local Initiative Program to designate the existing structure as a deed-restricted affordable home-ownership unit. The owner recently obtained a comprehensive permit from the Zoning Board of Appeals. The Falmouth Housing Trust now seeks \$100,000 from the FAHF to offset a portion of its cost to acquire the property. I have provided a memo recommending approval.

6. Shellfish Advisory Committee:

This is the annual meeting with the Shellfish Advisory Committee. I do not know of any action the Library Board may request of the Select Board.

7. Agricultural Commission:

This is the annual meeting with the Agricultural Commission. I do not know of any action the Library Board may request of the Select Board.

8. Petition Article Presentations:

Four of the five individuals who submitted petition Town Meeting articles will be given an opportunity to present their articles. Traditionally, the Board has not voted its recommendation at the meeting the presentation is made. The Board is scheduled to vote its recommendations October 3rd. Also, please note that the Finance Committee will submit the recommendation to Town Meeting for Article #10 submitted on behalf of the Cultural Commission. The Finance Committee Chair has requested that the Board not vote a recommendation on Article #10.

Consent Agenda:

The consent agenda is unusually brief this week. I recommend approval of both items.

Minutes:

The minutes were inadvertently listed under the consent agenda. We are seeking to hire a second Recording Secretary in order to catch up on minutes and produce them more quickly going forward.

OPEN SESSION

1. Interview, vote and appoint committee members
 - a. Beach Committee – Mark Twichell

9/26/22

Beach Committee (7-member committee) (3-year terms)

One vacant position with an unexpired term ending 6/30/24

One applicant: Mark Twichell



TOWN OF FALMOUTH

**BOARD, COMMITTEE OR COMMISSION
APPLICATION FORM**

If you are interested in serving the Town of Falmouth in any capacity, please fill out this form and mail it to the Select Board, Falmouth Town Hall, 59 Town Hall Square, Falmouth, MA 02540. Information received will be available to all Town Boards and Officials, although the filling out of this form does not assure appointment. If selected for an interview, you may wish to submit a resume or additional information. This form and a listing of all boards and committees can be found on the Falmouth website: www.falmouthma.gov.

Name: Mark Twichell

Address: 77 Portside Circle Village: E. Falmouth ZIP: 02536

Mailing Address: 77 Portside Circle Village: E. Falmouth ZIP: 02536

Telephone: [REDACTED] Email: [REDACTED]

How long have you been a Resident 6 (date: 2016) / Taxpayer 28 (date: 1994)

Amount of time you are available to give: As needed

Town Committee, Board or Commission you are interested in serving on:

1. Beach Committee
2. _____
3. _____

Seeking: Permanent Position Alternate Position

Have you attended any meetings of the committee for which you are applying? Not yet but I will be attending the next meeting.

Relevant affiliation and work and personal experiences: _____

Full-time local Realtor trying to help preserve our natural resources.

Town offices held in Falmouth or elsewhere and dates of years served: N/A

Briefly describe the particular skills you feel you will add to the committee or board: As a local Realtor and 28 years as a home owner/taxpayer, I feel obligated to help preserve, protect, and improve our beaches. Our beaches are the most important natural resources that we have. When people come to Falmouth, they expect clean, safe, accessible, and positive beach experiences. Our beaches and facilities deserve to be protected and preserved for the future.

You may attach a resume to this application.

List three (3) references:

<u>Name</u>	<u>Title</u>	<u>Phone</u>
1. <u>Jack Driscoll</u>	<u>Branch Executive</u>	
2. <u>Michelle Murray</u>	<u>Administrator</u>	
3. <u>William Wishart</u>	<u>Mortgage Broker</u>	

I hereby certify that I have been provided a summary of Massachusetts General Law 268A, the Conflict of Interest of Law, I have read the material provided, and to the best of my understanding have no potential or actual conflict of interest.

I have received a copy of the Select Board's Appointment Policy and read the material provided.

9-8-2022
DATE

Mark Jurchell
APPLICANT'S SIGNATURE

In the event the applicant cannot sign this statement, you should provide an explanation of the reason (s) why if you still wish consideration for appointment.

Town of Falmouth Town Committee Vacancies

The Falmouth Select Board has announced the following vacancy on a town committee:

Committee	Term Until
Beach Committee (1 position)	6/30/24

Applications are available on the Town web site <https://www.falmouthma.gov/647/Town-Committees>, or in the Office of the Select Board, 59 Town Hall Square, Falmouth. The deadline for applications is Friday, September 9, 2022.

Publication date: Friday, August 26, 2022; Falmouth Enterprise.

PUBLIC HEARINGS

1. Flow Neutral Bylaw – Evaluation of Request for Variance – New Creek LLC – 13 Davis Straits, Falmouth (parcel 39 15 049D 004), continued from August 22, 2022 (15 minutes)

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Select Board of the Town of Falmouth will hold a public hearing on Monday, August 22, 2022 at 7:30 p.m. in the Select Board Meeting Room, Town Hall, Falmouth, MA on the application of New Creek LLC for a wastewater flow variance under Chapter 180, Section 56 of the Code of Falmouth, the so-called Flow Neutral By-law, for mixed residential commercial overlay district development with affordable rental housing at 13 Davis Straits in said Falmouth (parcel 39 15 049D 004).

Per Order of the Select Board

Publication date: Friday, August 5, 2022, Falmouth Enterprise

Account #: 2056

AMENT KLAUER LLP

Attorneys at Law
39 Town Hall Square
Falmouth, MA 02540

Robert H. Ament, Esq.
Kevin P. Klauer II, Esq.
Matthew M. Terry, Esq.

Telephone (508) 540-6555
Fax (508) 457-1293
Website: www.amentklauer.com

August 31, 2022

Maura O'Keefe, Town Counsel
Brian Tobin, Assistant Town Counsel
Office of the Falmouth Town Counsel
157 Locust Stret
Falmouth, MA 02540

Re: Suggested Motion for Select Board variance for New Creek LLC, 13 Davis Straits, under Flow Neutral Bylaw

Dear Maura and Brian:

On August 22 the Select Bord continued its hearing on the request of my client New Creek LLC for a variance under Code Sections 180-55 and 180-56 to allow increased redevelopment at Falmouth Plaza. New Creek proposes to build an apartment building under the Mixed Residential Commercial Overlay District, as well as a bank on Davis Straits. A continuance for six months was suggested by Wastewater Superintendent Amy Lowell in her memo to the Select Board on August 17, 2022, to give the Town time to evaluate the capacity of the Robbins Road lift station to receive and forward the increased volume of sewer flow from the redevelopment of Falmouth Plaza and from other properties. However, in order to move the MRCOD project along, I asked the Select Board to consider granting the requested variance, but conditioned on the lift station issue being evaluated and addressed before a Sewer Connection Permit would issue. The Select Board then continued the matter until September 26, 2022, which would allow the Select Board to receive your advice. I believe the intent was that a draft variance decision might be prepared that, if adopted by the Select Board, would allocate increased sewer flow to the New Creek project, but on appropriate protective conditions due to the lift station issue.

I've attached a copy of the variance request letter I sent Peter Johnson-Staub on July 18, 2022, and Ms. Lowell's memo of August 17, 2022.

Attached is a suggested motion for your consideration. I look forward to hearing from you regarding this mater.

Very truly yours,

Robert H. Ament

cc. Donny Lo, Kimco Realty
Amy Lowell, Wastewater Superintendent
Peter Johnson-Staub, Acting Town Manager

**Proposed motion for Select Board grant of variance under Falmouth Town
Code Sections 180-55 and 180-56 (“Flow Neutral Bylaw”)**

1. WHEREAS, New Creek LLC proposes to construct an apartment building at 13 Davis Straits (“the Property”) with up to 156 rental apartments (“the Apartment Building”) and a bank of about 3,432 square feet (collectively “the Project”);
2. WHEREAS, (a) the apartments are proposed to be developed in accord with the Mixed Residential Commercial Overlay District Zoning Bylaw adopted by Falmouth Town Meeting in November 2021, Town Code Section 240-256 et sec., and (b) such housing will include a minimum of 25% affordable rental units; and (c) the Project will be redevelopment of an existing commercial parcel almost fully covered by structure and pavement, and (d) the Project is located in an appropriate location in terms of availability of public transportation, shopping, job opportunities and recreational facilities that tenants may utilize;
3. WHEREAS, the Property is served by the Town of Falmouth Municipal Sewer System (“the Sewer System”) and effluent from the Property passes through a lift station in Robbins Road (“the lift station”) on its way to the Sewer System’s treatment and discharge facility in West Falmouth (“the treatment facility”);
4. WHEREAS, while the capacity of the treatment facility has been reported by the Wastewater Superintendent to be sufficient to accept the Project’s wastewater; the lift station may not have the capacity to receive and send onto the treatment facility the proposed increase in wastewater from the Property that will result from occupancy of the apartment building; and
5. WHEREAS, New Creek agrees with the Town that the Project can be constructed and occupied only if the capacity of the lift station is determined by the Town to be adequate to receive and forward the Project’s wastewater flow, or if the lift station’s capacity is expanded to be sufficient to receive such flow in the opinion of the Wastewater Superintendent, or if such flow can be directed into and through the Sewer System other than through the lift station, by a method satisfactory to the Wastewater Superintendent.

NOW, THEREFORE the Select Board grants to New Creek LLC a variance pursuant to Town Code Sections 180-55 and 180-56 to allow an increase in sewer flow for premises located at 13 Davis Straits, Falmouth, MA, to serve the following redevelopment at 13 Davis Straits, Falmouth, MA:

- Up to 156 apartments of which 25% will be affordable as defined in the Zoning Bylaw, with up to 250 bedrooms, for which Title 5 design flow is 27,500 gallons per day
- A bank of about 3,432 square feet, for which Title 5 design flow would be about 258 gallons per day

As construction of the apartments will replace restaurant, retail and salon uses which have design flow of 7,936 gallons per day, the net increase in flow hereby allowed by this variance, is 19,822 gallons per day.

APPROVED with the following conditions:

1. A Sewer Connection Permit will be issued by the Wastewater Superintendent only when she has determined that the capacity of the lift station is adequate to receive and forward the Project's wastewater flow, or if the lift station's capacity is expanded to be sufficient to receive such flow, or if such flow can be directed into and through the Sewer System other than through the lift station, by a method satisfactory to the Wastewater Superintendent.
2. The Town shall not be obligated to design, allocate funds for nor construct expansion of the lift station or any other improvements deemed by the Town to be required and sufficient for the connection of the Project to the Sewer System, on a schedule that would coincide with New Creek's preferred time frame for the Project.
3. The Property Owner will need to apply to the Wastewater Division for a sewer connection modification permit, and the application will need to include engineered plans for revision to the existing sewer connection and/or revisions to the Sewer System for the Project, such plans to be satisfactory in all respects to the Wastewater Superintendent.
4. Nothing set forth herein shall preclude connection of the proposed bank to the Sewer System, if such development precedes construction of the proposed apartments, without complying with the foregoing conditions, as the increase in flow associated only with the bank would be allowed under Section 180-55C.(1)(a) without requiring a variance.

PUBLIC HEARINGS

2. Flow Neutral Bylaw – Evaluation of Request for Variance – New Creek LLC – 13 Davis Straits, Falmouth (parcel 39 15 049D 004) (15 minutes)

Documents from
August 22, 2022
packet

§ 180-56 Variances in sewer service areas.

A.

The Board of Selectmen, after a public hearing of which notice has been given by publication 1) in a newspaper of general circulation and 2) posting with the Town Clerk and on the Town website for a period of no less than fourteen (14) days prior to the date of hearing, may grant a variance, provided both Subsection A(1) and (2) below are satisfied:

(1)

Sufficient capacity exists in the treatment facility, as determined by the Wastewater Superintendent. If sufficient capacity does not exist then no variance shall issue.

(2)

Should the Wastewater Superintendent determine sufficient capacity exists the applicant must then demonstrate, through a positive referral from the Board of Health, that a septic system for the total number of bedrooms or nonresidential flow requested, meeting the provisions of 310 CMR 15.000 (Title 5) without significant variances, can be sited on the parcel. If the Board of Health does not make a referral within 45 days of receipt of the request, it shall be considered a positive referral.

B.

The Board of Selectmen may, at its sole and absolute discretion, issue a variance that in its judgment could be granted without substantially derogating from the intent or purpose of this bylaw should the applicant fail to satisfy criteria in § 180-56A(2) above.

FLOW NEUTRAL BYLAW
GUIDELINES TO SELECT BOARD FOR WAIVER/VARIANCE CONSIDERATION
Presented to Select Board for Discussion Purposes 6-4-18

Suggested Process:

1. Select Board receives confirmation from Board of Health that proposed development can be accommodated with an on-site Title 5 system as well as confirmation from wastewater superintendent that sufficient capacity exists in the treatment facility.
2. Select Board holds Public Hearing on proposed development.
3. Priority areas for waiver/variance consideration:
 - Economic Development. Wastewater connections that will provide significant year-round economic benefit to the Falmouth community. This should be documented with supporting data on employment, revenue generated, taxes paid, etc.
 - Affordable Housing. Wastewater connections that address affordable housing goals as described in the Local Comprehensive Plan and Housing Production Plan. In the case of a project subject to the MGL Ch. 40B comprehensive permit process, the Zoning Board of Appeals assumes the power of the Select Board and grants or denies the waiver/variance request.
 - Mixed Use Development in Business Redevelopment Zone. Wastewater connections which include mixed commercial use on the lower level with residential units above. This is consistent with the zoning bylaw and the Local Comprehensive Plan envisioned by the Planning Board for the eastern portion of the Main Street corridor.
 - Municipal Use.

Note: Process above adopted by Falmouth Select Board on 6-4-18.

AMENT KLAUER LLP

Attorneys at Law
39 Town Hall Square
Falmouth, MA 02540

Robert H. Ament, Esq.
Kevin P. Klauer II, Esq.
Matthew M. Terry, Esq.



Telephone (508) 540-6555
Fax (508) 457-1293
Website: www.amentklauer.com

July 18, 2022

Peter Johnson-Staub, Acting Town Manager
Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540

Re: Application under Flow Neutral Bylaw for Mixed Residential Commercial Overlay District development with affordable rental housing at 13 Davis Straits Assessors Parcel 39 15 049D 004

Dear Peter:

Our client, New Creek LLC, an ownership entity of Kimco Realty, a publicly traded real estate investment trust, owns the 9.267± acre property on Davis Straits known as Falmouth Plaza. The street addresses of New Creek's property extend from 5 Davis Straits to 35 Davis Straits, with the exclusion of 11 Davis Straits. Attached is a copy of the Town GIS map showing the New Creek property.

Falmouth Plaza is in the Business 2 Zoning District and the Mixed Residential Commercial Overlay District adopted by Town Meeting in November 2021. New Creek proposes to redevelop a portion of the property pursuant to the MRCOD bylaw. The former Friendly's restaurant building (5 Davis Straits), Staples (7 Davis Straits), and three additional storefronts will be removed, making room for a new multi-family dwelling, designed in compliance with the MRCOD bylaw, with up to 156 rental apartments having a total of up to 250 bedrooms. One-fourth of the apartments (39 of 156 apartments) will be affordable units, and all of the apartments will be added to the Town's Subsidized Housing Inventory.

In addition to the proposed housing, New Creek is considering constructing a small commercial building along Davis Straits, for a bank or financial services. That building, with a footprint of about 3,000 square feet, would be on some of the current excess parking along Davis Straits. It would also be designed in accordance with the MRCOD bylaw, as applicable.

Falmouth Plaza is connected to the municipal sewer. The Title 5 design flow for an apartment building with 250 bedrooms is 27,500 GPD. The design flow for the proposed bank building would be about 250 GPD. Together the design flow from the two proposed buildings is up to 27,750 GPD.

The Title 5 design flow from the structures to be removed is calculated as follows:

• Restaurant, 139 seats:	4,865 GPD
• Retail (Staples and Olympia Sports), 31,425 s.f.:	1,571 GPD
• Barber shop and nail salon (15 chairs):	<u>1,500 GPD</u>
Total Existing Flow from Structures to be Removed	7,936 GPD

Falmouth Plaza is connected to the municipal sewer, of course, and the proposed uses must also utilize the sewer. The increased design flow associated with the proposed redevelopment will be up to 19,814 GPD.¹ That increase will require a variance from the Select Board under the Flow Neutral Bylaw, Falmouth Code Section 180-51 et sec.² However, under Code Section 180-55.B., in a Business district, a new multifamily dwelling with six units per acre is allowable, and three bedrooms per permitted unit are allowed by right. Thus, on a 9.27-acre parcel, 55 units could be allowed, with 165 bedrooms and design flow of 18,150 GPD. While New Creek requests a variance to allow increased flow of up to 19,789 GPD, the additional flow beyond what would be allowed by right plus the credit for flow from existing structures to be removed will be only 1,639 GPD.

Per Code Section 180-56A.(1), to grant a variance the Select Board must obtain the determination of the Wastewater Superintendent that sufficient capacity exists in the municipal treatment facility. Being able to connect to the sewer is a prerequisite for MRCOD projects such as we are proposing, which Town Meeting contemplated in adopting the overlay district.

The number of proposed apartments is such that the design flow exceeds 10,000 GPD and therefore the redevelopment could not be served by a Title 5 septic system.

Please make the appropriate referrals so that this request for a variance under the Flow Neutral Bylaw can be scheduled for hearing as soon as possible, and let me know the hearing date. Please contact me with any questions. Thank you for your assistance.

Very truly yours,



Robert H. Ament

RHA/gmb

cc: Donny H.F. Lo, LEED AP,
Director of Development/Regional Construction, Kimco Realty
Jed Cornock, Town Planner
Scott McGann, Health Agent
Amy Lowell, Wastewater Superintendent

¹ Flows from the existing commercial uses (restaurant, fitness and retail) shown as 25-35 Davis Straits on the attached GIS map are not included in these calculations and will continue.

² The small increase in flow from the proposed bank, by itself, would not require a variance, under Code Section 180-55.C.



TOWN of FALMOUTH

DEPARTMENT OF PUBLIC WORKS, WASTEWATER DIVISION
416 GIFFORD STREET, FALMOUTH, MASSACHUSETTS 02540
TELEPHONE (508) 457-2543

AMY LOWELL
WASTEWATER SUPERINTENDENT

Date: August 17, 2022

To: Select Board, Acting Town Manager

cc: Health Agent, Town Planner, Attorney Bob Ament

Re: Flow Neutral Bylaw Variance Request – 13 Davis Straits

I received a referral under the Flow Neutral Bylaw regarding proposed redevelopment of the above property. The property is within an existing sewer service area and the existing buildings are connected to the municipal sewer system. Based on the previous and proposed uses for this property described in a letter from Attorney Robert Ament to the Town Manager dated July 18, 2022, the previous and proposed Title 5 design flows for the property are as follows, in gallons per day (gpd):

Previous		Proposed	
Use	Flow (gpd)	Use	Flow (gpd)
Friendly's restaurant (139 seats)	4,865	Residential (250 bedrooms)	27,500
Retail 31,425 sq ft (Staples + Olympia)	1,571	Office 3,000 sq ft (bank)	225
Barber shop + nail salon (total 15 chairs)	1,500		
Total	7,936	Total	27,725

This would be a Title 5 design (i.e. peak) wastewater flow increase of 19,789 gallons per day. Because this is a more than 10% increase in Title 5 design flow, this redevelopment requires a flow neutral bylaw variance. A precondition for the Select Board to grant a variance to the flow constraints of the Flow Neutral Bylaw is that "Sufficient capacity exists...as determined by the Wastewater Superintendent."

Previous flow neutral bylaw variance referral letters from the Wastewater Division have referred to the limitation imposed by the groundwater discharge permit for the Main WWTF because in most areas of the sewer system that is the most limiting factor. However, wastewater from 13 Davis Straits flows to the Inner Harbor sewer lift station on Robbins Road, and peak flow to the Inner Harbor lift station is near lift station capacity. Addition of the peak flow from the proposed redevelopment at 13 Davis Straits could cause total peak flow to the Inner Harbor lift station to exceed the station's capacity, which could cause sewer back-ups/overflows.

To address this issue, the Wastewater Division has developed a scope for an engineering evaluation of the current capacity of the Inner Harbor lift station, of future projected flow under current zoning (including the new MRCOD overlay), and of alternative options to address this capacity limitation. This evaluation will take six months to complete. **It is recommended that the Select Board postpone a decision on this variance request until this evaluation is completed.**

Diane Davidson

From: Scott McGann
Sent: Friday, August 12, 2022 11:28 AM
To: Diane Davidson; Bob Ament
Cc: Peter Johnson-Staub; Amy Lowell; Maura O'Keefe; Brian Tobin
Subject: 13 Davis Straits Flow Neutral Bylaw

Per the Flow Neutral Bylaw, the Board of Health does a referral to the Selectboard on whether a Title 5 system would or would not fit on the lot. However, this proposal is over 10,000 gallons per day and a septic system would not be allowed as that capacity triggers a groundwater discharge permit through MADEP. I don't see a need to have a referral as that disposal system, if proposed, would not fall under Title 5.

Let me know if anything else is needed on this.

Scott McGann R.S.
Director/ Agent
Falmouth Health Department
59 Town Hall Square
Falmouth, MA 02540
508-495-7485
scott.mcgann@falmouthma.gov

Diane Davidson

From: Joe Netto <joenetto@comcast.net>
Sent: Monday, August 22, 2022 11:51 AM
To: Falmouth Selectboard
Cc: Peter Johnson-Staub; Peter McConarty
Subject: flow neutral bylaw

To the Honorable Board of Selectmen;

I see that your Board is being asked for a variance to the flow neutral bylaw for 13 Davis Straits. I would ask your board to delay making any decision on another variance for our sewer system. As someone who has a home on this system-"Little pond sewer project" I am familiar with how the addition of the Heights sewer was planned. All of the properties to be tied into the "new" system where given an ESU equivalent sewer unit to plan for further expansion of our present sewer system.

Since the completion of this project LARGE developments have been created or are in the plans, as seen by tonights agenda item. Also we have tragically learned that our sewer system plant was not up to code,not removing enough nitrogen from from the treated water 40% of its operational time. Hence we see the tragic degradation of West Falmouth Harbor receiving this extra nitrogen from our sewer plant. As a Town Meeting member I have voted for millions of dollars to be spent upgrading our sewer plant-so I ask is it fixed?? If not 100% operational we should not be contemplating adding any MORE hook ups that where not planned. It takes 8 years for the groundwater that leaves the plant to reach West Falmouth Harbor.

My question to your Board is "How many more units have been connected to the plant that where not planned for"? Case in point is Helmis Circle- 7 ESU where the original plan-but guess what-40B came along and 28 house are being built instead of 7. Was Little Pond Landing planned for or did they get in increase variance?? Also the corner of Main St. and Scranton Avenue is now going to be senior Housing-what where the ESU associated with that parcel. Plus the Planning Board Bylaw change at last T.M. is severely over working our sewer plant that cannot discharge ALL the wastewater that this bylaw has created. Why should the FALMOUTH taxpayer foot this bill-let the developers pay their way.

Your Board is being asked to grant a Flow neutral variance tonight-but where is the plan? I ask you to not vote this tonight-we need many of these questions answered and a full projection of future growth of our sewer system that the Planning Board DID NOT PLAN FOR!

From the land of the retired
Joe Netto

PUBLIC HEARINGS

2. Wetlands/Dock – Luciano and Debra Cence – Application for Special permit to replace a failed stone seawall with vinyl sheet piling bulkhead in the waters of Eel Pond located at 353 Edgewater Drive West, East Falmouth (5 minutes)



TOWN OF FALMOUTH

Office of the Town Manager & Select Board

59 Town Hall Square, Falmouth, Massachusetts 02540

Telephone (508) 495-7320

Fax (508) 457-2573

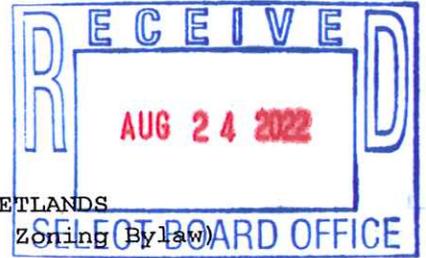
PUBLIC HEARING NOTICE

The Falmouth Select Board will hold a public hearing under Section 240-14.8 (Wetlands Regulations) of the Zoning Bylaws of the Town of Falmouth on Monday, September 26, 2022 at 7:15 p.m. in the Select Board Meeting Room, Falmouth Town Hall, 59 Town Hall Square on the application of Luciano and Debra Cence for permission to replace a failed stone seawall with vinyl sheet piling bulkhead, located at 353 Edgewater Drive West, East Falmouth, MA. Area affected is Eel Pond. Interested parties may review the file on this hearing at the Office of the Select Board.

Per Order of the
Select Board

Publication dates: Friday, September 9, 2022 and Friday, September 16, 2022; Falmouth Enterprise.

TOWN OF FALMOUTH
BOARD OF SELECTMEN



APPLICATION FOR PERMIT TO DREDGE, FILL OR OTHER ALTER WETLANDS
(As required under Section 240-77 (Wetland Regulations) of the Zoning Bylaw)

To the Board of Selectmen
Falmouth, MA

TOWN CLERK
AUG 31, 2022 PM 2:45
RECEIVED

Date: August 11, 2022

The undersigned hereby applies to the Board of Selectmen as required by Section 240-77 of the Zoning Bylaws, for a permit to alter, as indicated below, the following described premises:

OWNER: Luciano & Debra Cence ³²¹ 312 Great Road, Maynard, MA 01754
(full name) (address)

AGENT: Thomas J. Bunker, PLS 164 Katharine Lee Bates Road, Falmouth
(full name) (address)

APPLICANT: Luciano & Debra Cence 312 Great Road, Maynard, MA 01754
(full name) (address)

1. Location of Property: Map 41 Section 06 Parcel 000 Lot 058

Street Name and House Number 353 Edgewater Drive West, Falmouth

2. Body of water, marsh or stream affected: Eel Pond

3. Description of property and project site: Developed with Single Family house

a. Dimensions, Acreage of total parcel: 20,300 sf (0.47 Acres)

b. Length of water marsh frontage: 141

c. Dimensions of area to be dredged: None Depth N/A

d. Dimensions of area to be filled: None

e. Volume of dredging spoil to be moved: None

APPLICATION FOR PERMIT TO DREDGE, FILL OR OTHERWISE ALTER WETLANDS
(As required under Section 240-77 (Wetland Regulations) of the Zoning Bylaw)

Disposition of Spoil: No Spoils

f. Describe proposed riprap or bulkheading, if any: Vinyl sheet piling

g. Other (docks, piers and etc.) _____

h. Method (equipment to be used) for proposed work: Mini excavator with vibrating driver

4. Purpose of proposed work: Replace failing stone wall with vinyl sheet piling

5. Zoning which governs area: RC

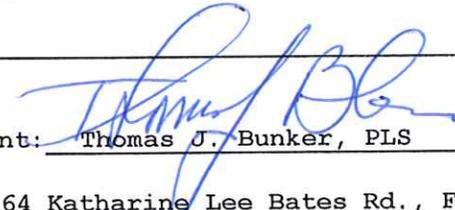
6. Date of application for permit to dredge or fill from the Commonwealth of Mass. No dredging or fill Army Engineers N/A

7. Has a permit ever been approved or refused for this location by State, Federal or Local Authority? Approved from Conservation expected soon, no other permits have been applied for

8. Remarks _____

9. Project Summary for legal notice: This project is to replace failed stone seawall with vinyl sheet piling bulkhead

Owner: Luciano & Debra Cence
321 312 Great Rd., Maynard, MA 01754
(Name & Address)

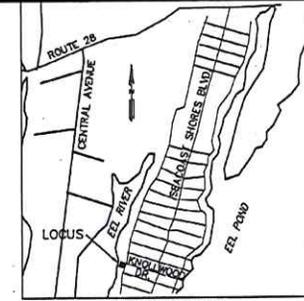
Agent:  Thomas J. Bunker, PLS
164 Katharine Lee Bates Rd., Falmouth
(Name & Address)

TEL #: 617-909-1318

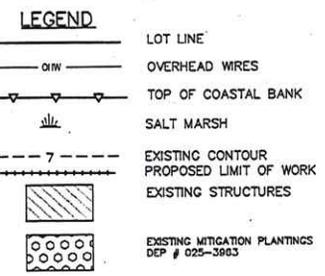
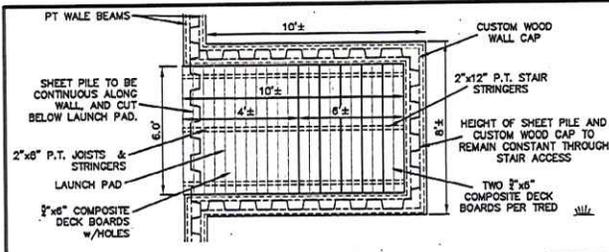
TEL #: 508-540-8805

Applicant: Luciano & Debra Cence
312 Great Road
Maynard, MA 01754
(Name & Address)

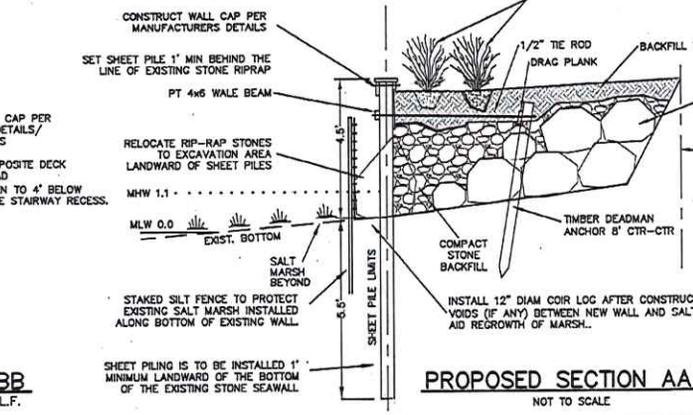
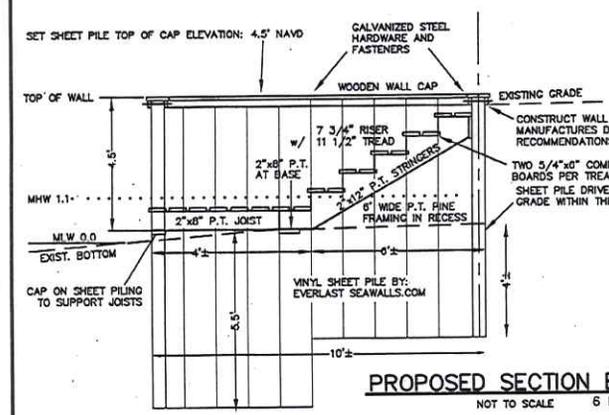
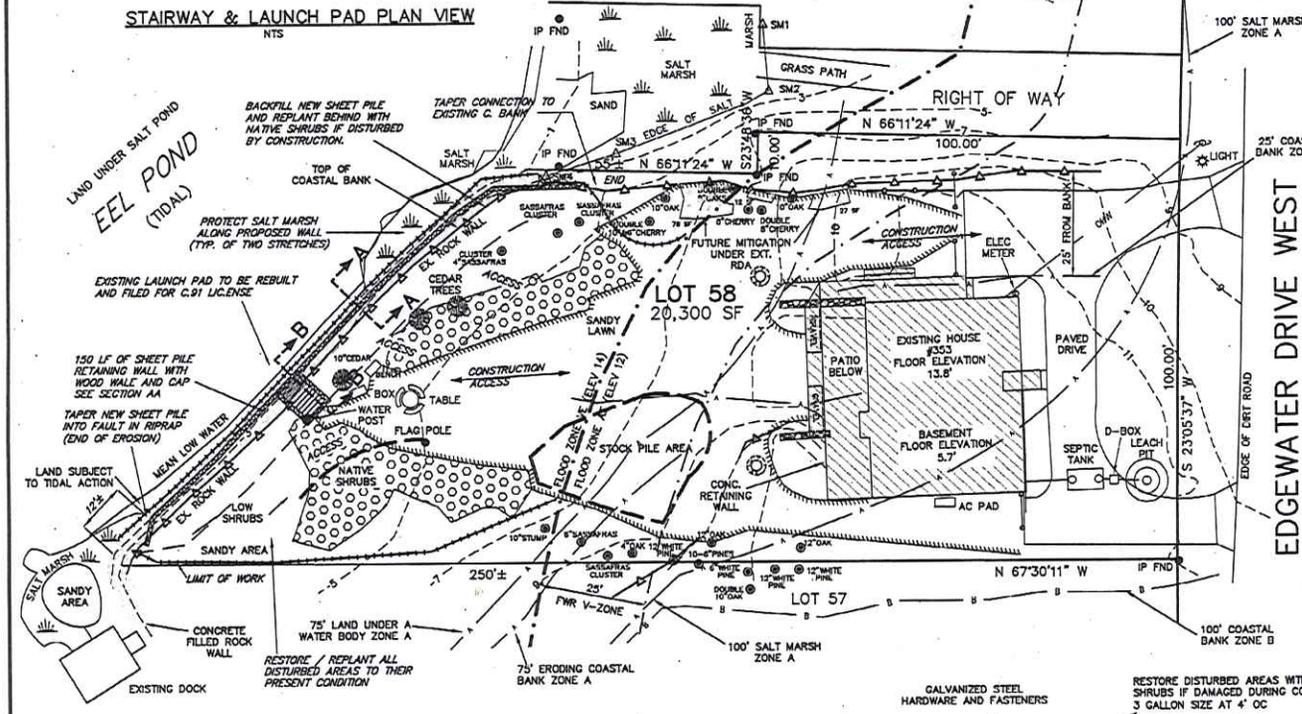
TEL #: 617-909-1318



- NOTES:**
- REPLACEMENT OF STONE SEAWALL WITH SHEET PILE SHALL BE DONE IN APPROX. 40' SECTIONS. BACKFILL ONE WHILE EXCAVATING THE NEXT. TRANSPLANT SHRUBS WHERE POSSIBLE. REMOVED NATIVE STONES SHALL BE BURIED LANDWARD OF INSTALLED SHEET PILE.
 - PAY SPECIAL ATTENTION TO PROTECTING THE SALT MARSH. ALL WORK IS TO BE DONE FROM THE UPLAND USING RUBBER TIED BACKHOE AND MINI EXCAVATOR.
 - REPLANT ALL DISTURBED AREAS WITH SHRUBS AND REPLACE SEVERELY DAMAGED TREES TO ESTABLISH COMPARABLE NATIVE VEGETATION AS NOW EXISTS



- NOTES:**
- LOCUS IDENTIFICATION:
HOUSE No. 353 EDGEWATER DRIVE WEST
ASSESSORS No. 41 06 000 058
LOT 58 PLAN BOOK 78 PAGE 11
 - LOCUS IS WITHIN:
ZONING DISTRICT: RC
FLOOD ZONES: VE (ELEV 14) & AE (ELEV 12)
BUILDING CODE WIND EXPOSURE CATEGORY: C
COASTAL POND OVERLAY DISTRICT (EEL POND)
WIND-BORNE DEBRIS REGION
 - LOCUS IS NOT WITHIN:
WATER RESOURCE PROTECTION DISTRICT
ZONE II OF A PUBLIC WATER SUPPLY
WILDLIFE CORRIDOR OVERLAY DISTRICT
ENDANGERED SPECIES HABITAT
 - ELEVATIONS ARE BASED ON NAVD UNLESS NOTED OTHERWISE.
 - SEPTIC SYSTEM WAS DRAWN FROM SEWAGE DISPOSAL SYSTEM PLAN BY CHARLES SPOHR DATED SEPT 25, 1981 AND HAS NOT BEEN VERIFIED



RESTORE DISTURBED AREAS WITH NATIVE SHRUBS IF DAMAGED DURING CONSTRUCTION, 3 GALLON SIZE AT 4' OC

EXCAVATE TRENCH ROUGHLY 16' LANDWARD OF EXISTING WALL. BREAK APART AND PULL THE WALL STONES INTO THE TRENCH. INTERSPERSE WITH SAND TO FILL VOIDS BETWEEN THE STONES. DO NOT BURY ANY DELETERIOUS MATERIALS.

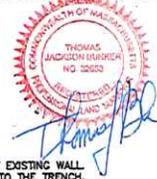
EXCAVATION AREA 10'± LANDWARD OF SHEET PILE

MITIGATION CALCULATIONS:
THE FOOTPRINT OF THE EXISTING STONE SEAWALL (AS LOCATED IN 2013) COVERS APPROXIMATELY 360 SF. THE PROPOSED SHEET PILE SEAWALL, STAIRS AND LAUNCH PAD COVER 220 SF. COVERAGE WILL DECREASE BY MORE THAN 300 SF, THEREFORE NO MITIGATION IS REQUIRED.



PLOT PLAN - SEAWALL RECONSTRUCTION
AT
353 EDGEWATER DRIVE WEST
EAST FALMOUTH, MASSACHUSETTS
PREPARED FOR
DEBRA & LUCIANO CENCE

scale	1" = 20'
date	JUNE 8, 2022
drawn	TJB/JER
checked	TJB
job number	22014
revisions	
title	SEAWALL RECONSTRUCTION
drawing number	B28-155



August 16, 2022

Town of Falmouth
Board of Selectmen
59 Town Hall Square
Falmouth, MA 02540

Re: 353 Edgewater Drive West

To whom it may concern:

We, Luciano & Debra Cence being the owners of the property at 353 Edgewater Drive West, Falmouth, MA, give permission to Thomas J. Bunker, PLS, of BSS Design, Inc. to represent us regarding the application and hearing for the Selectmen's Wetland Permit.

Sincerely,

A handwritten signature in cursive script, appearing to read "Debra Cence". The signature is written in black ink and is positioned below the word "Sincerely,".

Luciano & Debra Cence
321 Great Road
Maynard, MA 01754

cc: BSS Design, Inc.



FALMOUTH CONSERVATION COMMISSION

59 Town Hall Square, Falmouth, Massachusetts 02540
(508) 495-7445

August 16, 2022

Luciano & Debra Cence
312 Great Rd
Maynard, MA 01754

RE: 353 Edgewater Drive West, Falmouth, MA
DEP# 25-4765

Dear Luciano & Debra Cence:

Enclosed please find a copy of the Order of Conditions. Please obtain the plan of reference for your approved project from your representative. This Order is valid for three years from its date of issuance. The original permit will need to be registered at the Registry of Deeds. Proof of Recording must be submitted to the Conservation Commission office.

Please read the Order of Conditions and Plan carefully and refer to them often. Your contractor must have a copy of the Order of Conditions and the Conservation Permit posted on-site throughout the duration of the project. As the property owner it is ultimately your responsibility to ensure that work be done according to all Standard and Special Conditions and according to the Plan of Reference. If you decide to sell your property, please transfer the Order and the Plan of Reference to the new owner.

When all work under the approved permit, including landscaping, has been completed on the project, the proper procedure is for your representative (the engineer) to apply to the Conservation Commission for a Certificate of Compliance. The engineer must submit a signed statement that all work has been completed according to the Plan of Reference and noting any deviation from the plan. The representative (engineer) is the point of contact with the Conservation Commission and should coordinate with you throughout the duration of the project until a Certificate of Compliance is issued. Your representative will register the Certificate of Compliance in the Registry of Deeds. Proof of Recording must be submitted to the Conservation Commission office.

Thank you for taking the time to read this letter. By complying with the Wetland Protection Act and the Falmouth Wetland Bylaw and Regulations you are helping to maintain a high quality of life for yourself and others in the Town of Falmouth.

Sincerely,

Jennifer L. Lincoln, Conservation Administrator
Falmouth Conservation Commission

Cc: BSS Design



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 25-4765
 MassDEP File #
 1357278
 eDEP Transaction #
 Falmouth
 City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
 Barnstable
 a. County Barnstable b. Certificate Number (if registered land) 265
 28449
 c. Book 28449 d. Page 265
7. Dates: 06/08/2022 6/29/2022 8/16/2022
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
 Plot Plan Seawall Reconstruction
 a. Plan Title Plot Plan Seawall Reconstruction
 b. Prepared By BSS Design, Inc c. Signed and Stamped by Thomas J Bunker, PLS
06/08/2022 1"=20'
 d. Final Revision Date e. Scale
- f. Additional Plan or Document Title _____ g. Date _____

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:
 Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:
- a. Public Water Supply b. Land Containing Shellfish c. Prevention of Pollution
 d. Private Water Supply e. Fisheries f. Protection of Wildlife Habitat
 g. Groundwater Supply h. Storm Damage Prevention i. Flood Control
2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
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 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____ a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	_____ a. linear feet	_____ b. linear feet	_____ c. linear feet	_____ d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
	_____ e. c/y dredged	_____ f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	_____ a. square feet	_____ b. square feet	_____ c. square feet	_____ d. square feet
Cubic Feet Flood Storage	_____ e. cubic feet	_____ f. cubic feet	_____ g. cubic feet	_____ h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	_____ a. square feet	_____ b. square feet		
Cubic Feet Flood Storage	_____ c. cubic feet	_____ d. cubic feet	_____ e. cubic feet	_____ f. cubic feet
9. <input type="checkbox"/> Riverfront Area	_____ a. total sq. feet	_____ b. total sq. feet		
Sq ft within 100 ft	_____ c. square feet	_____ d. square feet	_____ e. square feet	_____ f. square feet
Sq ft between 100-200 ft	_____ g. square feet	_____ h. square feet	_____ i. square feet	_____ j. square feet



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

25-4765

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Falmouth

City/Town

B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment cu yd	<u> </u> d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment cu yd	<u> </u> d. nourishment cu yd
15. <input checked="" type="checkbox"/> Coastal Banks	<u>140</u> a. linear feet	<u> </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u> a. square feet	<u> </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u> </u> a. c/y dredged	<u> </u> b. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	<u>560</u> a. square feet	<u> </u> b. square feet		
22. <input type="checkbox"/> Riverfront Area	<u> </u> a. total sq. feet	<u> </u> b. total sq. feet		
Sq ft within 100 ft	<u> </u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
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Falmouth
City/Town

B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 8/16/2025 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number 25-4765 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

25-4765

MassDEP File #

1357278

eDEP Transaction #

Falmouth

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) is subject to the Massachusetts Stormwater Standards
- (2) is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



Massachusetts Department of Environmental Protection
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

(see attached)

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The Falmouth hereby finds (check one that applies):
Conservation Commission

- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

1. Municipal Ordinance or Bylaw

10.00

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):



FALMOUTH CONSERVATION COMMISSION

59 Town Hall Square, Falmouth, Massachusetts 02540

(508) 495-7445

Luciano and Debra Cence
353 Edgewater Drive East
DEP # 25-4765

FINDINGS:

1. The applicant proposes to remove an existing stone seawall and replace with sheet piling wall with access steps, install coir fiber rolls between sheet pile wall and salt marsh, rebuild launch pad no closer to resource area than sheet piling wall.
2. An area of previous required mitigation planting for DEP 25-3963 is missing.
3. Resource areas onsite and within 100 feet of the proposed project include Land Under Ocean, Land Under Salt Pond, Coastal Beach, Coastal Bank, Land Subject to Coastal Storm Flowage (LSCSF), Salt Marsh and Resource Area Buffer.

INTERESTS

1. Storm Damage Prevention
2. Flood Control
3. Pollution Prevention
4. Protection of private and public water supply
5. Protection of groundwater
6. Protection of fisheries
7. Protection of land containing shellfish
8. Protection of wildlife habitat

STANDARD CONDITIONS

1. Permission is granted to Luciano and Debra Cence, 353 Edgewater Drive East Falmouth, MA, to remove an existing stone seawall and replace with sheet piling wall with access steps, install coir fiber rolls between sheet pile wall and salt marsh, rebuild launch pad no closer to resource area than sheet piling wall according to the narrative and plan prepared by BSS Design, Inc., dated June 8, 2022 and

entitled "Plot Plan- Seawall Reconstruction" and subject to the following Standard and Special Conditions.

2. This Order is issued pursuant to Mass. General Laws, Chapter 131, sec. 40, the Wetlands Protection Act and Chapter 235 of the Code of Falmouth the Wetlands Bylaw. The Wetlands By-law is more stringent than the Wetlands Protection Act as permitted by that Act. The Conservation Commission reserves the right to impose additional or other conditions to protect the Interests of the Massachusetts Wetlands Protection Act and Falmouth Wetlands Bylaw.
3. The determinations of the Falmouth Conservation Commission are made solely to determine issues arising under the Massachusetts Wetlands Protection Act and the Town of Falmouth Wetlands By-Law, and are therefore concerned exclusively with the question whether any proposed activity will have an adverse effect on the wetlands resource interests listed in the applicable statutes, regulations, by-laws and rules. Nothing contained in this determination is intended in any way to grant to any person any title, easement or other interest in lands, public or private, and the Falmouth Conservation Commission is without legal authority to make any grant of title, easement or other property interest, or to make any determination of property interests. See Tindley v. D.E.Q.E. 10 Mass. App. Ct. 623 (1980).
4. Any work taking place prior to all administrative and legal appeal periods expiring or during the pendency of any such appeal is at the risk of the applicant and/or owner of the property. At the risk of means that should an administrative agency or court find this order and permit were granted in error, all work will have to be restored to its original condition (at the time work was instituted) at the expense of the applicant and/or owner.
5. Issuance of the Order of Conditions does not relieve the permittee from obtaining all other necessary municipal, county, state or federal permits, permission or other approvals required.
6. By the acceptance and recording of this Order, the applicant hereby grants the commission and its duly authorized agents the right to enter onto the land governed by this Order to examine the project and ensure Compliance. Such visits shall be made in a reasonable manner. The Conservation Commission as well as its staff and agents have the authority to issue an Enforcement Order if work does not comply with the terms or intent of the conditions contained herein or the plans herein referenced.
7. The Order of Conditions expires three (3) years from the original date of issuance. Any Amendments to the Order of Conditions do not extend the Original Order. You may request an Extension to the original Order of Conditions, in writing, at least 30 days prior to the expiration. Unless otherwise specified, all Conditions cited herein will apply to any and all Amendments to this Order of Conditions.
8. Prior to any work commencing:
 - a. Proof of recording of this Order of Conditions at the Barnstable County Registry of Deeds must be received by the Conservation Commission.
 - b. At least 10 days advance **written** notification shall be provided to the Conservation Commission.
 - c. Copies of any other permits and licenses including building permit, special permit, variances, and Chapter 91 license shall be submitted to Conservation Commission.

- d. The DEP File Number shall be posted on a sign on the street side of the lot and maintained in a visible condition throughout the project. A copy of this Order of Conditions is to be posted onsite, to be maintained in a visible location and condition throughout the project. Copies of this Order of Conditions are also to be provided to all outside contractors, to be kept onsite during work at all times.
 - e. The Limit of Work must be installed prior to any work, excavation, construction or clearing of vegetation, in order to prevent damage to the Interests of the Act and Bylaw. The Limit of Work shall consist of a single row of staked strawbale/silt fencing.
 - i. **Please be advised that the use of a straw/mulch waddle/sock is not allowed unless approved in writing by the Conservation Administrator. The Conservation Administrator reserves the right to revoke any approval if this method is determined to be ineffective or is not maintained.**
9. The Limit of Work strawbales/silt fencing shall be replaced as necessary and should to be maintained in good condition throughout the entire construction period. Upon completion of all construction and stabilization of the site, strawbales/silt fencing is to be removed and properly disposed of. No fill is allowed to be placed against or outside the Limit of Work at any time. There shall be no work or storage of materials outside the Limit of Work.
 10. The construction site is to be cleaned daily to remove any loose debris and permitted cuttings offsite. Any fill or excavated material not required to backfill and grade to the approved plan of reference shall be immediately removed offsite or to an appropriate upland location noted on the plans.
 11. The applicant shall use all means to effectively prevent erosion into the wetland or other Resource Area and to encourage the growth of protective vegetation.
 12. Any other proposed activities (alteration, fill, excavation or removal of vegetation) within any Resource Area or within 100 feet of any Resource Area will require that the applicant obtain all necessary permits from the Conservation Commission.
 13. Applicant is put on notice of the requirement to adhere to the performance standards set forth in the Town's Nitrogen Control Bylaw (Chapter 237 of the Code of Falmouth; full text available at <https://ecode360.com/27443489>), which applies to all areas throughout the Town of Falmouth. These performance standards stipulate that: (1) the application of nitrogen is prohibited between October 16 and April 14; (2) residents/property owners may not allow nitrogen to be applied to any impervious surface on their property, including parking lot, driveway, roadway, sidewalk, or ice; and must immediately and completely remove and contain any nitrogen that may be applied, spilled, or deposited, whether intentionally or accidentally, on any impervious surface; (3) residents/property owners may not apply nitrogen directly to any surface before or during a heavy rain event; and (4) the application of nitrogen is at all times prohibited within 100 feet of Resource Areas as defined in Falmouth's Wetlands Regulations FWR 10.02(1)(a) through (d) (<https://ecode360.com/12120136>), namely: any bank, freshwater wetland, coastal wetland, beach, dune, flat, marsh, swamp, wet meadow, bog, or vernal pool; any creek, estuary, stream, pond, or lake; the ocean; and land under water bodies.

14. The application of nitrogen is at all times prohibited within 100 feet of the following additional areas under Conservation Commission jurisdiction: land subject to tidal action; land subject to flooding or inundation by groundwater or surface water; land subject to coastal storm flowage; land subject to flooding; lands and waters within the Black Beach Great Sippewissett Marsh District of Critical Planning Concern; and lands and waters within the Waquoit Bay Area of Critical Environmental Concern.
15. Before work can begin (i.e. clearing or construction) the Town of Falmouth Conservation Commission Form(s) 1 and 2 are to be submitted to the Conservation Department, identifying the General Contractor (GC) and other responsible parties and signed by the GC and all other responsible parties confirming that the signatories thereto have read and understand the Order of Conditions and that they jointly and severally take responsibility for compliance with the OOC on site during the life of the project. These documents shall be submitted with the ten (10) day start work notification required by Standard Condition #8(b).
16. Any changes to the plan of record noted in Standard Condition 1 above, no matter how minor in scope, including, but not restricted to, changes in the building footprint and appendages such as decks, addition and/or modification of accessory structures, changes in landscape features such as patios, retaining walls, plantings, removal of vegetation, the modification of finished grades, etc. require that the applicant obtain the permission of the Conservation Commission *before* undertaking the modified work. Depending on the scope of the change, said permission may be obtained by filing for an Administrative Approval, an amended Order of Conditions, or entirely new Notice of Intent. Failure to comply with this condition may subject the applicant to an enforcement order and/or fines.
17. This Order of Conditions will not be fully complied with unless and until a duly executed Certificate of Compliance is recorded or registered, as appropriate, in Barnstable Registry of Deeds. If this Order is based on a professionally rendered drawing then a letter must be submitted from an engineer or architect certifying full compliance and any deviation from the approved plans, as well as, an "Existing Conditions" plan. This plan shall include ALL structure and landscape features including patios, retaining walls, ornamental plantings, native plantings, AC units, steps, outdoor showers, walkways, etc. Any mitigation trees for the project shall be located and identified to species. Any mitigation shrubs for the project shall be delineated on the plan, labeled as "native buffer shrubs" and the final square footage noted. A request for a Certificate of Compliance shall be made in writing immediately following completion of all work including permanently stabilizing the site with vegetation.

SPECIAL CONDITIONS:

1. A preconstruction meeting with the applicant's representatives and Conservation staff shall be held prior to any work to review of methodology, access, and sequencing.
2. The missing mitigation plantings required under DEP 25-3963 shall be replanted.
3. The applicant shall not reinstall the outhaul once the sheet piling wall is installed. The applicant can work with Conservation staff on a proper location for the inflatable to access their mooring.

4. No chemically treated wood shall be used in the construction of the launch pad or access stairs.
5. No permanent and/or subsurface irrigation system shall be installed. A temporary above ground drip irrigation system will be allowed to insure the survival of the restored mitigation area. Once mitigation plantings have been established the temporary system shall be removed.
6. Prior to conducting any work on the property, pre-construction photos shall be taken and submitted to the Conservation department for review. Photos shall be submitted with the 10 day start work notification required by Standard Condition #8(b).
7. All plantings shall be from 2-gallon or 3-gallon containers and spaced 3 feet on center. No dwarf varieties such as "shamrock" inkberry (*Ilex glabra* "shamrockii") or "hummingbird" sweet pepperbush (*Clethra alnifolia* "hummingbird") may be used. Tags depicting the plant species and variety shall be left on the plants until established.
8. All plantings shall be maintained in good health and shall be allowed to grow into their full and mature form. These plantings shall not be altered in any way (pruned, removed, etc.) without first obtaining a permit from the Conservation Commission for such work. This condition shall be ongoing with the deed.
9. All cuttings/debris, etc. are to be kept out of the Resource Areas.
10. The construction site is to be cleaned daily to remove any loose debris.
11. No Certificate of Compliance will be issued until the entire project, including landscaping, is completed and the site is permanently stabilized with vegetation.
12. Special Condition 8 shall be written into the Certificate of Compliance and shall be registered with and ongoing with the deed.

VOTE AUTHORIZING SIGNATURES OF COMMISSIONERS

In accordance with the unanimous vote of the Falmouth Conservation Commission, Jennifer L. Lincoln, Conservation Administrator is authorized to sign on behalf of each individual Commissioner as reflected in the recorded Land Court Document: 1,393,706 dated 04-03-2020 9:24 Barnstable Land Court Registry



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 25-4765
 MassDEP File #
 1357278
 eDEP Transaction #
 Falmouth
 City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.
 This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

8/14/2022
 1. Date of Issuance
 4
 2. Number of Signers

Signature _____
 Signature _____
 Signature _____
 Signature _____
 Signature _____
 Signature _____

Printed Name
 Jennifer Lincoln, Conservation Administrator
 Printed Name
 Jamie Mathews, Chair
 Printed Name
 Kevin O'Brien
 Printed Name
 Steve Patton
 Printed Name
 Pat Harris
 Printed Name

Signature _____
 Signature _____

Printed Name _____
 Printed Name _____

by hand delivery on

by certified mail, return receipt requested, on

Date

#7021 2720 0002 0830 4965
 Date 8/14/2022

For Signature Authorization see
 Doc: 1,393,706
 BARNSTABLE LAND COURT REGISTRY

353 EDGEWATER DR WEST

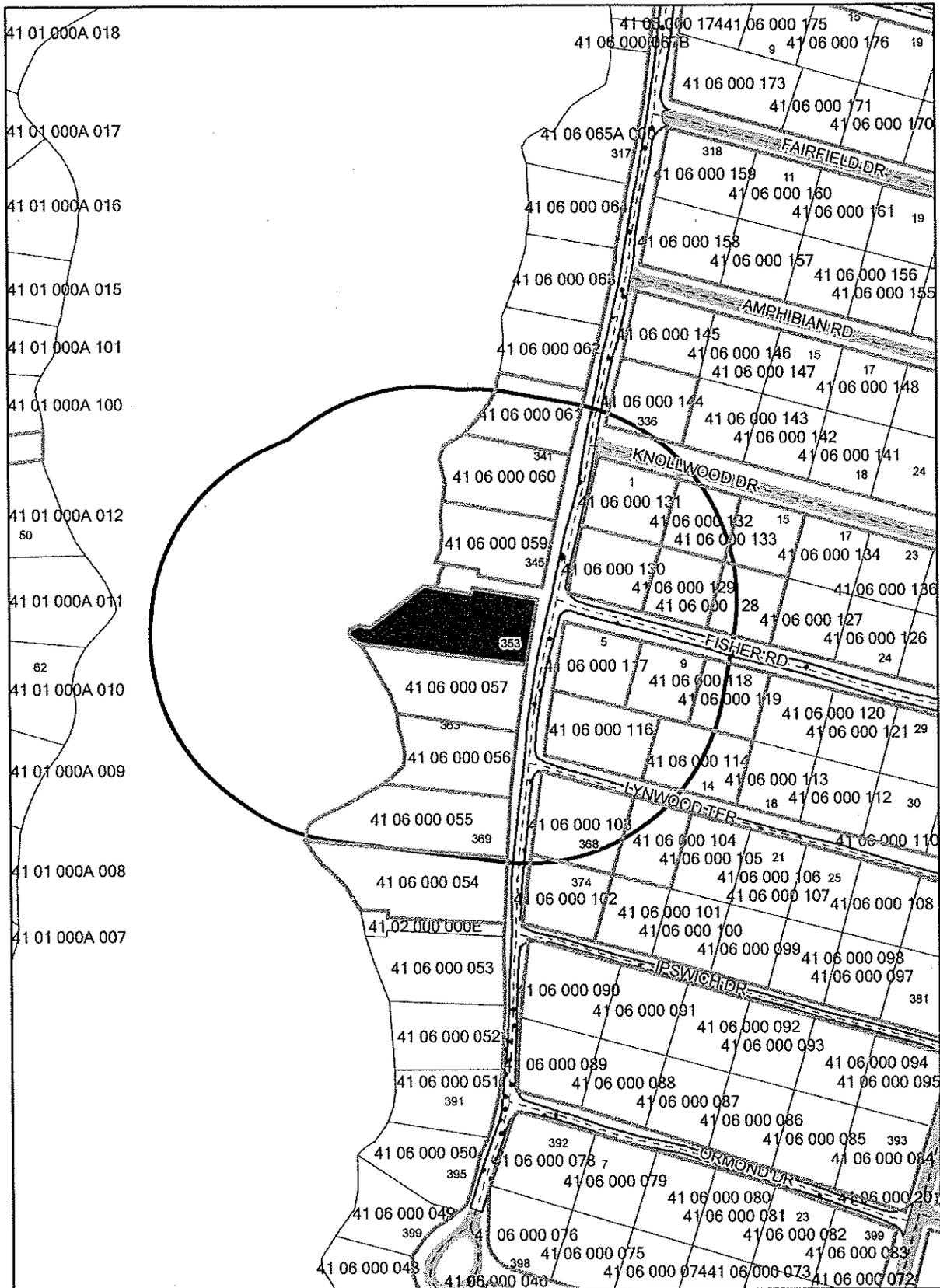
CERTIFIED



Bruce Cabral
Assistant Assessor
Town of Falmouth, MA
September 6, 2022

15 FISHER RD ANTONELLIS TRUSTEE DONATO ANTONELLIS TRUSTEE KIM 6 COLUMBUS DR EAST FALMOUTH, MA 02536	41 06 000 119 LUC: 101	368 EDGEWATER DR WEST HICKEY II DANIEL T HICKEY JANE A 120 POOR MEADOW LN EAST BRIDGEWATER, MA 02333	41 06 000 103 LUC: 101	11 KNOLLWOOD DR WACHTEL DAVID R WACHTEL MARY JANE 11 KNOLLWOOD DR E FALMOUTH, MA 02536	41 06 000 132 LUC: 101
342 EDGEWATER DR WEST BECKSTEIN III FRANK W BECKSTEIN DACE D 342 EDGEWATER DR WEST EAST FALMOUTH, MA 02536	41 06 000 130 LUC: 101	345 EDGEWATER DR WEST LAPOLITO ANTHONY F LAPOLITO ELIZABETH S 26 MEADOWBROOK RD GRAFTON, MA 01519	41 06 000 059 LUC: 101	15 KNOLLWOOD DR WILKINSON KERI A 15 KNOLLWOOD DR E FALMOUTH, MA 02536-7224	41 06 000 133 LUC: 101
363 EDGEWATER DR WEST BJ PERRY TRUST MC PERRY TRUST PO BOX 6938 HOLLISTON, MA 01746-6938	41 06 000 056 LUC: 101	11 LYNWOOD TER MCCARTHY TRUSTEE ANDREA W WILSON IRREVOCABLE TRUST 11 LYNWOOD TER EAST FALMOUTH, MA 02536-7183	41 06 000 104 LUC: 101	1 KNOLLWOOD DR WOZNAK CRAIG A WOZNAK JULIE L 163 MARLBOROUGH ST APT 1 BOSTON, MA 02116-1852	41 06 000 131 LUC: 101
353 EDGEWATER DR WEST CENCE DEBRA A CENCE LUCIANO 321 GREAT RD MAYNARD, MA 01754	41 06 000 058 LUC: 101	14 FISHER RD MORAN THOMAS B MORAN ROSEMARY 14 FISHER RD EAST FALMOUTH, MA 02536-7145	41 06 000 128 LUC: 101		
374 EDGEWATER DR WEST DELUISE ANN E FAIRVIEW ESTATES 132 E MAIN ST APT 334 HOPKINTON, MA 01748	41 06 000 102 LUC: 101	10 FISHER RD MORAN III THOMAS B MORAN ROSEMARY 10 FISHER RD EAST FALMOUTH, MA 02536	41 06 000 129 LUC: 101		
4 LYNWOOD TER DILORENZO TRUSTEE CLAUDIA DILORENZO TRUSTEE DANTE CHRISTIAN 9 HURON AVE DANVERS, MA 01923	41 06 000 116 LUC: 101	336 EDGEWATER DR WEST NEALON TRUSTEE M KATHLEEN ROGERS EDGEWATER RLTY TRUST 336 EDGWATER DR WEST EAST FALMOUTH, MA 02536	41 06 000 144 LUC: 101		
5 FISHER RD DURKIN JEFFREY C LOSTY DURKIN ELIZABETH 6 TRALEE LN SHREWSBURY, MA 01545	41 06 000 117 LUC: 101	9 FISHER RD RODGER TRUSTEE RICHARD F RODGER TRUSTEE LINDA J PO BOX 982 EAST FALMOUTH, MA 02536	41 06 000 118 LUC: 101		
14 LYNWOOD TER ERIKSON INGRID E 52 MOUNTAIN GATE RD ASHLAND, MA 01721	41 06 000 114 LUC: 101	369 EDGEWATER DR WEST SKELLY JR FRANK G SKELLY DONNA J PO BOX 3348 WAQUOIT, MA 02536-3348	41 06 000 055 LUC: 101		
373 EDGEWATER DR WEST GANIM MARK S HAMILTON LESLIE G 36 JARMAN RD SUDBURY, MA 01776	41 06 000 054 LUC: 101	337 EDGEWATER DR WEST SPIELBERGER JOHN C SPIELBERGER TERESA L 9 WINESAP WAY ASHLAND, MA 01721	41 06 000 061 LUC: 101		
341 EDGEWATER DR WEST HARRIS PAUL A ASHWORTH HARRIS STACY 341 EDGEWATER DR WEST EAST FALMOUTH, MA 02536	41 06 000 060 LUC: 101	359 EDGEWATER DR WEST TIERNEY CAROLE NERVI PO BOX 156 E FALMOUTH, MA 02536-0156	41 06 000 057 LUC: 101		

353 EDGEWATER DR WEST



PUBLIC HEARING NOTICE

The Falmouth Select Board will hold a public hearing under Section 240-14.8 (Wetlands Regulations) of the Zoning Bylaws of the Town of Falmouth on Monday, September 26, 2022 at 7:15 p.m. in the Select Board Meeting Room, Falmouth Town Hall, 59 Town Hall Square on the application of Luciano and Debra Cence for permission to replace a failed stone seawall with vinyl sheet piling bulkhead, located at 353 Edgewater Drive West, East Falmouth, MA. Area affected is Eel Pond. Interested parties may review the file on this hearing at the Office of the Select Board.

Per Order of the
Select Board

September 9, 16, 2022

BUSINESS

1. Approve Interim Town Manager Contract (10 minutes)

Draft 9/23/2022

EMPLOYMENT AGREEMENT

between
Town of Falmouth
and
Interim Town Manager

THIS AGREEMENT, pursuant to Chapter 41, Section 108N of the Massachusetts General Laws, made and entered into this _____ day of _____ by and between the Town of Falmouth, Commonwealth of Massachusetts, a municipal corporation, hereinafter called the "Town," by and through its Select Board, hereinafter called the "Board", and Peter Johnson-Staub hereinafter called the "Interim Town Manager", as follows:

WITNESSETH:

Whereas, the Select Board desires to appoint Peter Johnson-Staub to serve as Interim Town Manager of the Town of Falmouth while the Town Manager position remains vacant; and,

Whereas, the Board, under Chapter 41, Section 108N of the Massachusetts General Laws, may contract with the Interim Town Manager regarding his conditions of employment; and

Whereas, Peter Johnson-Staub has agreed to accept the appointment as Interim Town Manager of said Town.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

Section 1. Duties

- 1.1 The Interim Town Manager shall perform the duties of Town Manager as a result of a vacancy in the office of the Town Manager in accordance with the provisions of Section C5-13B of the Town Charter. The Interim Town Manager shall be the Chief Administrative Officer of the Town and shall implement the goals and carry out the policies of the Select Board as required by Section C5-3 of the Town Charter. The Interim Town Manager shall be responsible for carrying out the provisions of Section C5-3B of the Town Charter.
- 1.2 Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Board to rescind the appointment of Interim Town Manager.

Section 2. Salary

The Town shall pay the Interim Town Manager a salary of \$3,365.38 per week retroactive to July 1, 2022 for the period he serves as Interim Town Manager. The Interim Town Manager shall have the right to "cash out" up to three weeks of vacation time on or before November 1, 2022 and receive compensation equivalent to the value of three weeks of salary of the Assistant Town Manager. In addition to the foregoing, the Interim Town Administrator shall continue to receive all of the benefits that accrue to the position of Assistant Town Manager.

Section 3. Indemnification

- 3.1 The Town shall defend, save harmless and indemnify the Interim Town Manager against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his/her duties as Interim Town Manager, even if said claim is brought/filed following his/her termination from employment, provided that at the time of the alleged act or omission the Interim Town Manager was then Interim within the scope of his/her approved duties. Under these circumstances only, the Town (and/or its insurer) shall pay the amount of any settlement or judgment rendered thereon, and further, the Town (and/or its insurer) may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon without recourse to the Interim Town Manager.
- 3.2 In connection with those claims or suits involving the Interim Town Manager in his/her professional capacity and covered under Section 1 above, the Town, at its sole option, shall either retain and pay for an attorney to represent the Interim Town Manager (including all fees and costs) or reimburse the Interim Town Manager for any attorneys' fees and costs incurred by the Interim Town Manager in connection with same, providing the Interim Town Manager submits proper invoices and evidence of payment of same.
- 3.3 This Section shall survive the termination of this Agreement.

Section 4. Term

- 4.1 This Agreement shall become effective on the date of execution of this Employment Agreement and shall be in full force and effect until a Town Manager is appointed by the Select Board.

Section 5. General Provisions

- 5.1 If any provision, or any portion thereof, contained in this Agreement, is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or

portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

- 5.2 This Employment Agreement is entered into in the Commonwealth of Massachusetts and shall be construed and interpreted in accordance with its laws.
- 5.3 During the term of the Interim Town Manager, he shall be on a leave of absence from his position of Assistant Town Manager and shall automatically revert back to such position upon completion of his term as Interim Town Manager. The preceding sentence shall not preclude the Select Board from appointing the Interim Town Manager as Town Manager pursuant to Section C5-1 of the Town Charter.

IN WITNESS WHEREOF, the Town of Falmouth, Massachusetts has caused this Agreement to be signed and executed in its behalf by its Select Board, and duly attested by its Town Clerk, and the Interim Town Manager has signed and executed this Agreement on the day and year first above written.

INTERIM TOWN MANAGER

[Name]

Date

Approved:

SELECT BOARD

Date

Approved as to Legal Form:

Town Counsel:

Maura O'Keefe

Date

Date: _____

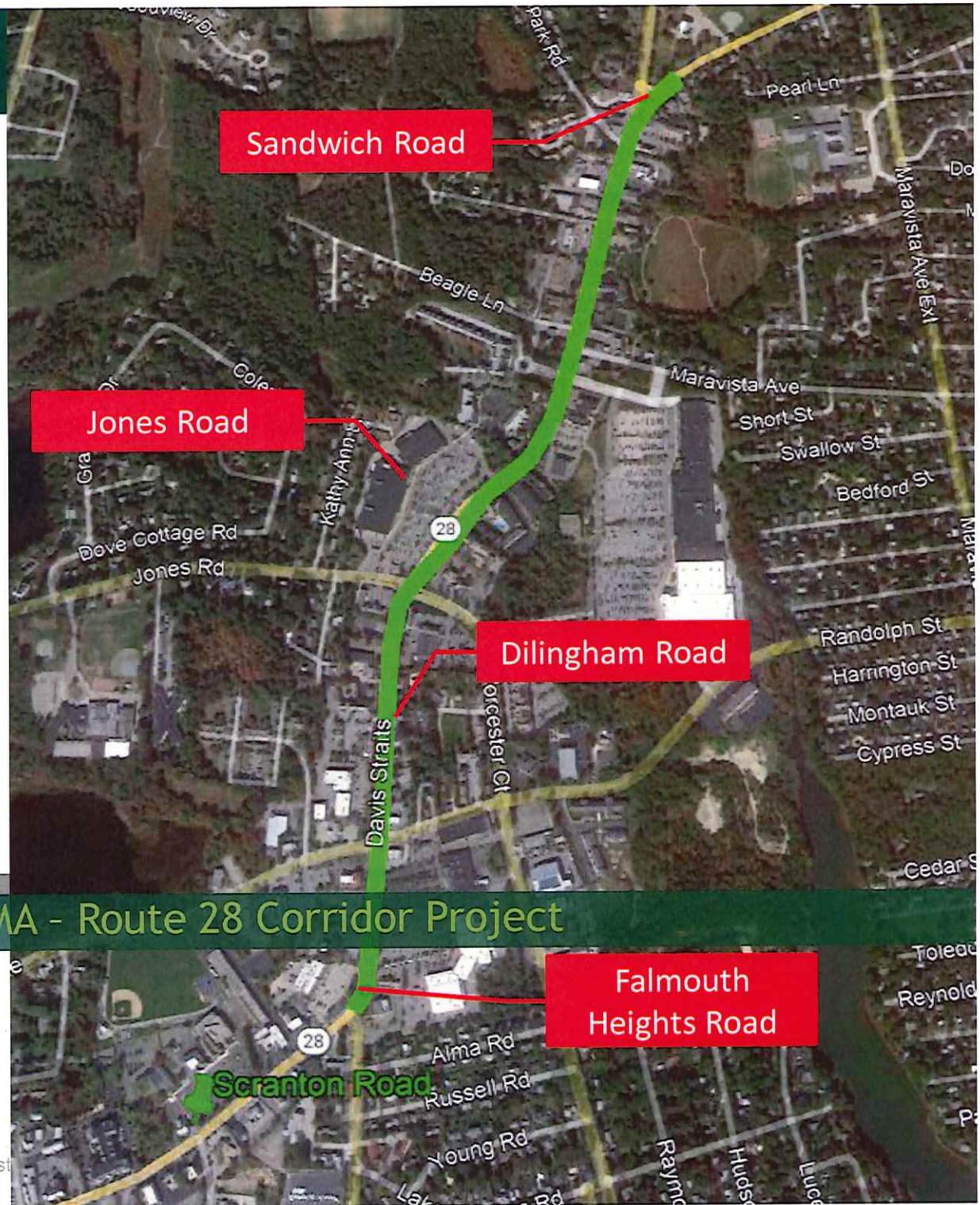
Date: _____

BUSINESS

2. Update on traffic improvements for the Main St. and Scranton Ave. intersection and Route 28 from Falmouth Heights Rd. – James McLoughlin, DPW Engineering (15 minutes)

Current GPI Projects

- Route 28 Corridor
Falmouth Heights Road to Sandwich Road
- Route 28 at Scranton Road
Traffic Signal



Falmouth, MA - Route 28 Corridor Project

Presented to: Falmouth Select Board
Date: September 26, 2022

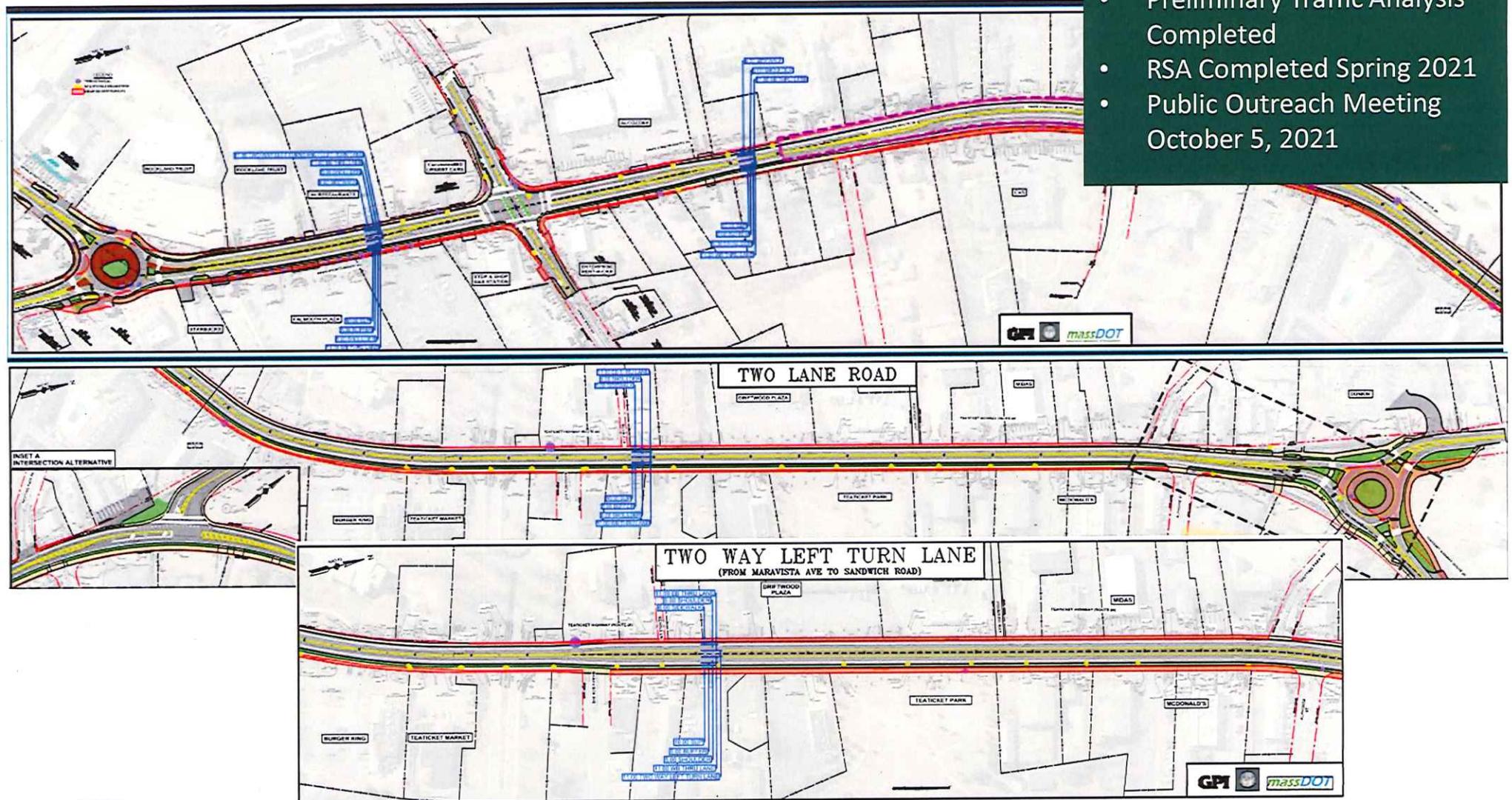


Engineering | Design | Planning | Construction

Route 28 Corridor: Between Falmouth Heights and Sa

STATUS

- Conceptual Plans Developed
- Typical Section Identified
- Preliminary Traffic Analysis Completed
- RSA Completed Spring 2021
- Public Outreach Meeting October 5, 2021



Route 28 Corridor: Between Falmouth Heights and Sandwich Road

PROPOSED TYPICAL SECTION



Sidewalk
5'

Shoulder
5'

Travel Lane
11'

Travel Lane
11'

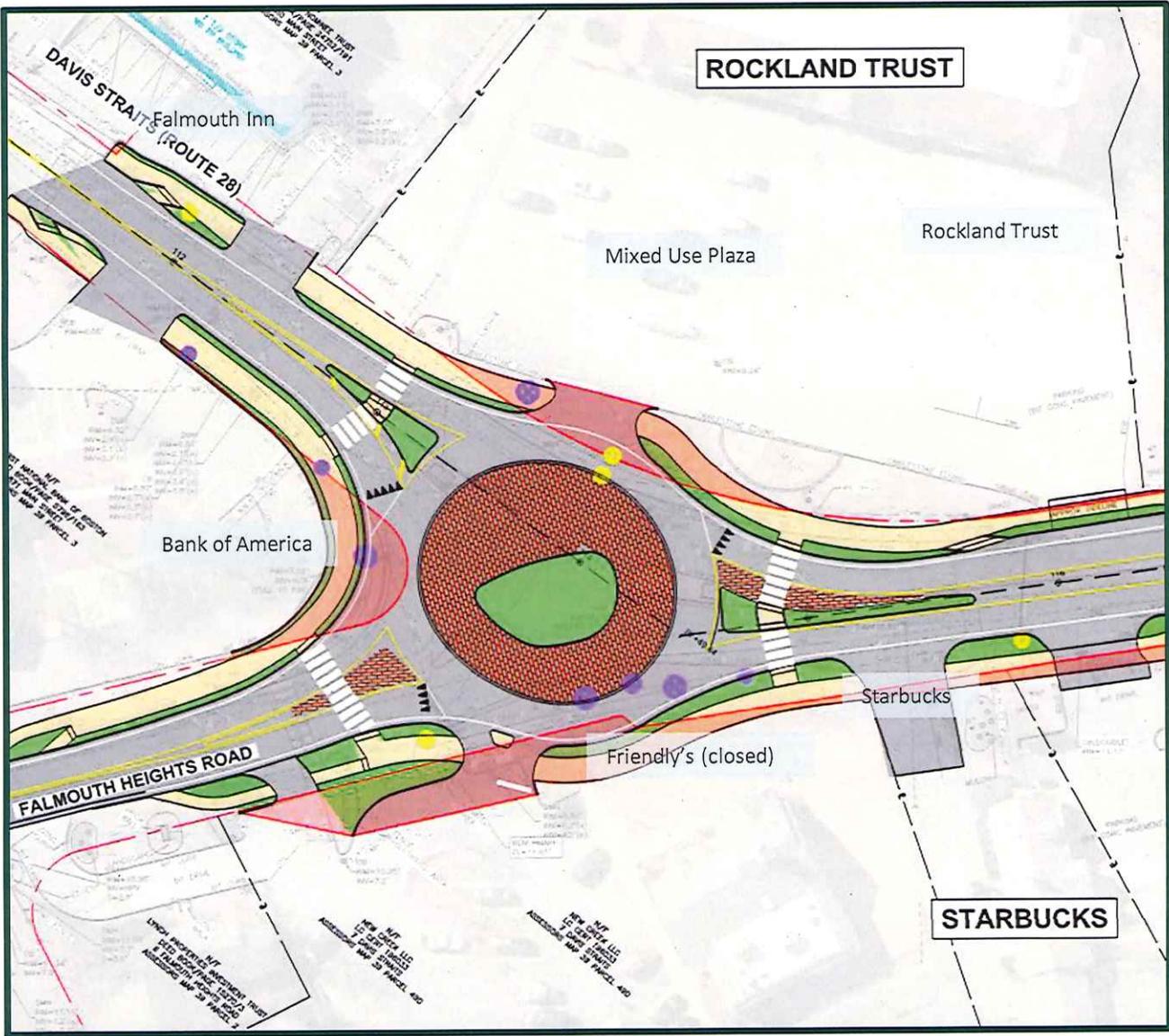
Shoulder
5'

Buffer
5'

Shared Use Path
10'

Cape Cod Route 28 Corridor Study, September 2020

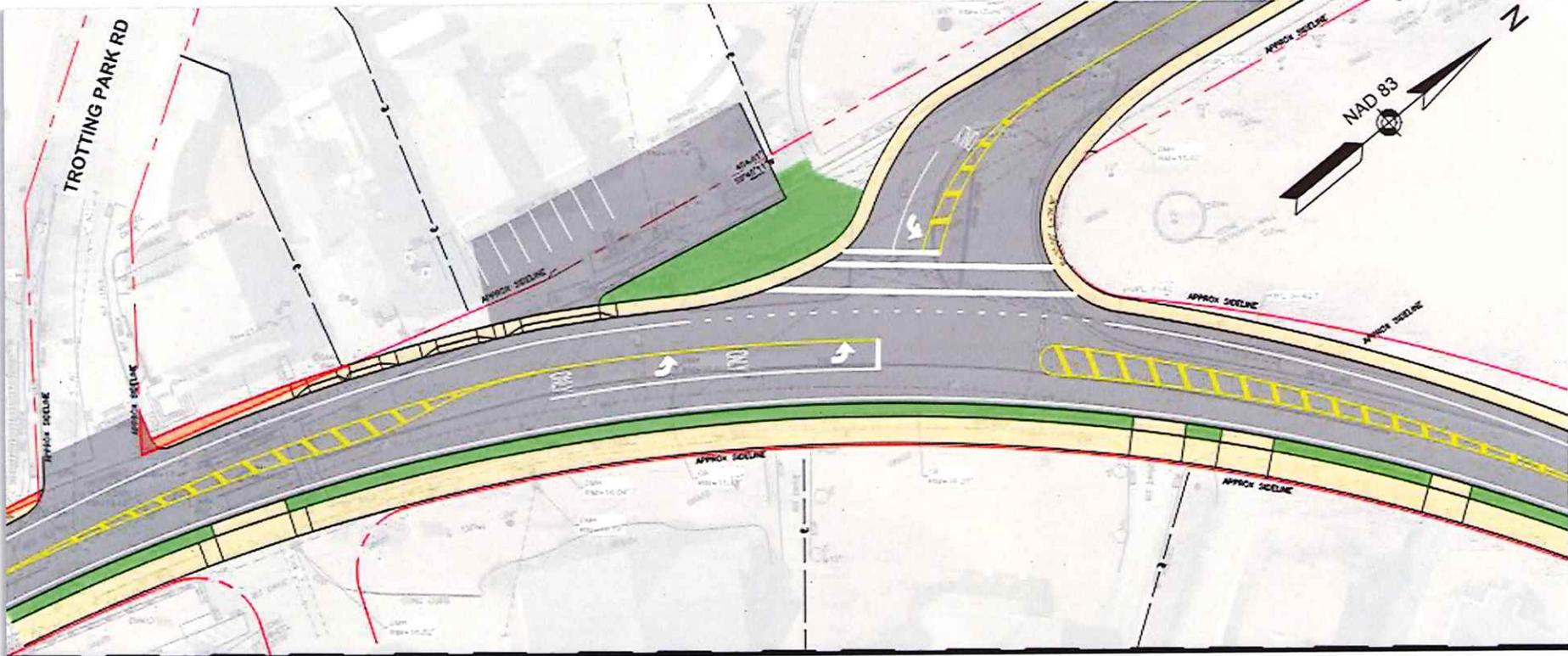
Route 28 at Falmouth Heights Road



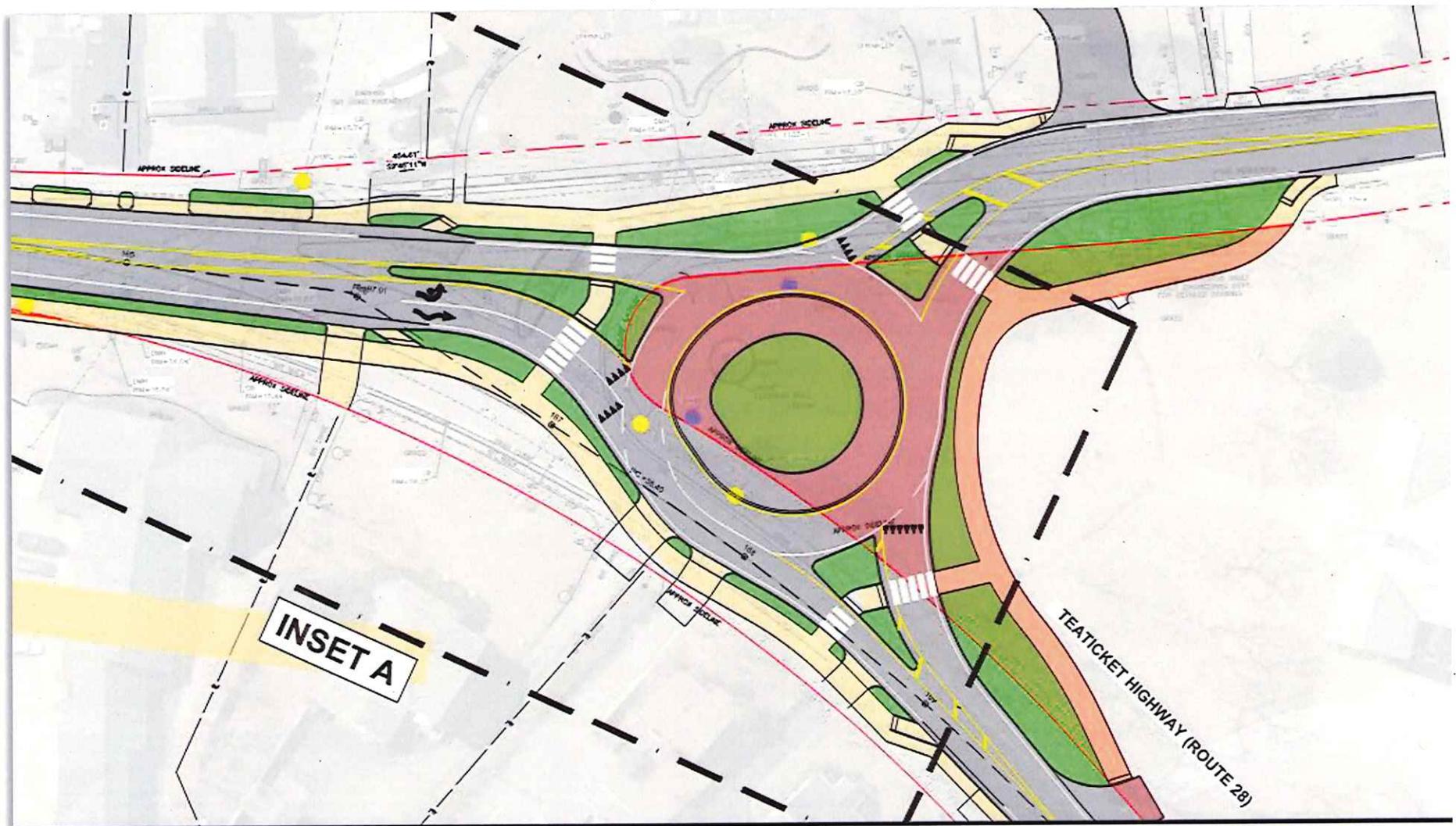
Route 28 at Dillingham Avenue



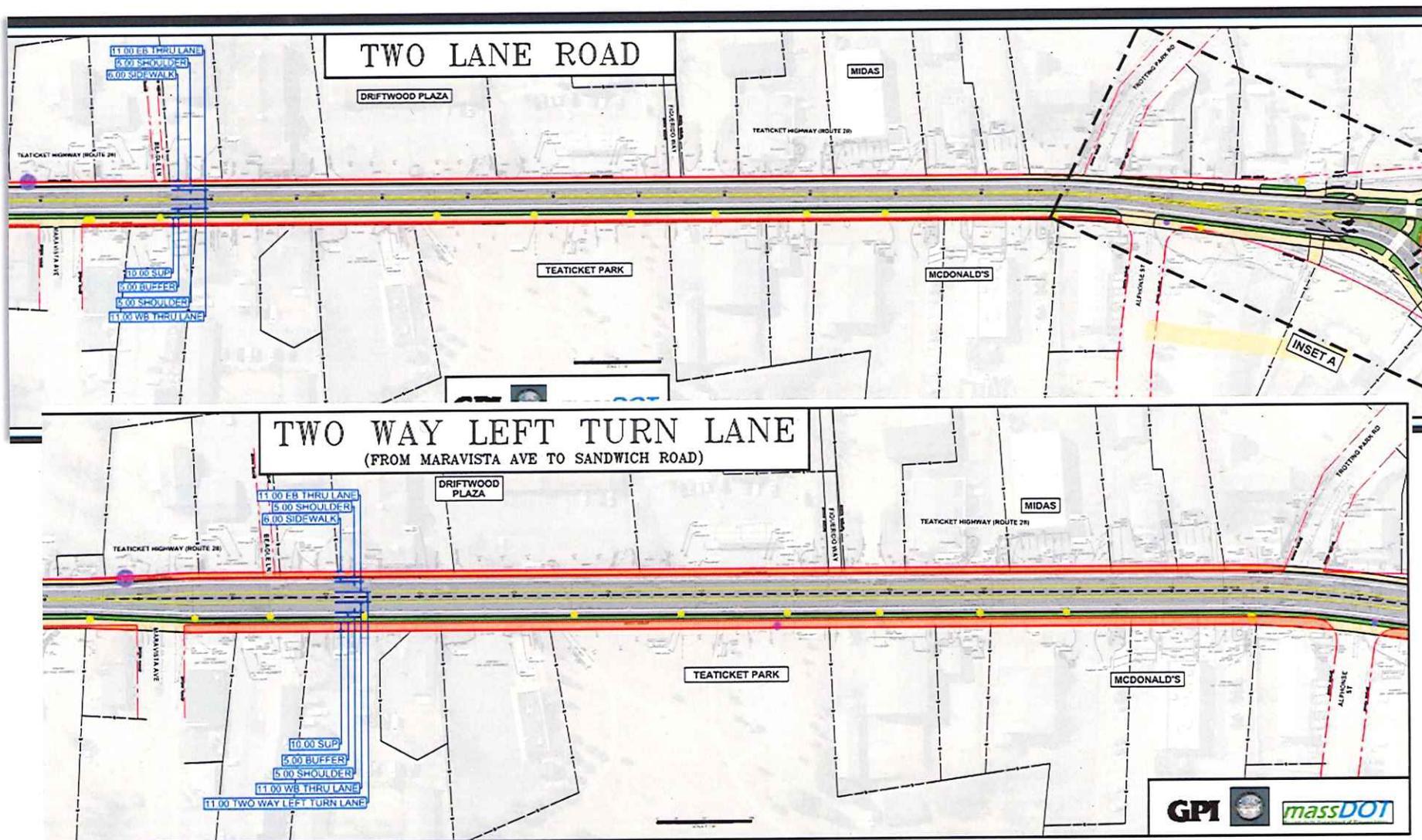
Route 28 at Sandwich Road



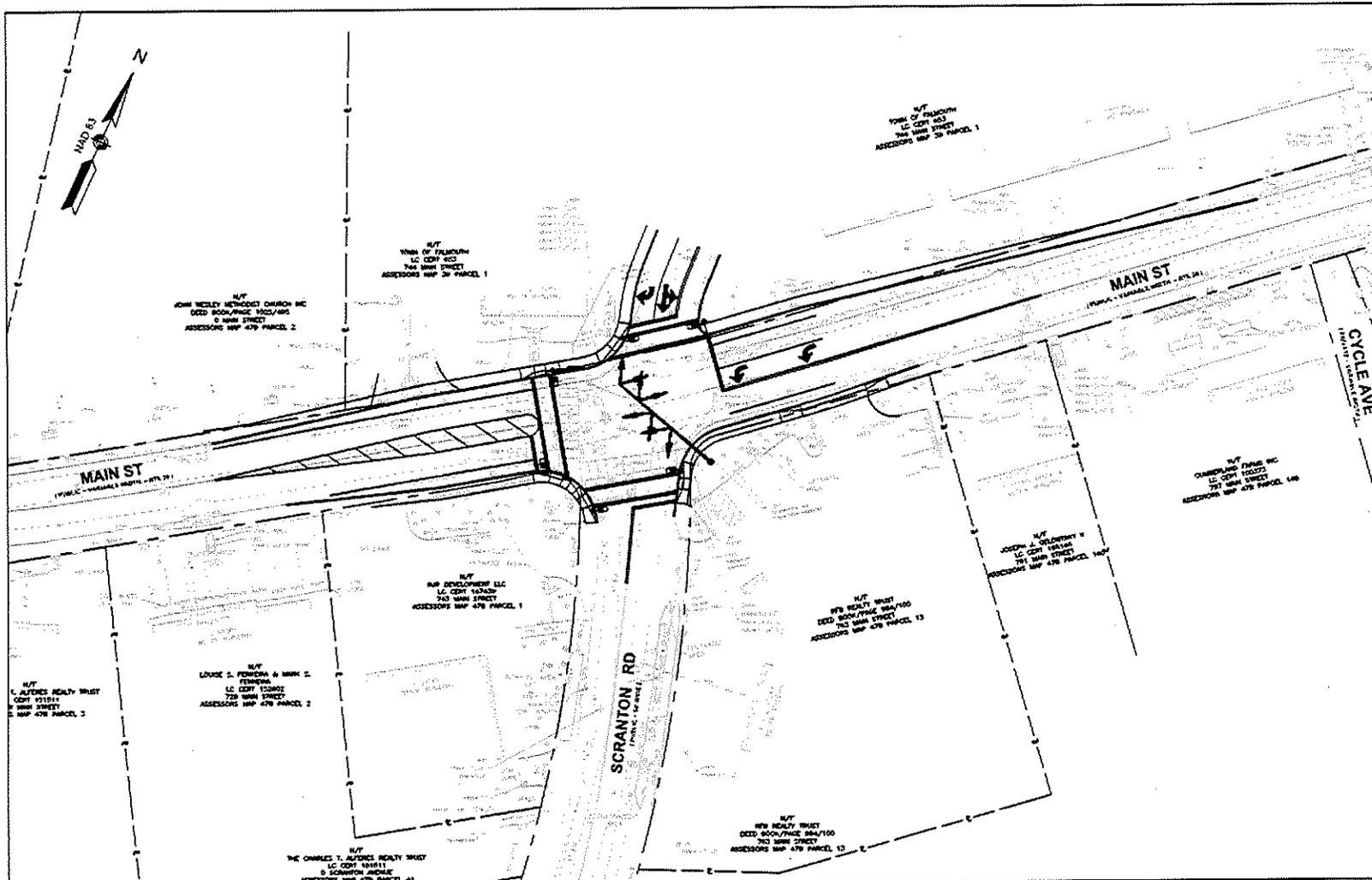
Route 28 at Sandwich Road



Route 28 at Sandwich Road



Route 28 at Scranton Road



CONCEPTUAL DESIGN PLANS
FOR THE SIGNALIZATION OF
SCRANTON ROAD
FALMOUTH, MASSACHUSETTS

GPI Engineering
Design
Planning
Construction Management
978.578.2999 GPINET.COM
Greenman-Pedersen, Inc
181 Ballardvale Street, Suite 202
Wilmington, MA 01887

DATE: 09/23/2022
SCALE: 1" = 20'
JOB NO.: MAX-2016115.12
FILE NAME: SCRANTON RD CONCEPT
DRAWING NO.:

BUSINESS

3. Town Manager Hiring Process (10 minutes)

TOWN OF PROVINCETOWN
SOLICITATION OF PRICE QUOTATIONS
EXECUTIVE SEARCH CONSULTING SERVICES FOR THE
RECRUITMENT AND SELECTION OF A TOWN MANAGER

A. Purpose of this Solicitation for Quotes

The Town of Provincetown Select Board seeks consulting services for the recruitment and selection of an appropriate candidate for the position of Town Manager for the Town of Provincetown, Massachusetts.

B. Schedule

Interested parties shall submit a written quote for services. Quotes shall be received by the Select Board, in the Selectmen's Office, Provincetown Town Hall, 260 Commercial Street, Provincetown, MA 02657 no later than **3:00 PM on Tuesday, July 2, 2019.**

C. Awarding Authority

The awarding authority is the Town of Provincetown acting by and through its Select Board.

D. Clarification of Quotes

The Town of Provincetown reserves the right to contact any party for the purpose of clarifying a quote and/or requesting additional information.

E. Confidentiality

Under Massachusetts General Laws, the Town cannot assure the confidentiality of any material or information that may be submitted by any parties in response to this Solicitation for Quotes. Thus, those who choose to submit confidential material or information do so at their own risk. Quotes received by the Town become public documents available for inspection by interested parties. All quotes received are subject to the Massachusetts Public Records Law, M.G.L. c. 66, § 10, and to M.G.L. c. 4, § 7, cl. 26.

F. Quality Requirements

Each quote shall meet all of the following criteria:

1. Consulting agencies shall have been in business for a minimum of five years.
2. Consulting agencies shall have experience doing comparable satisfactory work for at least five municipalities.
3. Consulting agencies shall have at least two qualified persons available to work on this project who will be able to start work on the project within ten days of the award of the contract, and be able to work continuously to complete the project at the earliest possible date consistent with professional performance.

G. Execution of Agreement

Upon the acceptance of a quote, the Town will prepare and submit an Agreement to the successful Consulting agency for signing. Incorporated by reference into the Agreement that is to be entered into by the Town and the successful Consulting agency pursuant to this Solicitation for Quotes will be:

All of the information presented in or with this Solicitation for Quotes and the Consulting

agency's response thereto including

1. A Certificate of Tax Compliance and a Certificate of Non-Collusion.
2. A Certificate of Corporate Vote attesting to the authority of the person signing to bind the corporation, if applicable.
3. The Town reserves the right to negotiate the final price of the contract.

H. Required Format

Each applicant shall furnish all requested information in the formats specified by this Solicitation for Quotes. Specifically, each proposal shall, consist of the following:

Item 1: Transmittal Letter

The Consulting agency shall submit a transmittal letter signed by an authorized representative of the consulting agency and include the names of the individuals authorized to conduct business with the Town. The consulting agency's mailing address, telephone number and email address shall also be included.

Item 2: Quote

An original and five (5) copies of the quote, which must contain the following sections and information to be considered:

1. Describe the consulting agency's background, relevant experience in the business of providing recruitment and selection consulting services to municipal governments.
2. List cities or towns for which the consulting agency has done work in the past five years. This list should specifically identify the type of recruitment performed and the tenure of the hired candidate
3. At least three references from municipal clients worked for in the past five years. The Town reserves the right to solicit additional references. Poor references may be a basis for a determination the consulting agency is not a responsible bidder.
4. Specify the composition of the project team who will be providing the services specified in this Solicitation for Quotes, including appropriate resumes.
5. Provide a work plan outlining the consulting agency's proposed timetable for each aspect of the Work (see Detailed Requirements for Selected the consulting agency, below).
6. Provide samples of work, such as reports, a sample position profile, evaluation forms and other decision-making tools.
7. Show evidence of the consulting agency's knowledge of the Select Board/Town Manager model of government.
8. A price proposal which shall include all costs associated with the project, and shall include a schedule of payments which shall be dependent upon completion of elements of work required by Scope of Services, Detailed Requirements. Quotes shall be mailed or delivered to the following address:

Select Board's Office
Provincetown Town Hall
260 Commercial Street
Provincetown, MA 02657

Quotes shall be received no later than 3 pm on Tuesday, July 2, 2019 in order to be considered. Late submissions will be rejected and returned to the consulting agency unopened.

The selected consulting agency shall provide all services, labor, materials and facilities to perform the work as specified in the following Scope of Services.

Scope of Services for Selected Consulting Agency

1. Prepare, in consultation with the Select Board, a plan for the search, recruitment and selection of a candidate for the position of Town Manager for the Town of Provincetown. Consult with and assist Select Board in defining the appropriate roles and level of participation of the Select Board and the Search Committee in the overall search process.

The plan shall be presented in a written report and shall include the following:

- a) A profile of the position and a profile of the desired candidate, reflecting the qualities and attributes the Select Board believes the next Town Manager should possess.
 - b) Specification of the process for receiving and screening resumes or applications for the position including criteria by which candidates are to be evaluated, along with background and preliminary reference checks.
 - c) Description of a detailed procedure for interviewing qualified candidates, which may include role-playing exercises deemed helpful to assess the sound judgment and capabilities of a candidate.
2. The consulting agency shall perform the following services following acceptance and approval of the plan to be developed as specified.
 - a) Prepare advertising for the position and assist in the selection of media for publication.
 - b) Conduct active recruitment of potential candidates known to the consulting agency and Town officials who may not respond to other recruiting measures.
 - c) Recommend in written reports to the Search Committee, all qualified candidates for further evaluation through an informal interview process which may be conducted by telephone (informal prescreen).
 - d) Assist with and participate with the Search Committee in the conduct of structured interviews with preliminarily qualified candidates. One interview may be held in executive session pursuant to Massachusetts law.

- e) After completion of the recruiting and evaluation process to this point, recommend in writing the best qualified candidates, in consultation with the Search Committee, to be interviewed in a public meeting or meetings by the Select Board.
 - f) Assist the Search Committee and Select Board with compensation issues.
 - g) Assist the Select Board in preparing for public interviews under the Massachusetts Open Meeting law of the best qualified candidates recommended by the Search Committee.
3. The consulting agency shall meet with the Search Committee as frequently and for such time as may be necessary to carry out his or her work and shall regularly update the Select Board as to the progression of the process.
 4. The principal shall be prepared to commit no fewer than (60) sixty hours to such meetings in the execution of this task.

**TOWN OF SUDBURY
Select Board
278 Old Sudbury Road
Sudbury MA 01776**

REQUEST FOR PROPOSALS

SEARCH FIRM TO ASSIST WITH TOWN MANAGER RECRUITMENT

OVERVIEW

The Town of Sudbury is seeking to recruit a Town Manager, the fifth in the Town's history. The Town adopted the position of Town Manager when the Board of Selectmen-Town Manager Special Act was enacted in 1994. The Town Manager reports to a 5-person Select Board and is assisted in their work by an Assistant Town Manager and a dedicated team of Senior Managers, department heads and employees. The Town is also fortunate to be served by both elected and appointed volunteer Boards, Commissions and Committees who take an active role in the governance of the Town. Sudbury, a community of more than 18,000 residents, has an open Town Meeting form of government.

Following is the Scope of Services for the Town of Sudbury for consultant or executive recruitment services for the recruitment of a Town Manager. It is important that the process includes public participation and input from a wide variety of stakeholders. The appointee to the Town Manager position will serve in accordance with the Special Act. The link to the Special Act is posted on the Town's website at https://cdn.sudbury.ma.us/wp-content/uploads/sites/342/2014/08/TownManagerAct_1993.pdf?version=1c8dad11ab91f8f992510496a57368ee.

SCHEDULE AND TIME LINE

The Request for Proposals (RFP) will be available in the Sudbury Select Board's Office, Flynn Building, 278 Old Sudbury Road, Sudbury MA 01776, after 9:00 AM on Friday, June 24, 2022. The RFP will also be available on the Town webpage at https://sudbury.ma.us/townmanagersearch2022/rfp_request/. Updates or amendments to the RFP will be posted to the website, and proposers should check the website prior to submitting proposals. RFP is available via email by contacting Patty Golden in the Select Board's office at: goldenp@sudbury.ma.us.

Inquiries involving procedural or technical matters related to the Request for Proposals shall be submitted in writing and received no later than three (3) business days prior to the time the proposals are due as stated in the advertisement, and must be directed:

Via US Mail:
Patty Golden
Senior Administrative Assistant to the Town Manager
Select Board's Office
278 Old Sudbury Road
Sudbury, MA 01776

or Via Fax:
978-443-0756

or Via Email:
goldenp@sudbury.ma.us

Proposals will be received until 12:00 p.m. noon (ET) on Thursday, July 21, 2022.
E-MAILED AND FAXED PROPOSALS WILL NOT BE ACCEPTED. It is the proposer's sole responsibility to submit the proposal before the deadline, and the Town is not responsible for delays in deliveries, deliveries attempted when Town offices are closed, mistakes in deliveries, or any other reason for a proposal that is not submitted prior to the deadline.

Interviews of qualified proposers, if any, will be held during the months of August or September. The award of this contract, if any, will be no later than sixty (60) days after the deadline for the submission of proposals. In accordance with the provisions of M.G.L. c. 30B, § 5 and 9, the Town of Sudbury reserves the right to waive any informality in any or all proposals, or to reject any or all proposals, if it is in the public's best interest to do so.

SCOPE OF WORK

The Town of Sudbury seeks proposals from executive search consultants experienced in recruiting municipal executives in Massachusetts to assist the Town in recruiting highly qualified candidates for Sudbury's next Town Manager.

The Consultant shall work with the Select Board, Senior Staff of the Town, and an appointed Screening Committee to actively source, recruit, evaluate suitability of, interview and refer qualified candidates to the Town of Sudbury for the position of Town Manager.

The scope of work will include, but not be limited to, a process which includes the following:

- Consultant shall assist the Select Board, Senior Staff, and designated Screening Committee in soliciting community input and feedback regarding the traits and management style desired in a new Town Manager. This item shall include assistance in developing the process for soliciting opinions, creating vehicles for eliciting stakeholder feedback and compiling results and publishing conclusions. Consultant will present a written report to the Select Board with findings and recommendations from stakeholder interviews and other information gathering efforts.
- Consultant shall assist the Select Board in establishing selection criteria for evaluating Town Manager candidates.
- Consultant shall work with the Select Board and Interim Town Manager to develop descriptive documents for prospective candidates. The descriptive documents shall include background statements and expectations regarding the Town Manager position for prospective candidates as well as marketing information regarding the Town for distribution to prospective candidates.

- Consultant shall conduct networking and other search activities to generate a diverse pool of highly qualified prospective candidates who meet the Select Board's selection criteria. These activities shall include, at a minimum, publishing the vacancy using regional and national means. Consultant shall focus on identifying potential candidates, screening them for suitability with the Town of Sudbury, motivating them to interview for the position of Town Manager.
- Consultant shall work with the Select Board, and Screening Committee to review resumes of qualified applicants, schedule interviews with the Screening Committee and, then, with finalists, with the Select Board. Consultant shall provide training and guidance to the Screening Committee and Select Board in areas of human resources best practices and legal requirements and instructions applicable through the process.
- Consultant shall check references on finalists, extend the offer of employment, review benefits, and generally assist in the hiring process in ways and at the times requested by the Select Board or the Town's Human Resources department.
- Consultant shall provide sufficient notification to all candidates who applied but were not selected for initial interviews and, also for those interviewed but not offered the position.
- Consultant shall act at all times in an attentive, ethical, and responsible manner so as to represent the Town of Sudbury with the utmost concern for its interests, goals and image with candidates, other communities, and members of the general public.

The Select Board reserves the right to not hire any of the candidates provided by the consultant.

The Select Board reserves the right to hire a candidate not recommended or provided by the consultant.

PROPOSAL SUBMISSION REQUIREMENTS

Failure to submit documents requested may result in the Town's determination that a proposal is non-responsive unless the Town deems such a failure to be a minor informality.

There are two components to the Proposal:

- A) Technical Proposal, including information about the proposer, references, and the services to be provided; and
- B) Price Proposal, including a fixed price fee for services to be rendered under the terms of the contract.

A) TECHNICAL PROPOSAL

The following documentation must be contained in the Technical Proposal to prove responsiveness to each required element. Technical Proposals received without the required documentation for each required element may be deemed unresponsive. Technical Proposals must be arranged in the order specified below, with responses and documentation separated by

tabs or index dividers. Each page of the Technical Proposal must contain a footer with the page number.

Required Elements of the Technical Proposal:

- Table of Contents, showing where required information can be found by section and page.
- Letter of Interest, including the firm's history and the name of the principal or "lead consultant" who will be assigned to work directly with the Town on this search. Proposers are directed to note that the contract will require that the same principal or "lead consultant" be assigned to this contract for the duration of the search process, through and including the hiring of a Town Manager for the Town of Sudbury.
- An Organizational Chart, if the Proposer is a firm or corporation, indicating the name and position of all consultants who will work with the Town on this search. If the Proposer is not a firm or corporation, the Proposer should so state in this section.
- Current Resume(s), including summaries of credentials and number of years of experience providing executive municipal search services for the lead consultant assigned to Sudbury and any additional consultants who will be assigned to work with the Town on this search.
- Description of the Proposer's Approach and Plan for performing services outlined in the Scope of Work (see above), including:
 - Description of how the Proposer will specifically identify and target the needs of the Town in the search for a new Town Manager;
 - Description of the consultant's approach to ensuring community involvement and input;
 - Description of proposed candidate recruitment strategies;
 - Description of the consultant's proposed implementation plan;
 - Proposed timeline with specific milestones;
 - List of Recent Contracts, including name, address and telephone number, of all communities for which the firm has provided similar Town Manager or Town Administrator search services during the past five (5) years and specific persons to contact;
 - References, for a minimum of three (3) comparable executive search projects completed in the past five (5) years;
 - Promotional Material, including advertisements, brochures and other recruitment materials used in Town Manager/Town Administrator searches or promotional literature about the firm;
 - Signed Certificate of Non-Collusion (Included as Attachment A to this RFP);
 - Signed Certificate of Payment of Taxes (Included as Attachment B to this RFP)

B) PRICE PROPOSAL

- The Price Proposal form, included as Attachment C, must be completed and included as the proposer's Price. Proposer's price shall include the cost of any advertisements, solicitations, or other collateral materials associated with the recruitment effort and any other out of pocket costs associated with the project.
- The Price Proposal (one original copy) must be submitted without conditions or exceptions and must be submitted **under separate cover and in a sealed envelope.**

- Price Proposals shall remain in effect for a period of 60 (sixty) calendar days from the date of proposal submittal or until it is formally withdrawn, a contract is executed, or this Request for Proposal is canceled, whichever occurs first.
- Price Proposals submitted without the required form or including other conditions of pricing may be deemed unresponsive.

PROPOSAL SUBMITTAL

Technical and Price Proposals must be submitted in separate sealed envelopes and plainly marked as follows: “TECHNICAL PROPOSAL-Sudbury Town Manager Search”, and “PRICE PROPOSAL-Sudbury Town Manager Search” along with the name of the consultant, consulting firm or executive recruiter clearly marked on both envelopes.

IF PRICES ARE INCLUDED WITHIN THE TECHNICAL PROPOSAL, THE PROPOSAL WILL BE DISQUALIFIED.

- Technical Proposals should be sealed in a separate envelope and must include one (1) original, nine (9) hard copies, and one (1) electronic version on a flash drive.
- Price Proposals should be submitted in a sealed envelope and shall include one (1) signed original.

- Both sealed proposals must be submitted together in one envelope or mailer and received in the Select Board’s office no later than 12:00 p.m. noon (ET), Thursday, July 21, 2022 to:

Patty Golden
 Senior Administrative Assistant to the Town Manager
 Select Board’s Office
 278 Old Sudbury Road
 Sudbury, MA 01776

E-MAILED AND FAXED PROPOSALS WILL NOT BE ACCEPTED. ANY PROPOSALS DELIVERED AFTER THE SUBMITTAL DEADLINE WILL NOT BE CONSIDERED AND WILL BE RETURNED UNOPENED.

It is the proposer’s sole responsibility to submit the proposal before the deadline, and the Town is not responsible for delays in deliveries, deliveries attempted when Town offices are closed, mistakes in deliveries, or any other reason for a proposal that is not submitted prior to the deadline. The names and addresses of all parties submitting proposals will be recorded and the proposals will then be provided to the Select Board and/or their designees selected to evaluate the proposals.

EXAMINATION OF DOCUMENTS

Each Proposer shall be satisfied as to the requirements of the contemplated services to enable the intelligent preparation of this proposal. The Proposer shall be familiar with all submittal and RFP requirements before submitting the proposals in order that no misunderstanding shall exist in regard to the nature and character of the contemplated services to be performed. No allowance

will be made for any claim that the proposal is based on incomplete information as to the nature and character of the area or contemplated service.

EVALUATION OF PROPOSALS

Technical Proposals will be opened and evaluated by the Select Board and/or its designees who will individually rate the proposals. Evaluation of Technical Proposals will be based on weighted, comparative criteria described in this section. The following scale will be used to evaluate each criterion, as well as to determine a composite rating for each proposal:

Highly Advantageous (3 points)
Advantageous (2 points)
Not Advantageous (1 point)
Unacceptable (0 points)

Proposer's Networking Strategies

Highly Advantageous: The Proposal provides more than three (3) examples of how the Proposer's established networks of professional municipal contacts will be used in the search process and recruitment process to attract a broad range of highly qualified candidates, including women and minorities.

Advantageous: The Proposal provides three (3) examples of how the Proposer's established networks of professional municipal contacts will be used in the search process and recruitment process to attract a broad range of highly qualified candidates, including women and minorities.

Not Advantageous: The Proposal provides fewer than three (3) examples of how the Proposer's established networks of professional municipal contacts will be used in the search process and recruitment process to attract a broad range of highly qualified candidates, including women and minorities.

Unacceptable: The Proposal does not include specific examples of networks the Proposer will use in the search and recruitment process.

Proposer's Experience/Key Personnel

Highly Advantageous: The Proposer has five (5) or more years' experience in conducting successful executive searches with municipalities and other government or non-profit organizations, and during that period has concluded at least three (3) successful searches for a Town Manager/Town Administrator in Massachusetts, one of which must have been for a municipality of similar size and demographics to Sudbury. The Proposer's lead consultant has more than five (5) years' experience conducting Town Manager/Town Administrator searches in Massachusetts.

Advantageous: The Proposer has at least three (3) years' experience in conducting successful executive searches with municipalities, government and other non-profit organizations, and during that period has concluded at least two (2) successful executive searches for a Town Manager/Town Administrator in Massachusetts. The Proposer's

lead consultant has at least three (3) years' experience conducting Town Manager/Town Administrator searches in Massachusetts.

Not Advantageous: The Proposer has fewer than three (3) years' experience in successful executive searches with municipalities, government and other non-profit organizations, and during that period has concluded only one successful executive search for a Town Manager/Town Administrator in Massachusetts. The Proposer's lead consultant has fewer than three (3) years' experience conducting Town Manager/Town Administrator searches in Massachusetts.

Unacceptable: The Proposer has fewer than three (3) years' experience in executive search and hiring processes and has not concluded any successful executive searches for a Town Manager/Town Administrator. The Proposer's lead consultant has no experience conducting a Town Manager/Town Administrator search in Massachusetts.

Proposer's Approach to Ensuring Community Involvement

Highly Advantageous: The Proposal provides more than three (3) project examples where the proposed Lead Consultant for Sudbury Town Manager/Town Administrator search has organized, trained, and facilitated working groups as part of an executive search process, with one (1) of these examples leading to the hiring of a Town Manager/Town Administrator.

Advantageous: The Proposal provides three (3) project examples where the proposer Lead Consultant for Sudbury Town Manager/Town Administrator search has organized, trained, and facilitated working groups as part of an executive search process, with one (1) of these examples leading to the hiring of a Town Manager/Town Administrator.

Not Advantageous: The Proposal provides fewer than three (3) project examples where the proposer Lead Consultant for Sudbury Town Manager search has organized, trained, and facilitated working groups as part of an executive search process, with one (1) of these examples leading to the hiring of a Town Manager.

Unacceptable: The Proposal provides fewer than three (3) project examples where the proposed Lead Consultant has organized, trained and facilitated working groups as part of an executive search process, none of which has led to the hiring of a Town Manager.

Proposer's Implementation Plan and Schedule

Highly Advantageous: The Proposal includes a detailed description and examples of previously successful recruitment strategies and includes a clearly delineated timeline with specific milestones for Sudbury's Town Manager search.

Advantageous: The Proposal includes an outline of some candidate recruitment strategies and an implementation plan that includes some milestones for Sudbury's Town Manager search.

Not Advantageous: The Proposal lacks specific candidate recruitment strategies or specific milestones for Sudbury's Town Manager search.

Unacceptable: The Proposal does not include any information about a proposed implementation plan and schedule.

Proposer's References

Highly Advantageous: All five (5) references were satisfied with the Proposer's work and stated that all executive search tasks were completed within the time frame required.

Advantageous: All five (5) references were satisfied with the Proposer's work and stated that all executive search tasks were completed but not within the time frame(s) required.

Not Advantageous: Fewer than five (5) references were satisfied with the end results.

Unacceptable: The preponderance of references were dissatisfied with the end results.

Proposer's Recruitment Materials

Highly Advantageous: The Proposer includes samples of advertisements, brochures and other forms of candidate outreach from at least five (5) different Town Manager searches with the proposal, at least one (1) of which involves a Town Manager search in Massachusetts.

Advantageous: The Proposer includes samples of advertisements, brochures and other forms of candidate outreach from at least three (3) different executive searches with the proposal, at least one (1) of which involves a Town Manager/Town Administrator search in Massachusetts.

Not Advantageous: The Proposer includes three (3) or fewer samples of advertisements, brochures, and other forms of candidate outreach with the proposal, none of which involve a Town Manager/Town Administrator search.

Unacceptable: The Proposer does not include samples of advertisements, brochures or other forms of candidate outreach.

All Technical Proposals will be given a cumulative ranking based on individual rankings of the following weighted elements, using a scoring sheet included as Attachment D: Proposer's Networking Strategies, Proposer's Experience/Key Personnel, Proposer's Approach to Ensuring Community Involvement, Proposer's Implementation Plan and Schedule, Proposer's Recruitment Materials, and Proposer's References.

The Select Board may choose to conduct interviews of proposers, on such basis as it determines. If interviews are conducted they will be ranked as follows:

Highly Advantageous: The Lead Consultant for this project was present, clearly stated a plan of action, demonstrated excellent communications skills, presented other personnel with experience and skills who will be assigned for the duration of this project, and successfully responded to all questions.

Advantageous: The Lead Consultant for this project was present, outlined a plan of action, demonstrated excellent communication skills, presented other personnel with experience and skills who will be assigned for the duration of this project, and successfully responded to most of the questions.

Not Advantageous: The Lead Consultant for this project was present but did not present a clear plan of action, or was unable to communicate effectively, or presented other personnel who did not have the experience and skills to work on this project and/or who would not be assigned for the duration of this project, or did not successfully respond to questions.

Unacceptable: The Lead Consultant for this project was not present at the interview or was unable to communicate effectively and did not successfully respond to questions.

If interviews are conducted, a composite rating will be assigned to the applicable Proposals. After review of the composite ranking of the Technical Proposal and interviews (if conducted), the Price Proposals will be opened and evaluated by the Interim Town Manager for the Town of Sudbury.

CONTRACT AWARD

The contract will be awarded to that Proposer deemed by the Select Board and/or its designees to have submitted the most advantageous proposal taking into consideration all of the Technical Proposal criteria and Proposers' interviews (if conducted) in addition to the Price Proposals. The selected Proposer shall sign the contract presented by the Town, which shall be substantially in the form of Attachment E to this RFP. In accordance with the provisions of G.L. c. 30B, sections 5 and 9, the Town of Sudbury reserves the right to waive any informalities in any or all proposals, or to reject any or all proposals, if it be in the public's best interest to do so.

TERM OF THE CONTRACT

It is anticipated that work under this contract shall begin approximately August 23, 2022 and shall be completed on or before January 3, 2023 when it is anticipated the new Town Manager will begin employment with the Town of Sudbury. If the selected candidate begins work in Sudbury, and for any reason leaves the position within the first 12 months of employment, the consultant will conduct another search under the terms of this contract for an amount equal to out-of-pocket expenses only.

ATTACHMENT A
(To be submitted with the TECHNICAL PROPOSAL)

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, or other organization, entity, or group or individuals.

Name of person signing bid or proposal

Name of Business Entity (if any)

ATTACHMENT B
(To be submitted with the TECHNICAL PROPOSAL)

CERTIFICATE OF TAX COMPLIANCE

Pursuant to MGL c. 62C, § 49A, the undersigned acting on behalf of the Contractor, certifies under the penalties of perjury that, to the best of the undersigned's knowledge and belief, the Contractor is in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

**Signature of Individual

*** Contractor's Social Security Number (Voluntary) or Corporate Contractor (Mandatory) or Federal Identification Number

By: Date: _____

Corporate Officer (Mandatory, if applicable)

** The provision in the Attestation relating to child support applies only when the Contractor is an individual.

** Approval of a contract or other agreement will not be granted unless the applicant signs this certification clause.

*** Your social security number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended. This request is made under the authority of MGL c. 62C, § 49A.

ATTACHMENT C

Price Proposal (To be submitted in a **separate sealed envelope** from the Technical Proposal)

The price proposal (one original copy) must be submitted without "conditions or exceptions" and must be submitted under separate cover and in a sealed envelope.

The price proposal set forth in this proposal shall constitute full and complete compensation for the services to be provided by the Consultant's Firm. There shall be no reimbursement for out-of-pocket or other expenses incurred by the Consultant in connection with the performance of the services without the approval of the Interim Town Manager. Any exceptions may result in the rejection of the proposal.

Price Proposal for The Town of Sudbury Town Manager search:

\$ _____ Total Fixed Fee Contract Price

Total Fixed Fee Contract Price in words: _____

Signature: _____

Title: _____

Company: _____ Tel: _____ Fax: _____

Address: _____

Email _____

Date: _____

ATTACHMENT D
Technical Proposal Rating Sheet

Each element of the Technical Proposal must be rated using the following scale:
Highly Advantageous: 3 Advantageous: 2 Not Advantageous: 1 Unacceptable: 0

Name of Proposer _____

ATTACHMENT E
Form of Contract

**AGREEMENT BETWEEN
TOWN OF SUDBURY AND**

THIS AGREEMENT to provide professional services for Town Manager recruitment (hereinafter referred to as the "Project"), is made as of the ___ day of _____, 2022, by and between _____, with a usual place of business at _____ (hereinafter referred to as the "CONTRACTOR"), and the Town of Sudbury, a municipal corporation with a usual place of business at 278 Old Sudbury Road, Sudbury, MA 01776 (hereinafter referred to as the "TOWN").

WITNESSETH that the CONTRACTOR and the TOWN, for the consideration hereinafter named, agree as follows:

ARTICLE 1: CONTRACT DOCUMENTS

The Contract Documents consist of the following, and in the event of conflicts or discrepancies among them, they shall be interpreted on the basis of the following priorities:

- 1) This Agreement between TOWN and CONTRACTOR;
- 2) CONTRACTOR'S proposal dated _____ ("Proposal");
- 3) Town's request for proposals ("RFP");
- 4) Copies of all required bonds, certificates of insurance and licenses required under the Agreement;

EACH OF WHICH IS INCORPORATED HEREIN. These documents form the entire Agreement between the parties and there are no other agreements between the parties. Any amendment or modification to this Agreement must be in writing and signed by an official with the authority to bind the TOWN.

ARTICLE 2: SCOPE OF WORK

The CONTRACTOR shall furnish all materials, labor and equipment, and perform all work required in order to provide the Town with professional services as more fully described in the RFP and the Proposal, and the CONTRACTOR agrees to do everything required by this Agreement and the Contract Documents.

ARTICLE 3: TERMS OF AGREEMENT

- (a) The work to be performed under this Agreement shall be commenced within five business days after the TOWN issues a written or verbal Notice to Proceed to the

CONTRACTOR, and shall be entirely completed within ____ days after issuance of the Notice to Proceed.

- (b) In addition to all other terms and requirements of this Agreement, CONTRACTOR covenants and agrees that if the selected candidate, after executing an employment agreement with the TOWN, should for any reason be terminated or leave the employ of the TOWN the CONTRACTOR will conduct another recruitment exercise, as provided for herein, for an amount equal to out-of-pocket expenses only.

ARTICLE 4: THE CONTRACT SUM

The TOWN shall pay the CONTRACTOR for the performance of this Agreement the sum of \$ _____, to be paid as follows:

- \$ _____ to be invoiced on placement of position advertisement;
- \$ _____ to be invoiced on completion of review and initial ranking of candidates;
- \$ _____ to be invoiced on completion of the candidate interview process; and
- \$ _____ to be invoiced on completion of employment contract between TOWN and selected candidate.

(b) Subject to Appropriation. The obligations of the TOWN hereunder shall be subject to appropriation on a fiscal year basis. In the absence of appropriation, this Agreement shall be terminated immediately without liability of the TOWN for damages, lost profits, penalties, or any other charges arising from early termination.

ARTICLE 5: PAYMENT

- (a) The TOWN shall make payment as follows: The CONTRACTOR will submit periodic invoices to the TOWN, as stated above, for review and approval. Payment will be made within thirty days after receipt by the TOWN, subject to (b) below.
- (b) With any invoice, the CONTRACTOR shall submit evidence satisfactory to the TOWN that the work has been completed in accordance with this Agreement, and that all payrolls, material bills and other indebtedness connected with the work have been paid. The billings shall include, if applicable, all charges for CONTRACTOR, subcontractors, and other authorized expenses. There shall not be any markup for overhead, administration or profit for any of the above listed services.

ARTICLE 6: NON-PERFORMANCE

In the case of any default on the part of the CONTRACTOR with respect to any of the terms of this Agreement, the TOWN may give written notice thereof, and if said default is not made good within such time as the TOWN shall specify in writing, the TOWN may notify the

CONTRACTOR in writing that there has been a breach of the Agreement, and thereafter the TOWN shall have the right to secure the completion of the work remaining to be done on such terms and in such manner as the TOWN shall determine, and the CONTRACTOR shall pay the TOWN any money that the TOWN shall pay another person or entity for the completion of the work, in excess of what the TOWN would have paid the CONTRACTOR for the completion of the work, and the CONTRACTOR shall reimburse the TOWN for all expenses incurred by reason of said breach. In case of such breach, the CONTRACTOR shall be entitled to receive payment only for work satisfactorily completed prior to said breach, less any retainage the TOWN is entitled to. The amount of any balance due the CONTRACTOR shall be determined by the TOWN in its reasonable discretion.

ARTICLE 7: TERMINATION

- (a) Notwithstanding any other provision of this Agreement, the TOWN reserves the right at any time to suspend or terminate this Agreement in whole or in part for its convenience upon fourteen days written notice to CONTRACTOR. TOWN shall incur no liability by reason of such termination for convenience except for the obligation to pay for work performed and accepted through the date of termination less any offset or claim of TOWN. Such obligation shall not exceed the available appropriation. CONTRACTOR shall have no right to recover other amounts, including but not limited to amounts for lost profits, indirect, incidental or consequential damages.
- (b) If for any reason the TOWN terminates the Agreement due to lack of funding, CONTRACTOR hereby releases the TOWN and every member, agency, and agent thereof from all claims of and liability to the CONTRACTOR for everything done, furnished for or relating to the work pursuant to this agreement.
- (c) The CONTRACTOR shall have the right to terminate this Agreement if the TOWN fails to make payment within 45 days after it is due.

ARTICLE 8: NOTICE

All notices required to be given under this Agreement shall be in writing and shall be effective upon receipt by hand delivery or certified mail to:

Town of Sudbury: (Name _____)
(Title _____)
Town of Sudbury
278 Old Sudbury Road
Sudbury, MA 01776

Contractor: (Name _____)
(Title _____)
(Address _____)

ARTICLE 9. INSURANCE

- (a) The CONTRACTOR shall, at its own expense, obtain and maintain motor vehicle liability insurance and general liability insurance protecting the TOWN in connection with any operations performed under this Agreement, and shall name the TOWN as an additional insured on the policies.
Automobile liability insurance shall be in the form of comprehensive automobile liability and shall provide limits of \$500,000 each person and \$1,000,000 each occurrence for bodily injury liability.
General liability coverage shall be in the amount of at least \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury liability and property damage liability.
- (b) The CONTRACTOR shall carry a professional malpractice or an errors and omissions policy with limits of at least \$1,000,000 per claim and \$2,000,000 aggregate.
- (c) The CONTRACTOR shall, before commencing performance of this Agreement, provide by insurance for the payment of compensation and the furnishing of other benefits in accordance with Mass. General Laws Chapter 152, as amended, to all persons employed by CONTRACTOR and shall continue such insurance in full force and effect during the term of the Agreement.
- (d) All insurance coverage shall be in force from the time of the Agreement to the date when all work under the Contract is completed and accepted by the TOWN. **Certificates and any and all renewals substantiating that required insurance coverage is in effect shall be filed with the TOWN and shall list the TOWN as additional insured for General Liability and Automobile liability policies.** Since this insurance is normally written on a year-to-year basis, the CONTRACTOR shall notify the TOWN should coverage become unavailable or if its policy should change. Any cancellation of insurance, whether by the insurers or the insured, shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the TOWN at least fifteen days prior to the intended effective date thereof, which date shall be expressed in said notice.
- (e) The CONTRACTOR shall indemnify, defend, and save harmless the TOWN and all of the TOWN'S officers, agents and employees from and against all suits and claims of liability of every name and nature, including costs of defending any action, for or on account of any injuries to persons or damage to property of the TOWN or any person, firm, corporation or association, including personal injury or defamation or allegation thereof, arising out of or resulting from any act, omission, or negligence of the CONTRACTOR, subcontractors and its and their agents or employees in the performance of the work covered by this Agreement and/or failure to comply with the terms and conditions of this Agreement. The foregoing provisions shall not be deemed to be released, waived or modified in any respect by reason of any surety or insurance provided by the CONTRACTOR under the Agreement.

ARTICLE 10: SUBCONTRACTING OF WORK

(Name _____) shall serve as lead consultant in charge for CONTRACTOR, coordinating activities, interfacing directly with TOWN, and participating throughout the engagement as required. The CONTRACTOR shall not subcontract any of the work that it is required to perform under this Agreement to any corporation, entity or person without the prior written approval of the TOWN.

ARTICLE 11: OWNERSHIP OF DOCUMENTS

Upon payment therefor to the CONTRACTOR, the TOWN shall be the owner of all data, documents, records, and computations created by the CONTRACTOR that relate to this Agreement.

ARTICLE 12: STANDARD OF CARE

The Contractor's services shall be performed by qualified personnel. The CONTRACTOR'S Project team shall consist of those persons identified in the Proposal. The employment by the CONTRACTOR of subcontractors for any of the services under this Agreement shall be subject to the prior written approval of the TOWN. No member of the project team shall be replaced without the consent of the TOWN. The TOWN shall have the right to require the CONTRACTOR to remove any personnel from the Project for reasonable cause. The CONTRACTOR shall perform its services in accordance with the highest professional standards of skill, care, and diligence.

ARTICLE 13: GOVERNING LAW

The CONTRACTOR shall perform the work required under this Agreement in conformity with requirements and standards of the TOWN and all applicable laws of the Commonwealth of Massachusetts, its political subdivisions, and the Federal Government.

This Agreement and performance thereunder are governed by the laws of the Commonwealth of Massachusetts, without regard to any conflict of laws principles, and all other applicable bylaws and administrative rules, regulations and orders.

ARTICLE 14: BINDING AGREEMENT AND ASSIGNMENT OF INTEREST

This Agreement shall be binding upon the TOWN and the CONTRACTOR and the partners, successors, heirs, executors, administrators, assigns and legal representatives of the TOWN and the CONTRACTOR. Neither the TOWN nor the CONTRACTOR shall assign, sublet or transfer any interest in this Agreement without the written consent of each other, and such consent shall not be unreasonably withheld.

ARTICLE 15: LICENSURE AND COMPLIANCE WITH MASSACHUSETTS LAW

By executing this Agreement, CONTRACTOR agrees and certifies that, to the extent required by law, it is licensed to perform the services required by this Agreement, and that it will secure such licensure for so long as it is bound to perform services under this Agreement. Documentation of such licensure shall be attached to this Agreement. CONTRACTOR shall comply with all applicable laws, bylaws, rules and regulations, and codes of the Commonwealth of Massachusetts and Town of Sudbury in performing the work embraced by this Agreement. Pursuant to Mass. General Laws chapter 62C, section 49A, the CONTRACTOR certifies under the penalties of perjury that the CONTRACTOR has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written. *

*If a Corporation, attach to each signed copy of this Agreement an attested copy of the vote of the Corporation authorizing the said signing and sealing.

CONTRACTOR:

By: _____

Print name:

Title: _____

TOWN OF SUDBURY:

By: Select Board

BUSINESS

4. Cape Cod Country Club Land Donation Memorandum of Understanding (MOU) (10 minutes)

**TOWN OF FALMOUTH
OFFICE OF TOWN COUNSEL
MEMORANDUM**

TO: PETER JOHNSON-STaub
FROM: BRIAN D. TOBIN, ASSOCIATE TOWN COUNSEL &
MAURA O'KEEFE, TOWN COUNSEL
SUBJECT: ASD CAPE COD HOLDINGS LLC MEMORANDUM OF
UNDERSTANDING FOR GROUND MOUNTED SOLAR ARRAYS
DATE: SEPTEMBER 23, 2022
CC:

Enclosed is the final version of the non-binding Memorandum of Understanding presented by ASD Cape Cod Holdings LLC for a vote of the Select Board. It addresses the installation of one or more Ground Mounted Solar Arrays at 41 Theatre Drive, 48 Theatre Drive and 0 Boxberry Hill Road, Falmouth, Massachusetts. This Office has been informed that the primary purpose of the MOU is to show the Town's support of the project conceptually as ASD works through the requirements of the Regional Policy Plan for the Cape Cod Commission. This MOU is non-binding. It sets the basic parameters by which ASD and the Town may engage in negotiations, if at all, regarding this project.



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September 23, 2022

Town of Falmouth
59 Town Hall Square
Falmouth, MA 02540

Re: Land Donation at Cape Cod Country Club

Board of Selectmen:

ASD Cape Cod Holdings LLC ("ASD") is in the process of applying for the installation of one or more Ground Mounted Solar Arrays at 41 Theatre Drive, 48 Theatre Drive and 0 Boxberry Hill Road, Falmouth, Massachusetts (collectively, the "parcel"). As part of this process, we have been engaged with the Cape Cod Commission to work through the requirements of the Regional Policy Plan ("RPP").

The RPP requires that acreage to be put into conservation to offset the impacted acreage of the solar array(s), which will impact approximately 57 acres. ASD is contemplating putting all or a portion of the parcel into conservation (with a ground lease in place for the construction, operation and ownership of the solar array(s)).

ASD would then donate all or a portion of the parcel to the Falmouth Conservation Commission. The ground lease would be negotiated through and with Town Counsel, and would ensure that Falmouth has no liability or responsibility for the parcel and that the arrangement is value positive for Falmouth.

Attached is a non-binding memorandum of understanding reflecting this concept. We hope that we can move forward with the Board's support and look forward to a mutually beneficial relationship.

Thank you.



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United States

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September 23, 2022

Town of Falmouth

Attn: Board of Selectmen and Town Manager

NON-BINDING MEMORANDUM OF UNDERSTANDING
PROPOSED PROPERTY DONATION AND GROUND LEASE

- Property: 41 Theatre Drive, 48 Theatre Drive and 0 Boxberry Hill Road, Falmouth, MA (the "Property")
- Option Holder and Ground Tenant Entity: ASD Cape Cod Holdings LLC ("ASD")
- Ground Landlord Entity: Town of Falmouth (the "Town")
- Proposed Transaction: ASD is currently negotiating an option to purchase all or portions of the Property, each partial purchase being related to one or more land parcels (each, a "Parcel"). ASD is seeking permits and approvals to construct one or more ground mounted solar arrays on up to 57 acres of the 147-acre Property (the "Projects"). In support of and in response to the open space mitigation requirements of the Cape Cod Commission (the "Commission"), after the acquisition of each Parcel, ASD proposes to promptly donate all or a portion of such Parcel to the Town for perpetual conservation subject only to a ground lease covering such Parcel for the construction and maintenance of the applicable Project over its useful life (a "Ground Lease"). Such transactions and each Ground Lease would reflect the conditions set forth in this Non-Binding Memorandum of Understanding (this "MOU").
- Material Ground Lease Provisions:
 - o Rent: a reasonable rate measured in United States Dollars per megawatt of direct current capacity per year escalating at a reasonable percent (%) per annum. Said dollar values and percentage shall be agreed to by the parties pursuant to subsequent negotiations and final approval such that they are accurately reflected in the Ground Lease prior to its execution. The aggregate capacity of all Projects is presently contemplated to be 23.3 megawatts of direct current capacity. However, each Project



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will be approved in parts based on local and state permitting with the final capacity being governed by those approvals.

- o Term: An initial term of **20 years** with ASD holding the right to extend the term for five additional periods of 5 years each (*i.e.*, a possible total term of **45 years**). The Parties shall negotiate any and all terms addressing assignability, if any, of the Ground Lease. Said terms may include, without limitation, an assignment provision requiring ASD's written request and the Town's written approval, whereby the Town may not unreasonably withhold said approval. The Town expressly reserves the right to negotiate, draft, edit, delete, and adjust, the specific wording of any such provision when the Parties draft a formal, binding agreement.
- o Operating Costs: ASD would be responsible for all costs of its tenancy at each Parcel and its operation of the applicable Project, including, without limitation, those attributable to: (i) customary liability and property insurance; (ii) any utilities serving the Property; (iii) maintenance and repair of the applicable solar array, border fencing and all other improvements and (iv) maintenance of applicable security measures (e.g. cameras, alarms, etc.).
- o Surrender of Property: At the expiration or earlier termination of the Ground Lease, ASD would remove all improvements on the Property, including all elements of the applicable Project and fencing. As required by Town zoning, ASD would post a bond at the start of installation of the Project which would cover the cost to remove the installation and remediate the landscape in the unlikely event that ASD cannot commence or complete removal. The Town may require a formal comprehensive decommissioning agreement or program to ensure satisfactory removal and remediation.
- o ASD Termination Right: ASD would have the ability to terminate the Ground Lease and remove the applicable Project in the event that ASD determines that economic or regulatory changes make the Project financially infeasible.
- o Commission Provisions: The applicable Project would be completed (i) using the vegetation planting plan approved by the Commission, and (ii) per the engineering plans approved by the Commission. The Ground Lease would be the only exception to the perpetual conservation restriction granted to and held by the Town.



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- Conditions Precedent to Ground Leases: The Ground Leases would only become effective upon the satisfaction of the following conditions:
 - o ASD's receipt of all permits and approvals for the Projects, including, without limitation, all approvals needed from the Massachusetts Department of Energy Resources SMART Program administrator, the Commission and the Town, in each case subject to any conditions acceptable to ASD in its sole discretion.
 - o PILOT: Obtaining an agreement for payments in lieu of taxes (PILOT) for each Project based on a reasonable dollar value in addition to the rent payment contemplated above. ASD acknowledges that any and all negotiations will be subject to appropriate Town procedural mechanisms, including without limitation, a Town meeting vote when applicable.
 - o The Commission's approval including an identified portion of each Property as an offset against the entirety of ASD's open space mitigation requirements pursuant to the Commission's operative Regional Policy Plan.
 - o The Town or ASD obtaining any public and board and committee votes, including Town Meeting, to effectuate each Ground Lease or the land donation or acceptance.
 - o Finalization of a form of each Ground Lease, with terms and conditions mutually acceptable to ASD and the Town.
 - o Receipt of any internal approvals of each Ground Lease required by the Town, if applicable.
 - o ASD's acquisition of each Parcel.
 - o ASD's donation of the Parcel(s) to the Town by quitclaim deed, including the permanent conservation restriction that is subject to the Ground Lease associated with each Parcel. It is the intention of ASD and the Town that all or a portion of the Property qualify for perpetual conservation as contemplated by Article 97 of the Constitution of the Commonwealth of Massachusetts and M.G.L. Chapter 40, Section 8(c), *provided, however*, that each Parcel would not be entered into Article 97 classification until the requisite Parcel has completed its operational term.



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- o Each Project being owned by a special purpose entity that is an affiliate of ASD as designated by ASD.
- Brokers: None.
- Non-Binding: The terms and conditions proposed in this MOU are for discussion purposes only and shall not be legally binding on either party hereto or obligate either party to any future course of conduct. The parties acknowledge that this MOU does not address all the essential terms of the Ground Leases contemplated herein and that such essential terms are the subject of further negotiation if such negotiation occurs. Neither party shall have any liability to the other party whatsoever by reason of any action taken in reliance upon this MOU. The parties acknowledge and agree that either party shall have the right to terminate the negotiation of any Ground Lease or other agreement contemplated hereby for any reason or no reason and that neither party owes the other party any duty to negotiate any such lease or other agreement.



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ASD CAPE COD HOLDINGS LLC

TOWN OF FALMOUTH, by and
through its
ACTING TOWN MANAGER

By: _____
Jared Donald
EVP, Head of USA

Peter Johnson-Staub

their meeting held on

As Authorized by the Select Board at
_____. 2022.

BUSINESS

5. As trustees for the Falmouth Affordable Housing Fund, act on an application from the Falmouth Housing Trust for \$100,000 to create a deed restricted affordable single-family house at 33 Pheasant Lane (10 minutes)



TOWN OF FALMOUTH
Office of the Town Manager & Select Board
59 Town Hall Square, Falmouth, Massachusetts 02540

TO: Select Board
FROM: Peter Johnson-Staub, Acting Town Manager *PJS*
SUBJECT: Falmouth Housing Trust – 33 Pheasant Lane, East Falmouth
Application to Falmouth Affordable Housing Fund (FAHF)
DATE: September 20, 2022
CC: Community Preservation Committee
Kimberly Fish, Housing Coordinator

The Town received an application from the Falmouth Housing Trust (FHT) for a grant of \$100,000 from the Falmouth Affordable Housing Fund (FAHF) to place a permanent deed restriction on an existing house at 33 Pheasant Lane, East Falmouth. As you may know, this house has been the subject of litigation and was ordered to be torn down by the Zoning Board of Appeals. In May, you voted to approve the Local Initiative Plan application submitted by the FHT for this property. It was also approved by the Massachusetts Department of Housing and Community Development and the Zoning Board of Appeals approved the application for a comprehensive permit on September 8, 2022. The zoning violation has in effect been "cured" by the ZBA approval of the comprehensive permit for one affordable single-family house on this parcel.

I received a favorable recommendation from the FAHF Working Group on May 11th. The Community Preservation Committee also voted to recommend approval of this application on July 14th.

Based the above information, I recommend the Select Board support this application.

Recommended Motion:

"I move that the Board, acting as Trustees of the Falmouth Affordable Housing Fund, grant \$100,000 to Falmouth Housing Trust to place a permanent deed restriction on the existing house at 33 Pheasant Lane and authorize the Acting Town Manager to execute a commitment letter setting forth the terms of the financial award to the Falmouth Housing Trust."

ATTACHMENTS:

- Application
- Legal opinion from former Town Counsel Frank Duffy related to the zoning litigation
- Community Preservation Committee Recommendation
- Zoning Board of Appeals Comprehensive Permit

Kim Fish

From: Frank Duffy
Sent: Friday, April 8, 2022 11:53 AM
To: Julian Suso; Peter Johnson-Staub
Cc: Noreen Stockman; Maura O'Keefe; Kim Fish
Subject: Pheasant Lane

It is appropriate for the Select Board to hear and decide the application of Falmouth Housing Trust (FHT) to accept 33 Pheasant Lane as a Local Initiative Project. The FHT is not a party to any litigation and is under no constraints with respect to the property. The Select Board is not a party to the litigation and is not bound by any such constraints. The property owner may agree to sell the property during the pendency of the Land Court litigation. The Land Court is aware of the local situation and has stayed the litigation to allow for consideration and approval of a non-judicial resolution. If there is a non-judicial resolution, the Land Court case will be dismissed.

If the Select Board approves the FHT application to accept 33 Pheasant Lane as a LIP, the FHT will apply to the Zoning Board of Appeals for a Ch. 40B comprehensive permit. The ZBA will hear and decide that application on its merits including all pending zoning issues. Ch. 40B confers upon the ZBA the authority to waive strict compliance with the zoning bylaw.

Another Falmouth zoning appeal in Land Court was recently resolved in this manner. During the pendency of the litigation property in New Silver Beach was sold. The new owners agreed to a resolution and the Land Court dismissed the case.

Frank K. Duffy, Senior Counsel
Town of Falmouth
157 Locust Street
Falmouth, MA 02540
(508) 548-8800 fax (508) 540-0881

CONFIDENTIALITY NOTICE: This communication and any accompanying document(s) are confidential and privileged. They are intended for the sole use of the addressee. If you receive this transmission in error, you are advised that any disclosure, copying, distribution, or the taking of any action in reliance upon the communication is strictly prohibited. Moreover, any such inadvertent disclosure shall not compromise or waive the attorney-client privilege as to this communication or otherwise. If you are not the intended recipient and have received this communication in error, please contact the sender immediately and delete the original message. Thank you.

FALMOUTH AFFORDABLE HOUSING FUND
Established by Ch. 29 of the Acts of 2011
Board of Selectmen, Trustees

59 Town Hall Square
Falmouth, Massachusetts 02540
(508) 495-7344

AFFORDABLE HOUSING FUND APPLICATION
Calendar Year 2019

General Information

Project Name: 33 Pheasant Lane

Project Location and Parcel ID#: 33 Pheasant Lane, 40 11 005 013

Type of Project: 40B LIP

Applicant(s) name/ Organization: Falmouth Housing Trust, Inc.

Contact Person: Karen Bissonnette, Executive Director

Mailing Address: P.O. Box 465, Falmouth, MA 02543

Telephone Number: (508) 274-1651

Email Address: kb@falmouthhousingtrust.org

Property Ownership

Legal Property Owner of Record: A Purchase and Sale agreement has been signed between Pheasant Lane, LLC and Falmouth Housing Trust. Purchase is contingent on the LIP application receiving approval.

Is the owner the applicant? NO. P&S attached.

If not, does the applicant have site control or written consent of the property owner to submit an application? If yes, attach documentation. Without this documentation the project will be ineligible for funding for this applicant. For projects that have an acquisition expense the applicant must provide an appraisal from an independent party that justifies the acquisition cost.

Development Team

Please submit as attachments the resumes of the development team and a list and description of affordable housing projects completed by the applicant.

Karen Bissonnette, Executive Director (resume attached)
 Addie Drolette, President of the Board of Directors (resume attached)
 Troy Clarkson, Board of Directors member (resume attached)
 Joanne O'Sullivan, Immediate Past President of the Board of Directors (resume attached)
 Tom Manchester, Board of Directors member (resume attached)
 Edwin Monteiro, Board of Directors member (resume attached)

Project Information

Describe the proposed project including:

Project Style: Single-family house
 Type of Units (condo ownership, fee simple ownership, rental, etc.): Deed-restricted homeownership
 Total Number of Units: 1
 Number of Market Units: 0 Number of BRs: 0
 Number of Affordable Units: 1 Number of BRs: 3
 Proposed Sale Prices/Rents: \$265,000
 Proposed Condo Fees: 0

Proposed % of AMI target beneficiaries: 80 %

Describe how this project addresses the unmet affordable housing needs of the community as identified in the *Town of Falmouth Housing Demand Study & Needs Analysis (2014)* and the *Town of Falmouth Local Comprehensive Plan (2016)*.

This project addresses the affordable needs of the Town in accordance with the Falmouth Affordable Housing Fund Board of Trustees 2019 Funding Priorities by creating affordable housing that is consistent with many of the Commonwealth's Sustainable Development Principles:

- by creating affordable housing with an increased density that is compatible with surrounding homes and neighborhoods
- by meeting criteria of the Target Populations by providing housing for low-income households
- by providing housing for larger families needing 3+ bedrooms
- by creating homes for first-time buyers

Also, this project is in line with the 2019-2023 Housing Production Plan's stated need for 70+ housing units per year. The Plan calls for 15% of the goal to be single-family homes, or 56 houses. As of April 2022, only 6 affordable homeownership houses have been built, sold and occupied. Furthermore, creating more housing aligns with Governor Baker's Housing Choice goal of 135,000 new housing units in the Commonwealth.

Clearly, the demand for housing continues to increase and according to the Housing Needs and Demand Analysis, Falmouth needs more than 500 homes over the next five years to meet this demand. Falmouth Housing Trust's mission is to build workforce housing for young people and families. The lack of affordable housing contributes to the loss of our young workforce—many of whom are low- to

moderate-income people who provide essential services to our community. As Falmouth's young workforce has decreased, our population continues to grow older; the number of age-dependent people (children and those 65 and older) is larger than our working population. This is an unhealthy ratio for any community; all communities need a diverse, productive workforce to thrive.

The recent closure of the Falmouth Hospital Maternity and Pediatric units and the significant decrease in school enrollment are harsh reminders of the lack of people in Falmouth and the surrounding areas of child-bearing age. No community can survive without this group of people.

By losing or not attracting this demographic, our community is losing the diversity, vibrancy, and contributions that this population brings which affects our local economy and threatens our quality of life. Falmouth's lack of affordable workforce housing is an obstacle to attracting and retaining a young and talented workforce. To retain this population, our low- to moderate-income residents must have housing they can afford. Because Falmouth Housing Trust recognizes the value of this demographic to the health and composition of our town, creating affordable housing for this population is our sole priority. By providing affordable workforce housing, FHT helps retain this valuable populace and makes our community vital, healthy and economically strong.

As we all know, the past two years have made attaining appropriate housing even more difficult. During the pandemic Barnstable County was one of the four top places in the nation people flocked to, driving prices up even higher than they already were. Employees on Cape Cod cannot compete with salaries from New York, Connecticut, and the Boston area—including cash offers over asking price.

According to the Cape and Islands Association of Realtors, the median home prices in Falmouth have skyrocketed. Median home prices have climbed from \$439,000 in 2020 to presently over \$700,000.

"Falmouth has both special qualities and unique challenges...the very beauty that makes Falmouth so appealing also masks the degree of economic hardship that exists in the Town."

— Town of Falmouth, Housing Demands Study & Needs Analysis.

Site Information

Please provide a description of the surrounding area and community profile including a description of the current site characteristics, zoning, environmental, and any regulatory requirements or constraints. Attach a map and photos of the project site and neighborhood along with any zoning/permitting relief required.

Building: This project requires a Comprehensive Permit from the ZBA.

Zoning: Residential C.

Health: A conventional septic system exists.

Conservation: The completed home does not impact any areas subject to Con Com jurisdiction.

Infrastructure: East Falmouth Elementary school is 1 mile away. The nearest gas station, and grocery is 1.1 miles away. The beach is 0.8 miles away. Nearest pharmacy (CVS) is 1.1 miles away. Falmouth Town

Falmouth Affordable Housing Fund

Rev. 4/19

Hall is 4.9 miles away. The nearest church (St. Anthony's) is 1.5 miles away. Cape Cod Regional Transit Authority runs the "Sealine" bus down Route 28. Route 28 is 1.1 miles away from 33 Pheasant Lane. Buses run between Hyannis and Woods Hole every hour, and a stop can be made or requested anywhere along the route.

Amount of FAHF Request: \$100,000

Project Feasibility

Attach project budget information on the included Attachment A –OneStop 2000 Affordable Housing Finance Application Sections 3: Sources and Uses and Section 4: Budget Pro Forma together with at least one bank letter of reference.

Community Outreach

Provide a description of the applicant efforts to engage the community members through outreach, meetings, and other educational initiatives.

FHT will work with Housing Assistance Corp. to welcome applicants to the Housing Lottery. This will include an educational session, print advertising, social media and contacting those who have participated in previous lotteries to ascertain their interest in applying for this lottery.

Development Schedule

Describe the timeframe for the proposed project and how it will be implemented. Provide a timeline for all project milestones included as *Attachment B – Project Schedule*.

List of Attachments

- Purchase and Sale Agreement between Pheasant Lane, LLC and Falmouth Housing Trust, Inc.
- List of affordable housing projects completed by Falmouth Housing Trust, Inc.
- Development Team resumes
- Property map of 33 Pheasant Lane
- Photos of 33 Pheasant Lane
- Site Plan
- As Built
- Appraisal
- House Plans
- One-Stop Affordable Housing Budget
- Project Schedule (Attachment B)

If you have any questions, please do not hesitate to contact Carla Feroni at 508 495-7344 or at the email address below.

Submit one electronic copy to Townmanager@falmouthma.gov and (6) hard copies to: Housing Coordinator, Town of Falmouth, 59 Town Hall Square, Falmouth, MA 02540

Provide a schedule for project implementation using the Milestones below. If Milestone B or C is not applicable to your project, mark the Milestone "NA." *Note: Implementation Schedules must be realistic. Carefully consider projected Milestone dates. Unrealistic Implementation Schedules may have a negative impact on the project's application review. Project implementation delay may be considered in recommendation for grant award.*

Milestones (Month/Year):

A. Project Start (Month/Year): December 2021

B. Procurement Documents Submitted to FAHF (Month/Year): N/A

C. Project Construction/Professional Contract Submitted FAHF (Month/Year): N/A

D. Project/Construction Start (Month/Year): N/A

E. 50% Project Completion (Month/Year): N/A

F. 100% Project Completion (Month/Year): N/A

G. Close-Out Complete (Month/Year): September 2022

Comments: This house was completed in 2020 and FHT signed a Purchase and Sale Agreement with the developer in December 2021. This sale is contingent upon receiving a Comprehensive Permit from the ZBA.



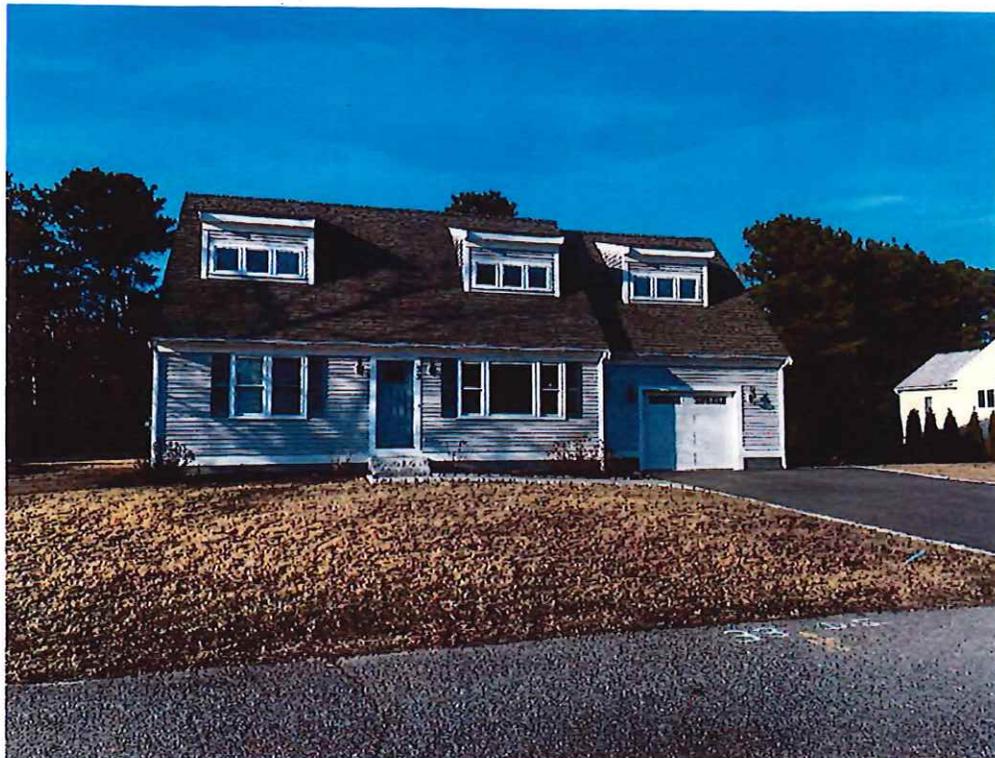
ATTACHMENT B -- PROJECT SCHEDULE:

- December 2021-Negotiated with developer to acquire property.
- December 2021 – FHT communicated with DHCD about project.
- December 2021 – FHT executed a Purchase and Sale agreement with Pheasant Lane, LLC.
- March 2022 – FHT executed a modified Purchase and Sale agreement with Pheasant Lane, LLC.
- April 2022 – FHT goes to the Select Board for approval on the LIP application. The Select Board unanimously voted in favor of the LIP application on April 11th, 2022.
- April 21, 2022 – FHT submits LIP application to DHCD for site approval letter.
- May 2022 – Begin Affirmative Fair Housing Marketing Plan process with Housing Assistance Corporation.
- July 2022 – Contingent on-site Approval Letter, FHT goes before ZBA for Comprehensive Permit approval.
- August 2022 – Housing Lottery conducted by Housing Assistance Corporation.
- September 2022 – Home is sold to new owner

FALMOUTH HOUSING TRUST, INC.

33 PHEASANT LANE, FALMOUTH, MA

SITE PLAN







Community Preservation Committee
59 Town Hall Square, Falmouth, MA 02540
508-495-7436

MEMO

To: Peter Johnson-Staub, Acting Town Manager
Kimberly Fish, Housing Coordinator

From: Maureen Thomas, Community Preservation Coordinator

Cc: Russell Robbins, CPC Chair

Re: **CPC Recommendation to FAHF Trustees**
33 Pheasant Lane Falmouth Housing Trust (FHT) Application for FAHF Funding

Date: September 15, 2022

On Thursday, July 14, 2022, the Community Preservation Committee (CPC) voted unanimously to make a recommendation to the Trustees in support of funding the 33 Pheasant Lane Falmouth Housing Trust (FHT) application to the Falmouth Affordable Housing Fund (FAHF) in the amount of \$100,000.

Thank you very much for your consideration of the CPC recommendation.

BUSINESS

6. Report – Shellfish Advisory Committee (15 minutes)

Shellfish Advisory Committee

2022 was a productive year for the Falmouth Shellfish Advisory Committee. This year the committee was able to meet in person almost every month. The success of the Town Aquaculture Pilot project in Eel River East continues, with all 3 farms producing a high volume of oysters and paying gear rental fees to the Town that are being utilized for municipal quahog propagation. The goal of the pilot project, which was designed and implemented with input and support from the committee, is to remove nitrogen from the Eel River as well as generate funds for Town quahog propagation through aquaculture gear rental fees. The MES department has also made great progress towards expanding the pilot project by completing preliminary surveys of areas in various Town water bodies that may be suitable for aquaculture. As of now, roughly 80% of the "phase 1 polygons" identified have been surveyed. The success of the Town Aquaculture Project is largely due to the outstanding cooperation between the selected growers, the committee, and the MES department.

The committee has also continued to work closely with the MES department on how to best utilize the Town propagation budget, determine the best ratio of oyster vs quahog seed to purchase, and evaluate the most suitable locations to disperse seed. In early winter, the committee met with wild harvesters and the MES department to draft some potential changes to commercial shellfishing regulations. The proposed changes are related to the number of permits issued, commercial catch requirements, volunteer hours, and an expanded winter fishery. These changes are currently being reviewed by Town Council for a determination on what can be changed through the Select Board vs what will need to be approved through Town Meeting.

The Shellfish Advisory Committee also reviewed and supported a Coastal Resiliency grant submitted by the MES department, and is currently evaluating historical quahog landings data in an effort to quantify nitrogen removal and assist with future seed stocking decisions.

We look forward to continuing our efforts in the coming year!

BUSINESS

7. Report – Agricultural Commission (15 minutes)

Falmouth Agricultural Commission Presentation to the Select Board September 26, 2022



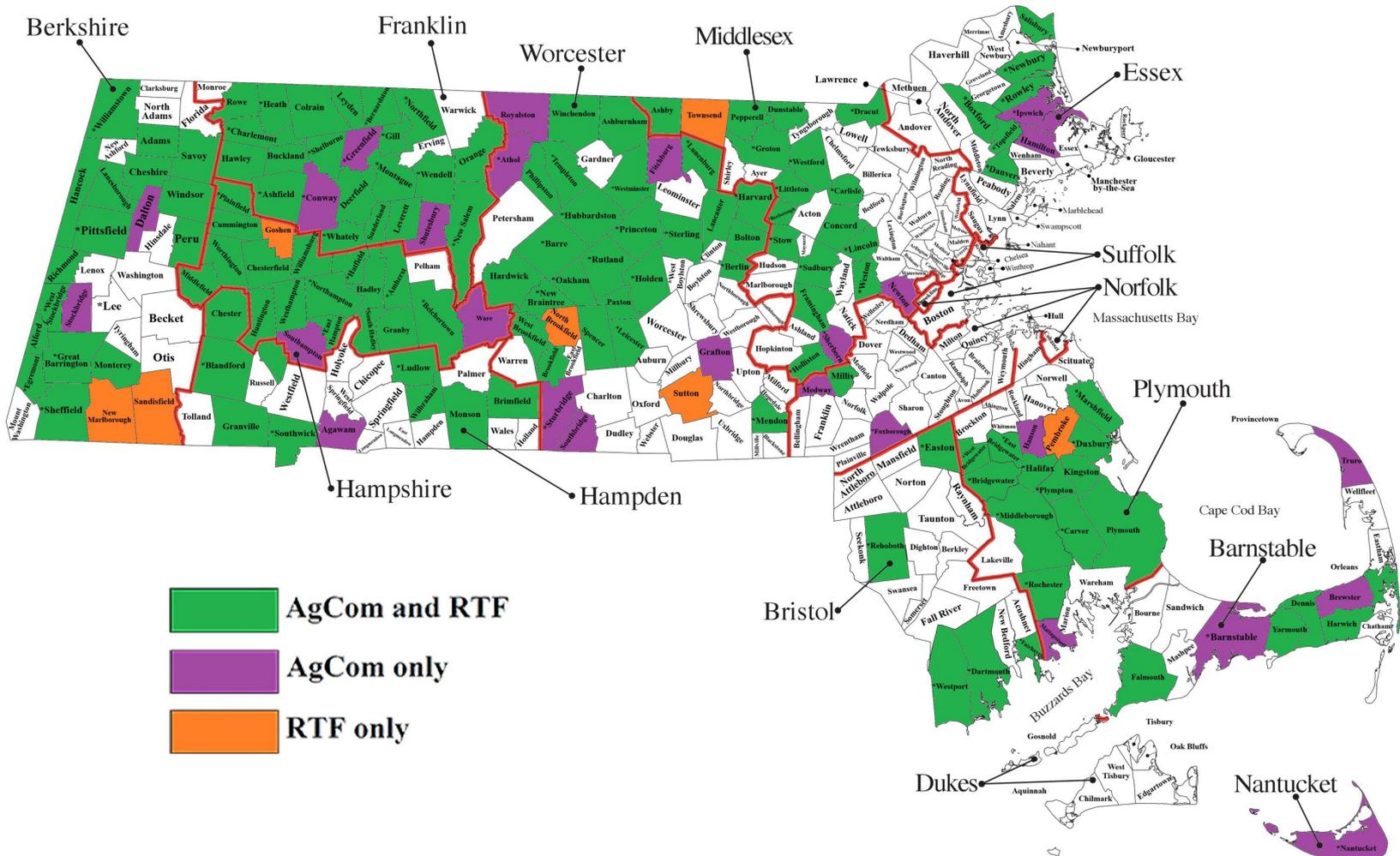


What is an Agricultural Commission?

- Developed by The Massachusetts Farm Bureau Federation and supported by the Massachusetts Department of Agriculture and Pilgrim Resource Conservation & Development Area Council staff
- Formed at Town Meeting through the passage of a local bylaw
 - Falmouth formed its Agricultural Commission in 2005
- Duties
 - Advocate for farmers
 - Protect agricultural lands
 - Educate on agricultural issues
 - Preserve rural character
 - Provide a voice for farmers
 - Encourage agriculture-based businesses



Massachusetts Ag Comms and Right to Farm Towns



Municipal Agricultural Commissions



- Reformed as a Municipal Agricultural Commission in 2017 with new powers
 - Buy, hold, manage, license, or lease land for agricultural purposes
 - Receive grants, gifts, or land
 - Create an agricultural preservation fund

Ag Comms & Boards of Health

- New state law in January 2021
- Boards of Health in Towns with Municipal Agricultural Commissions required to give a 45-day review period for any regulation that impacts farming



What does an Ag Comm do?

- Serves as a local voice advocating for farmers, farm businesses and farm interests
- Provides visibility for farming
- Gives farmers a place to go to for help
- Works with town boards on issues facing farming in the town
- Helps resolve farm related problems or conflicts
- Protects farmland and other natural resources





Falmouth is a Right to Farm Town

- Falmouth adopted the Right to Farm Bylaw in 2007
- What does this mean?
 - “This general bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmlands within the Town of Falmouth by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies.”
 - Recognition that Falmouth supports farming in all its forms.



Ag Comm Members

- Karen Schwalbe – Farmer advocate
- Heidi Walz – CPC, Historic, founding Ag Comm member
- Warren Collins – Agricultural Extension Agent in NY, Farmer, Farmers Market Board, Community Garden Board
- Amy Vickers – Real Estate Expert and Homesteader
- Jane Vose – Community Educator
- Matt Churchill – Pariah Dog Farm
- Jack Simonds – Freshfield Farm





Recent Agricultural Commission Projects

- Working with the Falmouth Board of Health on Poultry regulations
- Educating on Highly Pathogenic Avian Influenza
- New Friends of Falmouth Ag Comm Facebook page
- Early Approval of Andrews Farm lease extension
- RDA for Cranberry bogs & planning for long term maintenance



Future Plans/Wish List

- 40B pressures on farmland and farmland preservation
- Right of First Refusal on properties in 61A
- Maintenance budget for the Community Bog
- Designating Farmland of Local Importance in Massachusetts
 - The regulation directs the USDA Natural Resources Conservation Service to identify and inventory prime and unique farmland and specifies that farmlands that are of statewide and local importance for producing these crops also need to be identified.
- Educational series on farming



Thank you!

Our next meeting is Thursday September 29th at 6:30
in the Small Meeting Room

agriculturalcommission@falmouthma.gov

BUSINESS

8. Petition Article Presentations for November 2022 Annual Town Meeting (5 minutes each)

- a. Article #10 – Fund Mass Cultural Council (Alice Kociemba)

- b. Article #11 – Repeal plastic water bottle ban (Robert P. Volosevich, Jr.)

- c. Article #12 – Repeal plastic water bottle ban (Dana C. Nielsen)*

***Note: Dana Nielsen is unable to attend, but has submitted a written presentation included in this packet.**

- d. Article #13 – Adopt bylaw for disposal of firearms (Nan Logan)

- e. Article #14 – Adopt bylaw regulating single-use black plastic containers (Malcolm Donald)

September 21, 2022

To: Town of Falmouth Select Board

Re: Article 12 Petitioner's Article.

I have put forth a petition to repeal Chapter 191 sections 41-44 of the Town of Falmouth bylaws, "Prohibition of Sale of Single-Use Plastic Water Bottles". Please find the rationale below that supports said petition and subsequent requested action (Article 12) to amend the aforementioned Sections by striking in entirety by vote of the members of Town Meeting.

First, several other towns in the area who enacted similar bans quickly repealed them after listening to the public outcry from the citizens of their towns, a similar sentiment I hear from citizens of Falmouth daily at my place of employment, Kenyon's Market. This ban is driving business from Falmouth to neighboring towns, something no business owner in town likes, or can afford to lose.

Second, the current inflation level in the country is at 8.3%. With costs of everyday items soaring, combined with increasing energy and fuel costs, it is hard to ask people to pay \$3-\$5 for a aluminum bottle or cardboard carton of water. A case of water which used to cost \$5-\$6 now will cost someone \$15-\$20 or more in our town. This adversely affects seniors on limited income, as well as citizens with low income. This will also serve to drive less healthy beverage choices, with added sugars and chemical preservatives.

Third, the availability of filling stations for reusable bottles has not met the demand yet. Conversations with many Falmouth community members have witnessed an overwhelming displeasure with this singularly focused attack from one special interest group.

Finally, the Town has recently supplied every home with a large, beautiful new recycling bin, which shall encourage recycling of plastic water bottles. Understanding that recycling is not a sole source of solution for the environmental impact of single use plastics.

The Town of Falmouth Select Board promotes not only environmental stewardship yet also long-term financial stability and responsiveness to community concerns. That said, there is not one solution (i.e., prohibition of single-use plastic water bottles) rather there needs to be a multi-faceted, coordinated approach to minimize the environmental impact while maintaining health and financial well-being of our community. Increased availability of filling stations, increased options for public recycling as well as education can make a tremendous impact.

Consideration of this petition and action is much appreciated, and I thank you for your time dedicated to this vital topic.

Sincerely,

Dana C. Nielsen



NOVEMBER 2022 ANNUAL TOWN MEETING

Select Board Announce Annual Town Meeting	Monday, July 25, 2022
Close Warrant.....	Friday, September 2, 2022
Select Board Vote Articles & Execute Warrant	Monday, September 12, 2022
Publish Articles Only	Friday, September 16, 2022
Petition Article Presentations	Monday, September 26, 2022
Select Board Vote Article Recommendations	Monday, October 3, 2022
Publish Warrant with Recommendations	Friday, October 28, 2022
Town Meeting	Monday, November 14, 2022

November 2022 Annual Town Meeting Index

Article	Recommendation
1 Choose Town Officers	-----
2 Reports from Committees and Town Officers	-----
3 Zoning re-codification	Planning Brd
4 Fund Capital Improvements	Fincom
5 Fund Non-Capital Projects	Fincom
6 Remove Fire Department from Civil Service	Select Board
7 Supplement FY23 Operating Budget - Raise & Appropriate (Debt & School Ch 70 \$)	Fincom
8 Supplement FY23 Operating Budget - Free Cash Reserve Fund	Fincom
9 Supplement FY23 Operating Budget - Free Cash Other (wages)	Fincom
10 Petition - Fund Mass Cultural Council	Fincom
11 Petition - Repeal plastic water bottle ban	Select Board
12 Petition - Repeal plastic water bottle ban	Select Board
13 Petition -- Adopt bylaw for disposal of firearms	Select Board
14 Petition -- Adopt bylaw regulating single-use black plastic containers	Select Board

ANNUAL TOWN MEETING

ARTICLE 1: To choose all other necessary Town Officers for the year in accordance with nominations to be offered at Town Meeting.

ARTICLE 2: To Hear Reports of Committees and Town Officers and act thereon.

ARTICLE 3: To see if the Town will vote to amend the Zoning Bylaw to renumber, recaption, and recodify, and to make clerical and substantive revisions to the Zoning Bylaw by (a) reorganizing the layout of the Bylaw and adding tables; (b) assigning new article numbers; (c) renumbering sections of the Bylaw accordingly; (d) updating internal references to reflect the new numbering system; (e) updating the existing text to conform with State statutes and regulations; (f) adding new text to provide clarity, specificity, and structure; (g) correcting typographical errors; (h) eliminating outdated references and terms; and (i) adding recent Town Meeting approved bylaw language where necessary all as set forth in the document entitled "Town of Falmouth Massachusetts Zoning Bylaw, Town Code Chapter 240 Articles 1 – 14, November 2022", on file with the Town Clerk. Or do or take any other action on the matter.

ARTICLE 4: To see if the Town will vote to appropriate a sum of money for the purpose of funding Capital Improvements, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Select Board.

ARTICLE 5: To see if the Town will vote to appropriate a sum of money for the purpose of funding Non-Capital projects, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Select Board.

ARTICLE 6: To see if the Town will vote to authorize the Select Board to petition the Massachusetts General Court for a special act to remove all personnel of the Falmouth Fire Department, including the Fire Chief, from the provisions of Massachusetts General Laws, Ch. 31, s. 1 et seq., the Civil Service Law, or do or take any other action on the matter. On request of the Select Board.

ARTICLE 7: To see if the Town will vote to raise and appropriate a sum of money to supplement the FY 2023 budget approved by Article 5 of the April 4, 2022 Annual Town Meeting. Or do or take any other action on the matter. On request of the Select Board.

ARTICLE 8: To see if the Town will vote to appropriate a sum of money from Free Cash to supplement the Reserve Fund of the FY 2023 budget approved by Article 5 of the April 4, 2022 Annual Town Meeting, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Select Board.

ARTICLE 9: To see if the Town will vote to appropriate a sum of money from Free Cash to supplement the FY 2023 budget approved by Article 5 of the April 4, 2022 Annual Town Meeting, to determine how the same shall be raised and by whom expended. Or do or take any other action on the matter. On request of the Select Board.

ARTICLE 10: To see if the Town will vote to appropriate \$7,300, or any other sum, for matching the Mass Cultural Council allocation, or act on anything relative thereto. On petition of Alice Kociemba (Alice Youmans).

ARTICLE 11: To see if the town will vote to repeal Chapter 191 Article V Sections 191-41 through and including 191-44 of the code of Falmouth prohibiting the Sale of Single-Use Plastic Water Bottles, which bylaw was previously adopted by vote of the Town on Article 33 of the September 14, 2020 Annual Town Meeting. Or do or take any other action on the matter. On petition of Robert P. Volosevich, Jr.

ARTICLE 12: To see if the Town will vote to amend the Town of Falmouth By-Laws Chapter 191, section 41 – Sale of single use plastic water bottles, by striking it in its entirety. On petition of Dana C. Nielsen.

ARTICLE 13: To see if the Town will vote to adopt a bylaw to be added to Ch. 115 of the Code of Falmouth, requiring the disposal of certain surplus firearms as follows:

§ C115, Disposal of Surplus Firearms

§ 115-01. The purpose and intent of this bylaw is to take action to prevent injury to the people of Falmouth and beyond by preventing assault weapons owned by the Town from reentering the stream of commerce. This bylaw acknowledges that assault weapons and other high-capacity firearms that are banned under the general laws of the Commonwealth are capable of causing great harm and destruction in the wrong hands. Firearms are also highly regulated, unique commodities. As such, this bylaw is meant to be interpreted in harmony with the important protections of the Procurement Act while recognizing the exceptional nature of assault weapons in the marketplace and in society.

§ 115-02. Definitions Assault weapon: any prohibited firearm or weapon under the Massachusetts Assault Weapons Ban at M.G.L. c. 140 §§ 128 and 131M, as amended, or similarly restricted firearms, including but not limited to machine guns.

§ 115-03. Disposal of Surplus Firearms Notwithstanding the provisions of M.G.L. c. 30B, any assault weapons as defined by this bylaw, irrespective of their value, that are deemed surplus by the Chief of Police shall be destroyed in a safe and appropriate manner. On petition of Nan Logan.

ARTICLE 14:

PURPOSE AND INTENT.

The recycling of black plastic containers presents a problem to the recycling stream due to the inability of the optical scanning and other equipment in use at the commercial Materials Recovery Facilities operating in the Commonwealth of Massachusetts to discriminate black plastic.

With the goal of promoting the effectiveness of the recycling initiative and given that inexpensive alternatives to black plastic are available, the Town will phase out the use of black plastic containers over a period of six (6) months from the effective date of this Bylaw in order to allow time for establishments to use their existing inventory and to convert to alternative methods.

§191-32

Definitions.

PLASTIC CONTAINERS

Single-use disposable products for serving or transporting food or beverages, including, without limitation, take-out foods and/or leftovers from partially consumed meals prepared by a restaurant and/or retail food establishment. This includes, but is not limited to plates, cups, bowls, trays, and hinged or lidded containers.

FOOD ESTABLISHMENTS

Any operations, including, without limitation, restaurants, convenience stores, grocery stores, delicatessens, food trucks, schools, farmers' markets and other public venues that store, prepare, package, serve, vend or otherwise provide food for human consumption. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000 et seq., shall be considered food establishments for the purposes of this Bylaw.

RETAIL ESTABLISHMENTS

Any commercial business facility that sells goods directly to consumers, including, but not limited to, grocery stores, pharmacies, liquor stores, convenience stores, retail stores and vendors selling food, theaters and all other food services establishments.

§ 191-33

Use regulations.

Plastic food containers provided by Falmouth food and retail establishments for the purpose of takeout must be colorless or of a color that can be recognized and correctly sorted by the optical scanning equipment and other equipment in use at the commercial Materials Recovery Facilities operating in the Commonwealth of Massachusetts shall not be used or sold by food establishments and/or retail establishments within the Town of Falmouth on or after a period of six (6) months from the effective date of this Bylaw. Any stock remaining after six (6) months from the effective date of this Bylaw shall be accepted for disposal free of charge at the Falmouth Solid Waste Management Facility. This Bylaw shall not apply to:

A.

Items in original manufacturer's packaged outside of Falmouth.

§ 191-34

Administration and enforcement.

This Bylaw may be enforced by agent of the Board of Health through any lawful means in law or in equity, including, but not limited to, noncriminal disposition pursuant to MGL c.40, § 21D (NOTE: MA General Law), and the appropriate chapter of the General Bylaws of the Town of Falmouth. If noncriminal disposition is elected, then any establishment which violates any provision of this Bylaw shall be subject to the following penalties:

First offense: a warning

Second offense: one-hundred-dollar (\$100) fine.

Third offense: two-hundred-dollar (\$200) fine.

Offenses occurring within two years of the date of prior reported offense will be considered as subsequent offenses. Each day or portion thereof shall constitute a separate offense.

The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 590.15 (NOTE: MA General Law), may suspend or revoke the food service permit for any establishment failing to comply with this Bylaw. On petition of Malcolm Donald.

CONSENT AGENDA

1. Administrative Orders

- a. Approve application to Community Preservation Fund – Old Burying Ground – Ground Penetrating Radar Survey**



Town of Falmouth

Department of Public Works
416 Gifford Street, Falmouth, MA 02540
Office: 508-457-2543, Fax: 508-548-1537

Steven Cadorette, P.E., Deputy Director

Steven.Cadorette@falmouthma.gov

Application Narrative Application for Community Preservation Funding Old Burying Ground – Ground Penetrating Radar Survey

1. A. Project Description:

This project is a continuation of the Old Burying Ground Conditions Assessment that was approved by the CPF in April 2022. The April 2022 approval was for a visual conditions assessment of the existing above-grade markers. At the August 2022 kick-off meeting for the Conditions Assessment project, the cemetery conservator, Marking Burials, offered an opinion that there may be markers that were either buried, covered over by vegetation, or otherwise obscured. The conservator offered her opinion that a ground penetrating radar (GPR) survey would be the correct method to identify these obscured markers. The GPR is an important preliminary investigation method that should be completed prior to any marker conservation or preservation work.

In addition, the GPR survey may potentially identify the location of the original Meetinghouse that, according to several historical resources, was located adjacent to or within the Old Burying Ground limits. The potential meetinghouse location is discussed in an article authored by Ann Sears titled "Reading History in Falmouth's Old Burying Ground (text available at the Woods Hole Museum).

1. B. Applicants Previous CPA Funding

The CPA previously approved \$25,000 of funding for a visual Conditions Assessment in April 2022. This assessment commenced in August 2022 and is anticipated to be completed by the end of December 2022.

2. Community Need and Benefit

The Old Burying Ground is an important historic cemetery in Falmouth. Conservation and preservation efforts are required to preserve this valued resource. The GPR survey is the second condition assessment phase. The visual Conditions Assessment and the GPR investigation information will be used to develop a conservation and preservation program.

3. Project Goals

It is likely that over the years head and foot stones have been covered over and buried by soil and vegetation. The GPR survey will attempt to locate these buried head and foot stones. Located buried markers will be unearthed and preserved/conserved during the project's preservation and conservation phase.



Town of Falmouth

Department of Public Works

416 Gifford Street, Falmouth, MA 02540
Office: 508-457-2543, Fax: 508-548-1537

Steven Cadorette, P.E., Deputy Director

Steven.Cadorette@falmouthma.gov

This project continues the effort to preserve this historic Town cemetery. Visitors currently enjoy walking tours through this historic cemetery. The conservation and preservation of historic grave markers will allow the tour participants to gain additional information about the former Town inhabitants interred in the cemetery.

4. How will the success of this project be measured?

The success of this project will be measured by locating head and foot stones that are buried below soil and vegetation, allowing these grave markers to be unearthed and conserved/preserved. Without the GPR survey these buried grave markers would be lost forever.

5. Maintenance

The Old Burying Ground property is currently maintained by the Department of Public Works. There is no ongoing grave marker maintenance program. The information collected by the visual Condition Assessment and the GPR survey will be used to formulate a conservation and preservation program. It is anticipated that this conservation and preservation program will be overseen by a combination of Historical Commission members and volunteers. The DPW will continue to maintain the grounds.

The preservation and conservation program is anticipated to be funded using CPC grants, Massachusetts Preservation Project Fund grants, the Massachusetts Department of Conservation and Recreation Historic Cemetery Preservation Initiative, and other public and private grant programs.

6. Proof of site control

Not required for this project

7. Additional Information

Heritage Consultants has provided a detailed proposal for the ground penetrating radar study at the Old Burying Ground, a copy of which is attached. The proposal included the firm's qualification and experience along with a scope of work. Heritage provided an alternate historic documentation and mapping research to supplement the GPR survey.

APPLICATION NARRATIVE

Please answer the following questions on separate paper in the order listed below, keeping answers complete but brief. Refer to the Application Guidelines on Page 2 while completing this application. Applications will be returned if all requested information is not provided. Include supporting materials, as necessary. Applications that (1) present a thorough description of the project with as many details as possible, (2) have significant support from other Town Boards and Committees, and (3) present a comprehensive, well described and reasonable budget and realistic implementation schedule will have the greatest likelihood of success.

1. **A. Project Description:** Describe the proposed project and how it will be completed. What steps are involved in completing this project? Include supporting materials and exhibits as necessary.

B. Applicant's Previous CPA Project Funding: Has a previous phase of this project, or any previous project, received CPA funding? If yes, explain.

2. **Community Need and Public Benefit:** Why is this project needed? (See definition of *public benefit* in *Application Guidelines*, p. 3). When responding to this question, consider the following: matching funds from other sources that will be obtained if CPA funds are awarded; people who will directly benefit from the project once it is completed; and resources that will be protected as a result of this project.)

3. **Project Goals:**

- What are the goals of the proposed project? How are they consistent with the *CPA Goals* outlined on p.4?
- Second, how is the project consistent with the Local Comprehensive Plan (LCP) and other relevant Town plans [See Pages 4 & 5 – *CPA and Town of Falmouth Goals*].

For Recreation Projects only: Explain how the project is consistent with the Town of Falmouth *VueWorks Program Report* and *Priority List*. (See the *Community Preservation* page of the Town's website for the posted *Condition Rating Report 6-3-2015*.)

4. **Success Factors:** How will the success of this project be measured? Be as specific as possible.

5. **Maintenance:** If ongoing maintenance is required to protect the CPA investment in your project, how will it be funded in the future? (If not applicable to your project, write NA.)

A. Who will be responsible for Project Maintenance?

B. How will Project Maintenance be funded?

6. **Proof of site control - Required for non-municipal projects only:** Attach documentation that you have control over the site, such as a Purchase and Sale Agreement or deed.

7. **Additional Information** (not required, but recommended if applicable)

A. **Project Documentation:** Attach any applicable engineering plans, architectural drawings, site plans, any other renderings, relevant studies or material.

B. **Other Information:** Any additional information that might benefit the CPC in consideration of this project.

CONSENT AGENDA

1. Administrative Orders

- b. Board vote to accept the donation from Lawrence-Lynch Corp. for the paving of the Old Dock Road town parking lot in West Falmouth



Att: Tim Shea

RE: Town Of Falmouth
Bike Path Parking Lot

LLC was pleased to provide the Town of Falmouth with the gift of improving the Town parking lot on Old Dock Rd in West Falmouth. This parking lot services both the Shining Sea Bike path and the West Falmouth Harbor. This project was planned in cooperation from The Town of Falmouth Department of Public Works as well as with representatives of the Town of Falmouth Bicycle and Pedestrian Committee.

The scope of work performed by LLC was general survey, excavation, grading and paving. The parking lot is approximately 1,250 sq. yds. and LLC placed 210 tons of Hot Mix Asphalt in the construction of the lot. LLC estimates that the retail value of this work is \$31,700.00. Work was completed on Friday Sept 9.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher M. Lynch".

Christopher M. Lynch
President
Lawrence-Lynch Corp.

MINUTES

1. Review and Vote to Approve Minutes of Meetings: Public Session – February 28, 2022; July 25, 2022

September 26, 2022

TOWN OF FALMOUTH
Select Board
Open Session
Meeting Minutes
MONDAY, FEBRUARY 28, 2022
SELECT BOARD MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

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

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

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

1. Chair Brown called the open session to order at 6:00 p.m. and motioned to convene the executive session under 1. M.G.L. Ch. 30A, s. 21(a)(3) – Discuss strategy with respect to pending litigation, Scanlon Finon v. Falmouth Public Schools 2. M.G.L. Ch. 30A, s. 21(a)(6) – Discuss value of real property easements for Martha’s Vineyard cable requested by NStar Electric dba Eversource; 3. M.G.L. Ch. 30A, s. 21(a)(3) - Discuss strategy with respect to collective bargaining with Falmouth Firefighters Local 1397 because to not go into executive session could prejudice ongoing negotiations. Mr. Patterson 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 items, and to return to Open Session after discussion. Roll Call Vote: Ms. English Braga aye; Chair Brown, aye; Mr. Patterson, aye; Dr. Taylor, aye; Ms. Scott Price, aye.

2. Chair Brown reconvened the open session.

3. Pledge of Allegiance

4. Recognition

Mr. Patterson acknowledged the challenges and sacrifices being made by the citizens of Ukraine.

Ms. Scott Price recognized the DPW for their work done to clear the streets after the most recent storm.

5. Announcements

The Select Board will have a Saturday meeting to discuss Select Board policies and consider new policies.

6. Public Comment

Dianna Mota, has not heard about her insurance claim. Ms. English Braga stated the Select Board cannot respond back to those making comments during Public Comment. Ms. Mota said that they have other issues to worry about besides leaf blowers being taken away, including code enforcement and trucks going down Fresh Pond Road, which is a residential area. She expects the Select Board to address resident issues. Ms. Mota believes Town department heads need to have job performance review. East Falmouth needs crosswalks and the crosswalk at St. Anthony’s Church needs to be moved.

Ben Mezzacappa stated that in October 2021 he got notice at his property 29 Depot Ave. regarding a discussion at the library, noting that is not his residential address. He went to the library meeting about the EDIC, brainstorming session to talk about what to do with the parcel next to the Depot. He did not understand what was going on, his comments were not well received, and it was confusing. He did some fact finding, others in the meeting were consultants, town officials, and it was confusing. There is a plan for that plot next to his land, it is an 80-unit 4-story micro unit apartment building for seasonal workers. He is frustrated with this proposal, no one else had heard of this, he informed every business, resident, condo complexes, everyone. Everyone was taken aback by the proposal. He found out the EDIC was having a stakeholder’s meeting, it was an authoritarian style webinar, participants could not see each other, and no one could make comment without typing and having it approved and read. The process of not informing the stakeholders of that area is disturbing, the proposal is disturbing, he is planning to restore a 200 plus

year old building, and he has been there since the 1970's. There is a petition going around Town against this project.

Walter (last name not stated) explained a drawing of the fire station, three miles out, only station he does not have on it is Station 6. Each of the circles represents three miles from the fire station, several areas that could house a fire station. He stated that Station 4 needs to be staffed 24/7 with two firefighters.

7. Affirm appointment of Information Technology Director

Mr. Suso introduced Dawn Lewis and requested the Select Board affirm his appointment of Ms. Lewis. He also asked the Select Board to consider waiving the residency requirement, as she resides in Westport.

Ms. Lewis stated she has over 30 years of I.T. experience, with the last six years being municipality experience in a large city. She hopes to use her experience to move technology forward. Fall River has online permitting in Code Enforcement and groups listed under that, but for citizens, online portal for permitting has not been implemented yet. One future project was to have a citizens online portal for online permitting, and working on employee self-service next. The website they were using was over ten years old, no one was responsible for it, they set up templates and wanted all websites to have the same type of template. Information on each page was the responsibility of that department, but I.T. would update it as needed.

Ms. Lewis likes to learn new things and is currently working on a master's degree in forensic psychology. She has done a lot of work with police and fire, centralizing software and hardware.

Ms. Lewis grew up in Westport, she plans to stay there, and it is not a bad commute.

**Ms. English Braga motion approval and to waive the residency requirement. Second Dr. Taylor.
Vote: Yes-5. No-0.**

TOWN MANAGER'S PRELIMINARY REPORT

Mr. Suso reported that the flow neutral bylaw appears to generally comply with guidelines set for variance, he recommends the Select Board support that item.

Scott McGann, Health Agent, will provide an update on Covid-19.

Update on proposed costs for the new Sandwich Rd. Fire Station.

Draft recommendations for proposed Town Articles.

Historic Horse Trough issue: emails have been received, and he is hoping they will consider a compromise.

The Select Board has been asked to look at the potential for extending a waiver of right of first refusal for a Rte. 151 property.

The adjusted special events policy will be reviewed.

Mr. Suso recommends the Select Board authorize the shared streets grant that is going forward to the Cape Cod Commission.

Mr. Suso recommends approval of the memorandum of understanding between the United States Coast Guard and the Town of Falmouth regarding fire protection, protection of life and property from fire, and firefighting.

7:30 p.m. PUBLIC HEARINGS

1. Flow Neutral Bylaw – Evaluation of Request for Variance – Nilton's Floors, Inc. – 231 Teaticket Highway, East Falmouth (parcel 39 14 026 000)

Ms. English Braga read the hearing notice.

Chair Brown noted the flow is reducing from the currently permitted 710 to 569.

Public Comment: none.

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

Mr. Patterson motion approval of the variance. Second Dr. Taylor. Vote: Yes-5. No-0.

2. Application for an Alteration of the Licensed Premises of a Seasonal All Alcoholic Common Victualler License – Falmouth Pier 37 Boathouse, LLC located at 88 Scranton Avenue, Falmouth

Ms. English Braga read the hearing notice.

Attorney Paul Glynn, representing the applicant. Also present are Brian and Conor McLoughlin, applicant, Kurt Raber, the architect, and Brian Bourque to help with any questions. This is a request to alter the licensed premises. Normally this would be done before altering the premises, he apologizes for this and is looking to have the changes already made approved by the Select Board. Every change has gone through the appropriate boards. The Select Board has issued a license every year. The last time the Select Board saw this was in 2012 when there was a change. Most changes are for safety reasons, one issue was too many people in one room, so in 2014 some walls were knocked down to create one room. They did not alter the license. In 2016 the Zoning Board of Appeals approved a change. This issue is specific to 88 Scranton Ave., not 110 Scranton Ave. Covid expansion was granted, but that is not part of this issue. They are only looking for approval for changes made pre-Covid. His understanding is the Select Board policy is to look and see whether this an appropriate place to license for alcohol. Building capacity is left up to the Building Department. They are not looking to change the capacity already approved.

The plans the Select Board has note capacity a of 539; that is the number that could be approved by the Building Department based on the size of the building. Capacity of 476 is what is actually approved. They are licensed for 300 people for dining, then they may take away the seating and the capacity increases to 476 for dancing and alcohol service.

The Select Board noted that the Falmouth Fire Department (FFD) and the Falmouth Police Department (FPD) has concerns of perceived increase in occupancy. The occupancy changed from 156 in 2012, then in 2016 the major renovations were done and the occupancy went to 300 seated and 476 total.

Ms. Scott Price noted the abutter notifications section is not checked on the checklist. Attorney Glynn said when you apply you have not notified them yet, but he had gotten the list of abutters before applying. He had the abutter notifications return receipts and said he would submit them to Town Manager's Office.

Chair Brown said in 2016 the restaurant renovated and occupancy increased to 476, but the Select Board did not see it here. Attorney Glynn said every year the Select Board signed off on the license, but they did not come in front of the Select Board to alter the premises.

Attorney Glynn said they had a problem last summer and they paid a fine. Chair Brown noted this is the first the Falmouth Fire Department and Falmouth Police Department have been notified of the increase in occupancy.

Kurt Raber, architect, Catalyst Architect and Interiors, has been helping with architectural and permitting issues with the renovation at the Boat House since 2012. They did all the drawings with Tom Bunker, went to Planning Board and to the ZBA. During the 2016 renovations when they expanded the deck and made alterations to the inside of the building they were all in cooperation with multiple meetings in the Building Department with the Fire Department and Building Department it was only after they agreed on the deck, the fire egresses, the exit lighting and the large patio door was added all those things together were what were approved in concept in a meeting in the Building Department with the Fire Department. Their comments were also heard for planning and zoning permits. The building for dining with tables and chairs is posted at a capacity of 300, and, after hours with the removal of tables and chairs, the occupancy is capped to 476, which was based on the plumbing code and the parking restrictions set by Planning. Since 2016 that number has been steady. Mr. Gore was the Building Official, but he retired during the process, and Jim Bandolini signed off on the occupancy in 2016.

Ms. English Braga read it as post 2016 violations that Mr. DeMello from FFD is bringing to the Select Board's attention. It is an operational issue rather than a permitting issue.

Conor McLaughlin, Manager, stated there were checklists missed, they paid a fine for that, they were cited for over capacity only one time. When they end dining, the security staff moves furniture to storage areas to make room for dancing.

Ms. English Braga said the Pocket at 110 Scranton Avenue is not included in the 300/476 capacity. The goal is not to increase occupancy today or in the future.

Troy Clarkson, 45 Trumble Rd., said he is present as friend of McLaughlin's. He considers this a housekeeping issue, with full knowledge of the Town they have operated with this occupancy. Conditions were set by the Select Board to increase safety and security of the site and that was for the full capacity. The Town and McLaughlin's are both responsible for catching up on the paperwork regarding the use.

Chair Brown noted the paperwork mentioned the 539 number, the FFD and FPD may have believed that represented an increase, but was a misunderstanding

Public comment: none.

Mr. Patterson motion close hearing. Second Ms. Scott Price. Vote: Yes-5. No-0.

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

3. Application for an Alteration of the Licensed Premises of an All Alcoholic Club License – Falmouth Yacht Club, Inc. at 290 Clinton Avenue, Falmouth

Chair Brown noted that a letter was received from the applicant requesting to withdraw the application without prejudice. Mr. Suso stated that the applicant is asking the Select Board to waive the 1 year limitation.

Ms. English Braga motion approval to withdraw the application without prejudice at the applicant's request and waive the one year limitation. Second Dr. Taylor. Vote: Yes-5. No-0.

BUSINESS

1. COVID-19 update and discussion of mask mandate – Scott McGann

Scott McGann, Health Agent, reported that case count is at 8, three typical weeks in a row. The Omicron peak is gone. He reviewed the MA Covid-19 Dashboard, and it will drop as a result of last week and this week. The incidence rate is at 5. The hospitalizations are 223. Hospitalizations and deaths are low for those who are vaccinated. The New Centers for Disease Control (CDC) Guidance on Community Level Transmission was reviewed, it is unknown what the State will do with this; he has a weekly call with the State. Barnstable County is considered in the low category. He reviewed the low, medium, and high risk related to face coverings. The schools have no mask mandate as of today. The Board of Health (BOH) recommended the Select Board adopt a Town Mandate for masks in public buildings.

Ms. Scott Price noted her concern is the Senior Center, the Director is supporting the mask advisory. Is there concern from employees in Town Hall? Mr. Suso noted there is always a concern, the feeling of employees is that the mask advisory worked well, and based on past experience, the mask advisory has been and will continue to be adequate.

Mr. McGann would need to get the approval by the Select Board or retroactive. If they are able to see it coming, we can pivot as needed. Mr. McGann noted the hope is that Covid-19 will become milder over time and there are treatments. The guidance for mandates were meant to be temporary. The town has high vaccination rates and relatively low infection rates compared to other areas.

Mr. Patterson feels like the Select Board should defer to the BOH.

Mr. McGann is not speaking for the BOH, they did not take a vote on it. The Select Board should consider not having mandates in place so that when it is needed, people will not be tired of masks. Looking at severity of the disease is important, if it needs to change that can be done.

Ms. English Braga noted it is about being responsive to the data, the data provides an opportunity for respite from the mask. Need to have that adjustment, and the data supports a lowering of that threshold.

Mr. Suso said safeguards for employees, including Plexi-glass will continue.

Dr. Taylor motion approval to change the mask mandate to a mask advisory. Second Ms. Scott Price. Vote: Yes-5. No-0.

2. Update and presentation on total project cost estimate for Sandwich Road Fire Station (10 minutes)
 - Status report on Fire Department staffing

Jennifer Mullen, Finance Director, introduced Jeff Shaw, Context Architecture, and Steve Kirby, Vertex, Owner's Project Manager. Mr. Shaw and Mr. Kirby made a presentation to update what they have been doing and review the financial numbers.

Survey of the site and hydrant flow test have been done on the site. Program review was conducted, including space needs, staffing, equipment needs, building code, and best practices for design in current stations. Stretch energy code included. The site was revised, headlights are directed away from neighbors when backing into the bays, servicing trucks, staff parking, storm water and septic. The plan is to retain as much existing growth as possible, low maintenance landscaping, solar panels are in the plan, it will be a separate item in the cost estimate. They are seeking to be as sustainable and efficient as possible. The floor plan was reviewed. Individual dorm rooms are included, and in a storm or emergency extra personnel can stay there as well. Decontamination processing areas are included. The mechanical systems were selected by the working group, it is a variable refrigerant system, all electric, heat/cool, individual room controls in each room. Lifecycle cost analysis was done for this plan. Renderings were reviewed, early in design and final design look is not complete. Masonry, clapboard, folding pattern for doors, design and development phase continues.

The schedule was reviewed, cost estimate completed, and they are at the beginning of the design development phase. They will bid it out, then start the thirteen-month construction process.

Mr. Kirby said early in the design stage they got a cost estimate from a third party cost estimator so they could get an appropriation request from the upcoming Town Meeting. Total hard costs related to construction, soft costs are fees for owner's project manager, architects, engineers, testing costs, furniture, fixtures, equipment, advertising/printing, and some equipment. The estimate was broken into hard and soft costs, there are contingencies to both. The total project cost is \$10,800,000. They did some value engineering: \$625,000 can be value engineered out of the project. Estimate shows \$9,975,022; the Building Committee wants to ask for \$10 million at the April Town Meeting. They are looking at getting the overall estimate down, noting there is an allowance for solar panels.

Ms. Mullen reported that they are able to fit the \$10 million within the debt drop off. The Finance Committee voted in favor of this project and will make the recommendation to Town Meeting for \$10 million. There will not be a tax levy increase. She will not borrow the whole \$10 million, they are early in the design process and are value engineering some of the more costly items.

Ms. English Braga asked how did we come to the size component?

Mr. Kirby explained the space needs study started with staffing and then equipment apparatus review. They will have an ambulance, engine company, and a third bay for additional vehicles the FFD owns. This is built for future capacity. The ambulance and engine companies need 4 staff members; potential future capacity to crew the additional bay if needed in the future. The Town built the infrastructure for 6 staff members in the future and the ability to house additional folks here.

Mr. Patterson noted the station is centrally located and planning for future capacity can offer the Town flexibility.

Ms. Mullen noted the space needs study was done by the architect, OPM, and FFD members. The space needs study was then presented to the Building Committee, then the Building Committee endorsed those space needs.

Mr. Suso clarified an item Mr. Shaw raised regarding the size of the station. The fundamental determinant of a modern station is the primary equipment housed in it. Here is a rescue squad and a fire engine.

Rosemary Carey, North Falmouth, asked would the solar array be the first to go if the budget is too high?

Mr. Shaw explained the construction costs; the PV allowance is in the project, and not part of the value engineering budget.

Ms. English Braga asked if there is mitigation to lessen the impact on the abutters. Ms. Mullen said they are looking at lights, direction of the bay doors, some abutters attended the public information session and supported the project.

Chief Smith, said the six station model will add stress to the current staffing. If still following the staffing model as it looked in the fall, that would look at the new Hatchville stations that would also be combined North-West. Stations would be a minimum 2 personnel with the exception of the East Falmouth Station. Can strive to keep the stations open, but if start of shift at 14 there may be difficulties manning the stations throughout the day. If no personnel are out on that given day, then they can have the regular staffing, but it is currently a challenge. They will strive to do that, they will try to use volunteer overtime. It will cover West Falmouth Station (West), as currently is done when another station is out on a call. They have primary areas they respond to, but cross over throughout the day.

Dr. Taylor asked in the long range planning, are we prepared to staff six stations fully unless and until a north-west station (northwest) is built, and does the current planning provide for the six stations to be fully operational, opened and staffed? Is there anything in the plan moving forward that would ask that the Hatchville station cover the West Falmouth area?

Chief Smith provided the memo in the packet. As of today, there are no vacancies, they filled the final two vacancies. Those personnel will be attending the academy 3-4 months sooner than expected. All other recruits completed the fire academy, are training at the station, continuing orientation, and gaining the experience-side of the training to gather the qualifications to be included in shift strength. As of Saturday evening, they had sixteen personnel on duty, so there was no need to use overtime to staff West. They have used less forced overtime than they did last year, still need to use overtime to staff West. With current staffing levels, they can continue to look for improvements in staffing, even with the Hatchville Station, which he supports. If he gets the budget approval, they will have three more positions.

Ms. Scott Price asked if Chief Smith is confident he will be able to hire enough firefighters to keep all stations operational. Chief Smith said that he is hopeful. Civil service slowed down the process and Covid-19 affected hiring. Moving forward, they may be able to change that by coming out of civil service and generating more interest in Town for the positions.

Ms. English Braga asked, at present there are 74 line personnel, once two are back from the academy, will we be up to 77? Chief Smith stated that the highest level for staffing has increased from 44 in 2004 to 62; which averages to about 1.2 positions per year. There were approved positions that were not funded. With the increase of two positions, the overrides, and additional three now, and he will continue to ask for personnel.

Chair Brown noted the Select Board is meeting Saturday, maybe they will consider a policy regarding a target number for hiring so that the Select Board can advocate for that number. Chair Brown said they need to be at 16 at the start of shift, then when they open Hatchville station and keep West open in the interim, will need to be at 20 at the start of shift. What is the target at shift start if we want 20.

Chief Smith said that it is challenging to find a number, their average age is upper 20's, they have a young fire department. Over the last five years there are 30 new personnel. The job can be dangerous, and people are injured, it is tough to determine retirements and when someone leaves. He does not know if there is a way to look at attrition over the years. Based on benefits, they can have up to 3-4 personnel out each day. Since August 2019 they have hired 19 positions. Five staff are unavailable at this time, 7 staff are going through the qualifications. West saw at least 13 out of 28 days staffed this month; last year there were only four at this time. Improvements have been seen in coverage at West since last year.

Dr. Taylor asked if they had the money, training and bodies, what would be the number of firefighters needed to run the FFD really well? Chief Smith said it depends on how many stations they are talking about. Sustainably right now and looking at the model in October: they would need 4 additional per shift; for a total of 16 additional personnel.

Mr. Suso referred to a graphic Ms. Scott Price mentioned in the packet on staffing in West. During the first 2 weeks in January, West was not operational due to a mechanical equipment failure and could not be staffed. During the last 2 weeks of January, the night shift was staffed just under 80% of the time, so nearly 4 shifts out of every 5 was fully staffed, and the day shift was 67% staffed, which is 2 out of 3 day shifts fully staffed. This is reflective of the trend that Chief Smith and other staff predicted that increased staffing would continue to climb; it is something that will continue to be enhanced moving forward with return of the full time staffing. Through the diligence of Chief Smith and FFD, the used fire engine Town Meeting set aside funds to acquire has been delivered and is going through additional reviews on the part of the FFD. Mr. Suso acknowledged the Chief and members of the FFD for their tireless work. It will be going into service in the near future subject to the review.

Todd Taylor, West Falmouth, Board of Directors West Falmouth Village Association member. When do you feel the number will shift from 14 to 16 start of shift? It is still a volunteer department in West, staffed when they can on a voluntary basis; the only station in Town to do so. They hoped by now they would be staffed fully, seem to have support by Select Board to carry 6 stations, will need a lot more firefighters if they do. We cannot staff 5 stations now, only four. Chair Brown noted they are getting close, they will see if they can set a clearer policy to address it. Chair Brown said they would see how far they can go with a policy and revisit if they do not feel it will be effective. He feels the Town can afford to staff five stations without need for volunteers.

Mr. Shearer prefers not having West rather than the way it has been. What was the coverage in August when people enjoy the weather. No one minds now, but that is not going to work in August. Need to go to 16 now. A lot of people will fight the override if there is no guarantee North and West remain open until there is a northwest station opened. It is not fair, it is wrong. One of the main jobs of the Select Board is to see that there is health and welfare in this Town. It is their decision what they want to do for the Town, and he thinks they are neglecting their jobs. The new station will cost \$10 million that can fit into a budget, but likely more. Where will the engine and ambulance come from? Will that be another override? Why not do it all at once? He asked the Select Board to tell them the truth. They hear different things, he thought after these hires they would have a full time station; that was the understanding and what the override was going to do for them. He noted the Select Board had two years.

Ms. Scott Price asked if the purchase of a new truck is in capital plan? Chair Brown said yes, it is included.

Mr. Suso noted the policy was adopted in November 2021 and could continue to restate it. The West will continue to be operated until such time a replacement North-West station is adopted and operational.

Chair Brown noted the next policy they adopt will be a little more in depth.

Mr. Suso noted Chief Smith said that the last few shifts were staffed without the need for volunteer firefighters.

3. Presentation on Wastewater-Related Town Meeting Articles

Amy Lowell, Wastewater Superintendent, reported there are six articles related to wastewater on April's Town Meeting agenda, they are all appropriations. The Finance Committee will make the recommendations on them.

Article 14 is a \$24 million funding request, treatment facilities constructed 2003-2005, the operations building is 37 years old. A wastewater treatment facility (WWTF) evaluation was completed, improvements are needed to accommodate the flows from the next planning area; Teaticket/Acapasket Area around Great Pond as well as redevelopment within Main Street through Teaticket Highway. The Town went out with a Request for Qualifications for an Owner's Project Manager. Weston and Sampson was selected for the owner's project manager (OPM), and GHD was selected for the engineer.

The scope was summarized by Ms. Lowell, adding a third sequencing batch reactor allows the facility to treat additional flow and have more operational flexibility. Replacing the sludge thickening system, which is beyond its useful life, will require modifications to the sludge processing building. Modernizing the operations building is needed; the core is in good shape and meets current accessibility requirements, there are improvements needed, including replacing the windows, new roof, electrical room has equipment no longer used; can consolidate relevant electrical into the basement and make use of that room for additional purposes. Construct additional effluent and sludge storage capacity and replace ultraviolet disinfection system. The total cost of the project is \$24 million. Amy reviewed the major groups and it includes a 25% contingency for the project. We are about one year from going out to bid on this project. GHD will look at the scope, cost, inflationary circumstances, and reevaluate the cost and project forward to midpoint of the construction. This is all included in the \$24 million. The project qualifies for a zero interest rate through the State Revolving Fund Loan, minimum 3.3% loan forgiveness, project is on the 2022 Clean Water State Revolving Fund (CWSRF) Intended Use Plan. Cape Cod and Islands Water Protection Fund will provide a 25% grant. The timeline would be to design over the next year, apply for CWSRF loan in October this year, issue bid package February 2023, and construction will take about two years.

Article 15: Fund evaluation of options to discharge treated wastewater by an ocean outfall. The Select Board voted use of AFCEE mitigation funds in December 2021 for modeling of preliminary outfall locations. DPW requested \$95,000 from April 2022 Town Meeting for additional steps for the cost estimate of onshore soil borings and cost estimate refinement. The Teaticket/Acapasket Project is divided into 2 phases, moving forward with the Teaticket Path peninsula and then followed by the Acapasket portion of it. The infrastructure is being planned in coordination for that sewerage.

Articles 18, 19, 21 are all proposed underground sewer easements to increase the number of properties within the Teaticket Path peninsula that can be served by gravity sewers. This is a set of four easements to collect wastewater from four areas to a lift station site on the Town owned Augusta property. Cost of the four easements is \$80,687.

Future wastewater-related Town Meeting Articles for additional easements include the Falmouthport lift station site, Acapesket area easements, Teaticket/Acapesket Wastewater Collection System and Recharge Area Construction. They are planning to request the \$60 million appropriation for the Teaticket/Acapesket collection system and recharge area in April 2024. A minimum of 7 years before sewer will be available there.

Marc Finneran noted the outfall pipe is best. He was reading the notes and minutes from the last MA Water Resource Authority (MWRA) meeting, it was related to the wells they use in Worcester. They are having problems with contamination from the turnpike, they were closing off wells and using wells in the area to supply areas. The MWRA said if water was taken from a well field, they were strict about putting it back into the aquifer. Will the outfall pipe draw scrutiny by the MWRA, contribute to droughts, affect the water table in these areas? Will this be an issue in the future?

Ms. Lowell explained that on Cape Cod that is not something we need to worry about because the groundwater flow is so significant here. We have sandy soil and rapid groundwater replacement. As we handle our water and wastewater, it comes from a few sources in Town and discharged in various sources. We are not currently putting water back to where we are getting it.

Mr. Patterson noted we have an enormous discharge area to collect rain water, we are not faced with the challenge of how you replace the water bypassed by groundwater by taking it to an outwell in Vineyard Sound or the Bay.

Ms. Lowell stated the water restrictions are related to our supply from the water sources. The groundwater resource is the entire Sagamore lens. The amount of water we can draw each day is based on each individual extraction location.

Chair Brown asked if the Teaticket sewerage area is managed by expanded capacity at the existing treatment facility? According to Ms. Lowell, Article 14 is to upgrade the existing wastewater plant, to accommodate the higher nitrogen load in the added sewer area. Their challenge has been, where do you discharge it once you have treated it? The project proposed in April 2024 will include land-based recharge from the flow from the Teaticket/Acapasket area.

Eleanor Ling, Precinct 1, asked if Ms. Lowell thinks any of these projects are eligible for the Biden Administration Infrastructure Bill.

Ms. Lowell said that the design is being funded with ARPA funds the Town already received and she believes this project will be available for additional support from that funding when it comes. The next phases may be lined up to take advantage of that funding.

4. **Vote Article Recommendations for April 2022 Annual Town Meeting**

Article 4: The Finance Committee already acted on Article 4.

Article 9: Mr. Patterson noted that the Finance Committee concurred with the \$500,000 and has the primary recommendation.

Article 17: Mr. Patterson asked who would enforce Article 17, and Mr. Suso noted this is a bylaw authorizing the BOH to promulgate regulations, and it will be addressed in the regulations adopted by the BOH. Ms. English Braga noted the hauler is supposed to identify loads, having this bylaw may provide more teeth to this process. The Chair of the Solid Waste Advisory Committee recommended this article.

Ms. English Braga motion to recommend as printed. Second Dr. Taylor. Vote: Yes-5, No-0.

Article 22: The Select Board will make the recommendation on Article 22 on the town meeting floor, possibly in advance.

Article 24: Ms. Scott Price and Mr. Patterson have a lot of concerns about Article 24. It may make more sense to have a noise bylaw, they understand the concern. Ms. English Braga shares those concerns. There has not been a public forum with stakeholders. Chair Brown feels without public outreach it is not likely to be passed at Town Meeting anyway.

Ms. English Braga motion indefinite postponement. Second Dr. Taylor. Vote: Yes-5, No-0.

Mr. Patterson motion to recommend Article 25 as printed. Second Ms. English Braga. Vote: Yes-4, No-1 (Dr. Taylor).

Mr. Patterson motion to recommend Article 26 as printed. Second Ms. Scott Price. Vote: Yes-4, No-1 (Dr. Taylor).

Ms. English Braga motion to recommend Article 27 as printed. Second Mr. Patterson. Vote: Yes-4, No-1 (Dr. Taylor).

Dr. Taylor motion to recommend Article 28 as printed. Second Mr. Patterson. Vote: Yes-5, No-0.

The Select Board discussed Article 28 for a Sustainability Director. Ms. Scott Price commented that when members came and presented to the Select Board on 12/6/21, she thought the Select Board was going to include it at the Strategic Planning session and that the mission of this was a good idea. She felt the Select Board should have taken the initiative to do this in August. Ms. Scott Price supports the article.

Dr. Taylor agreed, but the Select Board did not do anything with it, and she feels the Select Board needs to do a better job bringing these positions forward as a Board. Ms. Scott Price would like a member of the Select Board to work with all listed on the explanation so that it comes from the Select Board and petitioners.

Chair Brown would like both positions (Coastal Resiliency Administrator and Sustainability Coordinator). Dr. Taylor noted if the Select Board does not recommend this strongly, it will wait for another year or opportunity for Select Board to talk about it.

Mr. Johnson-Staub said that this is a nonbinding decision because Town Meeting does not have the authority to create a position. It is more a statement from Town Meeting that they want the Select Board to act. A four-fifths vote of the Select Board is needed to create a position. Ms. English Braga noted the

position has a natural flow of other expenses and department structure associated to make it effective. They need staff and support to implement these things.

Ms. English Braga motion approval of Article 28 as printed. Second Mr. Patterson. Vote: Yes-5. No-0.

Mr. Patterson motion indefinite postponement of Article 29 at the request of the petitioner. Second Ms. English Braga. Vote: Yes-5. No-0.

5. Report – Edward Marks Building Advisory Committee

Barbara Weyand, Chair, made a presentation. The last update was provided before Covid-19. In 2019 the Select Board asked for an advisory committee to work with plans for the Town's use of the first floor of the Poor House Building, now known as the Edward Marks Building. There are three general contractors on the committee, their cost estimating/cost issues have been proficient. The Committee met every two weeks for almost one and one half years, it is a complex building. The committee met with the Planning Department and Town Managers on a regular basis. This is a historically significant building, it served the poor starting in 1813. This is the only poor house on the cape still owned by a municipality. They worked with the Town and ESCO engineers to find a preservation-sensitive solution for the HVAC system.

An Historic Structure Report was secured. The Community Preservation Committee (CPC) proposal, written in 2020, passed at Town Meeting, Spring 2021, it is an evaluation of the structure. They wrote the proposal to get this report done by a professional preservation company. They also wrote another proposal process for exterior 1, there are likely three to come. They are submitting a proposal for Massachusetts Historical Commission (MHC) matching funds for exterior 1. They need the Select Board's permission to submit a proposal to the MHC.

Three areas of immediate concern due to infrastructure or public safety issues: 1) the framework around the front door, 2) the foundation, and 3) replacing the bulkhead. The CPC has approved sending it to Town Meeting in Spring 2022. MA Historical and CPC are the two funding sources for the work on the exterior of the building. The Town has signed on with a new architect for the design phase.

Michael Duffany, member, described a couple elements of the exterior trim that cannot be duplicated; gutter line. One member produced moldings that can be used to do the front of this building. The Friends of Ed Marks Poor House would like to donate the materials and labor to reproduce and make it stand out in the era it represents. They have a plan to install only those parts on the main roof and portico, then shore up the foundation and reestablish the columns so that the front of the building will be as close as possible to what would have been created originally. He spoke to previous Town Counsel about how to restore the building. The only piece they are looking to do is the gutter. The rebuilding of the portico/deck/roof will be a bid package. When it is time to bid the project, this work will already have been done. They will provide the insurance. This is a fiberglass gutter with Alaskan cedar exterior, it has been reproduced locally.

An 1888 photograph shows what the older main building looked like, and the committee is using this as the guideline to what they are bringing the building back to. Tom Renshaw did the work.

Mr. Suso advised the Select Board vote should be on the next meeting agenda.

6. Request to relocate historic horse trough water fountain(s)

Arden Edwards, Precinct 1 and Catherine Bumpus, Precinct 1 made a presentation requesting relocation of the water fountains.

Ms. Edwards explained the history of the horse trough. When there is a proper place for it, it would be returned to Woods Hole. There are two at the entrance to the Falmouth Water Treatment Facility. These fountains are documented historic resources of the Town and assets of the Commonwealth of MA. They are included in the MA Cultural Resource System Database. She would like to relocate one to its original location on the village green and the other near its original location in Woods Hole. Signage outlining its role in the growth of the Town will be displayed with the fountain. This is the only Town on Cape that was designated by the White House as a Preserve America Community. Bill Owen was Superintendent of the

DPW for 22 years, it would be wonderful to follow through on the wishes of him, Mary Lou Smith, and residents who wanted them placed when there is an appropriate opportunity and location.

The Steamship Authority (SSA) has incorporated one trough into the plan for their park. They are not currently operational; however it would be in Woods Hole and use solar panels.

Ms. Scott Price suggested possibly Beebe Woods location because people ride horses thorough there now, but not downtown.

Chair Brown stated he felt it appropriate for one in Woods Hole, but he is not sure about one in downtown. It is now a wishing well in the place on the Green. The wishing well could be moved to allow space for the trough.

Peter McConarty, DPW Director, made a presentation and noted that also with him tonight is Cathal O'Brien, Water Superintendent and Mike Reghitto, Chief Water Operator. The date is unknown when the horse fountains were moved from Woods Hole to the Water Department around 1994/95. The DPW Director at the time had the fountains removed from storage and placed at the entrance of the Water Department Buildings. In 2012 the design on the water treatment plant was begun, in 2014 Mr. Jack and Mr. Rafferty began planning for the horse fountains, including a site landscaping and design plan along with restoration of the fountains. Concrete pads were installed with utilities so that the fountains could be fully functional. Most of the design and landscaping was done by Miskovsky Landscaping, including transportation. Photographs were shown from the 2014 timeframe. Between 2012 - 2018 the water treatment facility began design and construction.

In 2018, Mr. Rafferty had an article put into the Falmouth Enterprise about the fountains. They were placed in operation as part of the original water system operated by a private company, which presented the Town with one in 1899. The Town purchased the water company in 1902, Town Meeting authorized a second fountain in Woods Hole. The fountains were placed on the water treatment plant site with landscaping due to their history of being part of the first water system.

The first time Mr. McConarty heard that Bill Owen promised these fountains to be placed in Town was last summer. He has been with the Town for 15 years, he was not included on the complete design and construction of the facility. If the DPW was aware of the current initiative, they would not have gone through the restoration process and placed them at the water treatment plant. The fountains' significance is that they are part of the original water system. Funds for restoration were paid from a State Revolving Fund. The DPW is not in agreement with relocation, however if so, he asks that an amount of money be appropriated for replacement at the entrance. The landscaping was based on these fountains and concrete pads placed, the DPW will need to do something to replace. He recommends the fountains remain at the water treatment plant.

Chair Brown asked if more work is required to make them functional? Mr. McConarty stated no, these are intact. Mr. Jack had them retrofitted for electricity.

At no point was there reference to the Historical Commission, which is responsible for cultural assets. At some point the Historical Commission should have been consulted.

Mr. McConarty said that Mr. Jack spoke with Ann Sears in 1990.

Chair Brown noted Ann Sears emailed him advocating for the relocation of the fountains.

Chair Brown questioned the cost of having replicas made.

Ms. Bumpus thanked the DPW for caring for these for so long, years ago there was a lot of discussion about this and now we have a location. In 2012 we had no location, there is a lot of institutional memory in the community. She went on a tour of the new water treatment facility but did not think to address it then. There is now the possibility of integrating it into Woods Hole, which was well received in the community, and the SSA has been amenable to this as well.

Mr. Suso encouraged the Select Board to consider a reasonable compromise. He explained that Long Pond was the original source of water and remains the primary source of water, one could remain on Long Pond,

the other could go to Woods Hole, which was the furthest extent of the water system in Town. The DPW saved these structures.

Ms. English Braga felt that is a fair compromise, we change and evolve; when you can harken back to these pieces, it is living a new life. We have to be able to integrate the history with where we are now. Placing one in Woods Hole will create more care to be taken because it will be 40 feet from water and have cars nearby. It would be nice for the public to view these, which can be done in Woods Hole. We built something very amazing, there are few facilities like the water facility.

Dr. Taylor supports moving one back to Woods Hole.

Marc Finneran: Long Pond was not designed for drinking water, it was gravity fed to Woods Hole for fire protection, not water consumption. Original pipes were hollowed out wooden logs, about 20 years ago there were some wood pipes still under the road in Woods Hole.

Mr. McConarty said if the Select Board approves one or both relocated, the DPW requests a suitable funding source so they can replace it with something appropriate.

Ms. English Braga noted no vote tonight, there is research that needs to be done, including that piece. The SSA architect had sources for significant historic pieces.

Barbara noted two great architectural salvage places, there may be old lamps or other structures that would look great.

Marc Finneran said that the Great American Salvage Company had a couple large old cast iron original gas lamps, very attractive, and may be on Cove Street in New Bedford now.

7. Consideration of vote for the Waiver of the Right of First Refusal of 31.2 Acres on route 151 be in force and effect until up to a potential closing date of December 31, 2024

Laura Moynihan, Attorney, represents the property owner. In the Disposition notice to the Town in December 2021, they asked for this vote and asked the Select Board to consider extending the one-year period to the end of 2024 because the proposed buyer was looking at an affordable housing project, and one year is not sufficient time to plan, permit, and finance an affordable housing development. She has provided sample timelines for two projects, and they are looking at about a 2.5-3 year timeframe. For a for-profit development, the permit phase goes a lot longer than non-profit, but the financing phase is quicker because non-profits are looking for government money. The vote the Board took on 12/20/21 did not include the letter of request of waiver of right of first refusal to be in effect until the end of 2024. The developer needs the time and contingencies, they are spending \$100,000 or more by the time they get to the ZBA. A lot has changed since the first right of refusal was given to the Town in 2003; there was not a clear understanding of how long it would take to develop a 30-acre parcel on Cape Cod. It is a long, involved process. Attorney Moynihan asked for the Select Board consideration and to vote the waiver granted on 12/20/21 will be in force and in effect to the potential closing date of 12/31/24 for the buyer, Michael Galasso under the development entity 31 Acres, LLC.

Ms. Scott Price asked to describe why through 2024 and not next year and they come back for Select Board to review. Attorney Moynihan said if the extension is granted, the buyer will begin the plan development phase; studies, hiring of professionals, etc. If one year from now he invested money into the property, maybe the Town does not revoke the waiver, maybe the makeup of the Select Board changes. The developer needs to rely on the time to do so without the waiver being taken away.

Attorney Moynihan said the schedule the developer has is a reasonable schedule given what he is proposing here, he is looking for a LIP approval, which goes back to Select Board and to the State, and it could take a year for approval of that alone.

Ms. English Braga noted as long as the process is moving forward, if some issue arises that makes it clear the developer will not go forward, she will want the Select Board to be informed.

Attorney Moynihan noted they can do so, the waiver only carries with this buyer. The property owner would notify the Select Board.

Mr. Patterson motion approval to extend the right of first refusal to 12/31/24, with the condition that if the developer decides not to go forward, the Select Board will be notified. Second Ms. English Braga. Vote: Yes-4. No-1 (Dr. Taylor).

Mr. Suso noted the Town's right to first refusal would restart if this buyer does not purchase the property.

8. Discuss and vote revisions to Special Events Policy

Ms. English Braga thinks the revisions are good, language about appeals to the Select Board and recycling issue. Mr. Patterson made grammatical changes and provided Mr. Suso with his notes.

Under 3H, Ms. Scott Price asked if there is a fee associated? Yes, Ms. English Braga explained generally if you have a special event the planner contacts the detail officer at FPD, and they tell them about the fee for that specific event.

Ms. English Braga motion of the revisions to the Special Events Policy. Second Dr. Taylor. Vote: Yes-5. No-0.

CONSENT AGENDA

1. Licenses

- a. Approve application for a Change of Manager of an All Alcoholic Common Victualler License – The Cape Club located at 125 Falmouth Woods Road, East Falmouth
The Town Manager's Office let them know it would be taken care of by the owner in the next week or so.

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

2. Administrative Orders

- a. Vote to authorize the Department of Public Works to apply for a Shared Streets and Spaces Grant for a project on Curley Boulevard
- b. Authorize Town Manager to execute Memorandum of Understanding between the United States Coast Guard and the Town of Falmouth regarding fire protection, protection of life and property from fire, and firefighting

Chair Brown commented the language said the agreement applied to Falmouth and incidents in Falmouth. Falmouth has mutual aid agreements with other towns, if there is a fire called into slip that was reported to be in Falmouth but is actually in another town, how does this agreement affect the response? Mr. Suso noted this is the Coast Guard language.

Mr. Patterson motion approval. Second Dr. Taylor. Vote: Yes-5. No-0.

3. Review and Vote to Approve Minutes of Meetings:

- a. Public Session – January 31, 2022
Held to next meeting.

TOWN MANAGER'S SUPPLEMENTAL REPORT

Mr. Suso attends the weekly Finance Committee meetings. The Select Board's next business meeting will be on 3/14/22 and they will have a work session on 3/5/22.

Mr. Suso read a statement regarding a misleading and misinformed letter re: the Town not acting responsibly in failing to consider applying for a grant application that would result in "found money" to hire firefighters rather than have taxpayers pay for it. Consideration was given for application for a Safer Grant, it was discussed with the Finance Committee when the Select Board and Town were considering what was a successful voter-approved override. One requirement of the Safer Grant is affirming the Town did not have the financial ability to hire firefighters, that the Town anticipated budget shortfalls. This would have been inaccurate and falsification of Falmouth's finances. We do not falsify the Town's fiscal circumstances to secure federal funding. Mr. Suso received calls from several people regarding this issue.

Select Board Reports:

Mr. Patterson

The Cape and Islands Municipal Leaders Association meeting is one week from Friday at the Seacrest. The Housing Assistance Corporation is hosting a Zoom webinar on village center housing tomorrow at 3:30pm. A Vineyard Wind Project webinar will be held via Zoom on 3/3/22.

Mr. Patterson received a communication from the County reporting the \$41 million ARPA money will be controlled at the County level. Towns will need to submit applications for projects. Chair Brown said that the Commissioners are only addressing the first \$20 million of the \$41 million, and of that first \$20 million, they intend to disburse \$10 million to the Towns by application. Chair Brown, Falmouth representative to the Cape Cod Commission, does not have the State Ethics Commission legal opinion or the County Attorney opinion on whether he has a conflict of interest. If their opinion is that there is a conflict, Chair Brown will resign and assign another person to the role. Chair Brown will ask the speaker, in light of the circumstances, to delay the vote.

Mr. Suso noted the County Commissioner chose to ignore the recommendation of this Select Board and others on Cape Cod and are not reallocating that money by population. That is not what the Select Board asked for.

Discussion of future agenda items-none.

Mr. Patterson motion to adjourn at approximately 11:20 pm. Second Ms. English Braga. Vote: Yes-5. No-0.

Respectfully Submitted,

Jennifer Chaves
Recording Secretary

TOWN OF FALMOUTH
SELECT BOARD
Meeting Minutes
Open Session
MONDAY, JULY 25, 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. At the discretion of the Chair, agenda items may be taken out of order.

Select Board (Board) Present: Dr. Nancy Taylor, Chair; Onjalé Scott Price, Vice Chair; Sam Patterson; Doug Brown; Scott Zylinski.

Staff Present: Peter Johnson-Staub, Acting Town Manager.

1. Chair Taylor called the open session to order at 5:30 pm.
1. Chair Taylor motioned to convene the executive session **1. M.G.L. c.30A s.21(a)(2) - To discuss strategy with respect to contract negotiation with non-union personnel (Julian M. Suso, Town Manager) and M.G.L. c.30A s.21(a)(3) - To discuss strategy with respect to potential litigation (Julian M. Suso, Town Manager) because to not go into executive session could prejudice ongoing negotiations. Ms. Scott Ms. Scott Price 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: Mr. Brown, aye; Mr. Patterson, aye; Ms. Scott Ms. Scott Price, aye; Chair Taylor, aye; Mr. Zylinski, aye.**
2. Pledge of Allegiance
3. Proclamation – Eagle Scout Nicholas Cenzalli, Jr. of Boy Scout Troop 40
Mr. Patterson read the proclamation as a motion. Second Ms. Scott Price. Yes-5. No-0.

Mr. Brown read a letter explaining the Eagle Scout project. Mr. Cenzalli's project was to build three benches and place them on the Coonamesset Greenway Heritage Trail. Bird houses were also placed.
4. Recognition
Mr. Brown appreciated the Water Department crew fixing the water main break on Saturday on the West Falmouth Highway portion of Route 28.

Mr. Patterson noted the Parks Department responded quickly to a tree that fell down in is neighborhood at 10:30 p.m., and by 11:15 p.m. it was out of the way. The tree was completely removed the next day.
5. Announcements
 - a. Anniversary of the ADA Act - July 26
Chair Taylor announced that 7/26/22 is the 32nd anniversary of the passage of the Americans with Disabilities Act.
 - b. Woods Hole Diversity Advisory Committee - Ambrose Jearld, Jr. Lecture July 27, 1:00 pm via Zoom
Ms. Scott Price encouraged anyone interested in learning about Mr. Jearld, a local resident, is welcome to join.

Cathal O'Brien, Water Superintendent
Mr. O'Brien announced that an odd/even day water ban is in effect: Tuesday, Thursday, and Saturday for odd-numbered houses, and Wednesday, Friday, and Sunday for even-numbered houses. We are going through a very hot time, flow demand is as high as they have seen it. He asked residents to honor the ban and minimize their use of water for irrigation. They do not want to ask for a full ban, they may have to in the future for fire protection and personal use.

6. Public Comment-none.

TOWN MANAGER'S PRELIMINARY REPORT

Mr. Johnson-Staub reviewed items on the agenda.

There are three open positions, 2 full positions and 1 associate position on the Zoning Board of Appeals. Ms. Murphy is seeking reappointment.

Mr. Mueller suggested the Board appoint him as the alternate member and Mr. Patrick as the full representative to the Cape Light Compact.

Edgewater Drive West item was approved by the Conservation Commission, and staff had no concerns.

The Recreation Committee will present their annual report.

Multi Hazard Mitigation Plan Update by Leslie Fields of the Woods Hole Group. This is required for FEMA and property owners to benefit from the rating system that offers discounts because the Town is addressing those hazards. The plan is posted on the town website.

The Annual Cape Cod Commission Representative report.

Fire staffing discussion: Mr. Johnson-Staub will review staffing policies and report on the status of efforts to achieve those goals.

Announce the November 2022 Annual Town Meeting schedule.

Staff has reviewed and approved the items listed on the consent agenda.

COMMITTEE INTERVIEWS

Interview, vote and appoint committee members:

1. Zoning Board of Appeals

a. Susanne Murphy

Mr. Brown motion to appoint Ms. Murphy to a term ending 6/30/2025. Second Mr. Patterson. Vote: Yes-5. No-0.

b. Marc Finneran

Mr. Finneran said that he has been on a Town committee for the last six years, and he did what he set out to do. In 2012 an article he had worked on passed in Town Meeting, it was to hire a solid waste manager. He has always had an interest in the Zoning Board of Appeals (ZBA), and he attended meetings. He recently went to the Falmouth Heights Maravista Association get together where others present suggested he apply. It is the taxpayer/applicant's last line of relief before they have to go to court or wherever else. He is familiar with Town neighborhoods, and would like to serve the Town in this capacity.

Affordable Housing is important, a bylaw resulted in the construction of a number of affordable units, everyone needs a place to live.

Mr. Finneran reads plans, he has college education in engineering, and has been involved in building throughout his life. He understands the position is time consuming, and he would find the work interesting. He cannot recite the Town bylaws, but he is willing to put the time in and has demonstrated that in the past. He has the ability to do the homework and retain fair amounts of data.

Chair Taylor motion to appoint Mr. Finneran to a full term ending 6/30/2027. Second Mr. Brown. Yes-5. No-0.

2. Cape Light Compact

a. Matthew Patrick

Mr. Brown motion to appoint Mr. Patrick to a term ending 6/30/2024. Second Mr. Zylinski. Vote: Yes-5. No-0.

Mr. Patrick thanked the Board for their flexibility and understanding. He is looking forward to another term on the Cape Light Compact, he understands it very well, and Maggie Downey would like him there for this next push to get some programs through the Dept. of Public Utilities.

- b. Scott Mueller
Mr. Brown motion to appoint Mr. Mueller as an alternate to a term ending 6/30/2024. Second Mr. Patterson. Vote: Yes-5. No-0.

7:30 p.m. PUBLIC HEARINGS

1. Wetlands/Dock – Stephen Proia – Application for Special Permit for permission to rebuild the existing licensed dock in the waters of Eel Pond located at 31 Edgewater Drive West, East Falmouth

Ms. Scott Price read the hearing notice.

Mike Borselli, Falmouth Engineering, represented the applicant and made a computer presentation. An aerial photograph was shown, the existing dock was shown, along with several other docks around the neighborhood. The Conservation Commission issued an Order of Conditions to allow the dock to be reconstructed. The plan was reviewed. This is a fully-developed property, and the existing dock has an elevated walkway, ramp, and float. The homeowner is trying to make it more resilient to storms by replacing the walkway structure and replacing the pipe supports with timber pilings. The existing walkway offers no public access, the new structure is elevated above the salt marsh, light flow decking will be used, and the new structure will allow for public access along the shoreline. The current dock terminates in a dune, and they will add one more section to bridge the dune and allow stairs to come down, so there will be no more foot traffic through the dune. The Division of Fisheries recommended the float have float stops so that it will not bottom out on the substrate. The new dock will be the same width, length, and alignment. The number of penetrations into the bottom are reduced because there are fewer pilings than there were pipes.

Public comment: none.

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

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

BUSINESS

1. Report – Recreation Committee
Robert Brown, Chair, presented a slide show. Joe Olenick was shown appreciation on opening day of Little League baseball. Mr. Brown reviewed the membership of the committee. Meetings are held on the second Wednesday of each month at 7:00 pm at the Gus Cauty Community Center. The Recreation Center hosts science and art events, magic shows, community service, Boy Scouts, Girl Scouts, and other activities.

On Fridays and half days there are anywhere from 80-100 children who go to the Recreation Center after school.

There has been a lot of employee turnover at the Recreation Department; they lost a lot of good people to other Towns. It is important to have an Assistant Recreation Director so people can grow. Many program directors have to work two jobs, have loans, and have to find housing. He is hopeful the Town will take a good look at employee salaries so the Program Directors will remain for 5-10 years, because some are not lasting 2-3 years.

The Recreation Center is closed on Monday night due to staffing vacancies. At night the Recreation Department can get busy, the rooms upstairs are being used. There should be more than one person working at night.

The recreation building is getting older. It needs a good inspection to see what needs to be maintained, fixed, and how to maximize accessibility. The roof has issues that affects the floor.

The Department of Public Works (DPW) has made some renovations at Trotting Park Fields. The parking spaces in the lower area have 45 designated handicap parking spaces, prior to which people needed to navigate down the hill. More work needs to be done for accessibility at Trotting Park Fields.

Field and Restroom accessibility is a lawful right. There are supposed to be paths for accessible access to the fields; however, there are none.

There are nine natural grass or three artificial turf fields needed. The Committee recommends a field be put in at Upper Trotting Park field--an artificial turf field is preferred.

Pickleball courts are recommended to go at Upper Trotting Park Fields, adjacent to the skateboard park. The Sandwich Road complex was supposed to be the new location of the Recreation Center playground that was removed when the Senior Center was constructed. It was supposed to be reassembled, but it has not been done, and it may not be feasible. Maybe the funding left over from the Senior Center Building fund can be used for the playground.

The Recreation Department will be asking the Planning Board next month for a modification of Sunday hours at the Sandwich Road complex to allow use of the fields for flag football. It would solve the scheduling conflicts that have occurred at the Falmouth Heights field. He thanked the DPW for what they do for their fields, and would like their employees' salaries raised as well.

Mr. Brown asked about how to move these things forward because some have been lingering. Mr. Johnson-Staub will follow up on these items.

The Board needs to be updated on some things the groups have asked for and been approved. Dr. Taylor asked that Mr. Johnson-Staub take that piece on.

2. Multi Hazard Mitigation Plan Update – Woods Hole Group, Leslie Fields

Leslie Fields provided the update. The Woods Hole Group has been working with the Local Emergency Planning Committee (LEPC) to update the plan. A draft of the plan is on the Town website, and comments are being accepted until 8/1/22, after that they will update the plan with the comments and submit it to the Massachusetts Emergency Management Agency (MEMA) and Federal Emergency Management Agency (FEMA). They will then ask the Board to sign an adoption form for this plan. Once adopted, it is sent back to FEMA, and the plan is final. A brief overview via computer was made, including pre-disaster mitigation efforts and this helps the Town become eligible for FEMA funding for pre and post disaster mitigation. They identify hazards, conduct a vulnerability assessment, mitigation measures, and plan a mitigation process. They looked at fifteen hazards, the first fourteen of which are in the State mitigation hazards, the LEPC added the fifteenth--freshwater quality. The committee ranked the hazards in Falmouth, and Ms. Fields reviewed a chart of hazards. There are 112 critical facilities that were identified, both public and private facilities. They looked at the vulnerability to flooding town wide.

Eight goals were reviewed, 33 mitigation actions were included, at least one for every goal.

Mitigation Measure tables are in the report, they list the action, hazard addressed, purpose, which group is responsible to address it, cost, potential funding sources, priority, and timeline. A lot of the actions are already being done by the Town and included as a way to remind the Town to keep doing it, and so that the Town will be recognized by FEMA for these hazardous mitigation actions.

Mr. Patterson noted that some of the mitigation recommendations from the Coastal Resiliency Action Committee were not included. According to Ms. Fields, adaptations to this building, which is one of the mitigation actions, was included. Ms. Fields will go through the Coastal Resiliency report to make sure she did not miss any recommendations that should be in the mitigation assessment.

Mr. Brown is interested in revising wetland regulations, he thinks the Town should petition the Army Corps of Engineers and local regulatory agencies because maybe only a single entity is needed. The regulatory process in place may not be capable of keeping up with the changing dynamics, including costs

the Town faces the longer the process takes. Ms. Fields said they could consider that, at this time they have to get permits from various entities including the local Conservation Commission, DEP, and Army Corps of Engineers. Ms. Fields reported the DEP is looking at their regulations.

Mr. Patterson noted they have conflicting priorities, and he questions when they apply their priorities, they could save money and lives. According to Ms. Fields, the regulatory agencies are backed up due to COVID-19.

3. Report – Cape Cod Commission – Robert Mascali

Mr. Mascali, Oxbow Road, Teaticket, is the Town representative to the Cape Cod Commission. This is his first report to the Board, and he offered to speak with the Board members individually if they have specific questions. The Cape Cod Commission is the local regulation agency and reviews projects deemed to have regional impact and have certain standards. Recently, projects that indirectly affect Falmouth are: 1. Expansion of the Cape Cod Hospital Oncology Unit. 2. Residential development behind Home Depot: approval of 272 market rent apartments with some affordable units. 3. Development of the Scudder Avenue/Twin Brooks property: 312 market rent apartments with 13% subsidized apartments.

Falmouth specific projects include: 1. Martha's Vineyard reliability project: Eversource cable from Oak Bluffs to Falmouth. He has received the Secretary of Energy Certificate issued so that there will be a single application. 2. The 27 Crosby, which is a pier modification. The applicant filed an environmental expansion form, comments to that are due by 8/22/22. It is deemed to be a development of regional impact and a DRI review will be required.

Most of the real work on projects at the Commission is done by subcommittees. The public hearing process is mostly conducted by subcommittee, they submit to the committee, and then to the Cape Cod Commission. He sent the update prepared by the Cape Cod Commission in July 2022 and asked that it be added to the meeting record. Matters include the approved Complete Streets prioritization plan that the town submitted, and it was approved. The Town is now eligible for up to \$400,000 to implement the Complete Streets projects. A grant for district local technical funds for towns to update open space recreation plan, The 2023/2027 Transportation Improvement Program has been approved. The Cape Cod Commission had outreach at Bikeways Committee Day, and four Falmouth students participated in the 2022 climate ambassador program.

Mr. Mascali met with the Planning Board Chair and Town Planner in May 2022 and discussed some projects that will probably go to the Commission at some point of time including the solar project at the Cape Cod County Club, YMCA project proposed off Brick Kiln Road, adoption of the growth incentive zone, and the Mayflower Wind project. He has heard from a number of people who feel the Town has not taken advantage of the resources and support the Cape Cod Commission offers to the Towns. He urged the Board to let department heads know the resources and support is available to them. He urged them to attend the One Cape Summit August 1 and 2, 2022.

Mr. Brown commented that he is excited about the ponds program and happy to see the Assembly voted funding for that program.

4. Fire Station Staffing

Mr. Johnson-Staub reviewed the Board goals, current status of staffing, and identified actions to achieve the goal with a slide presentation.

The Board's goal is to staff all five existing stations. The Board voted on 3/28/22 a staffing policy and Mr. Johnson-Staub read the policy. The Board noted it anticipates operating a six-station model, and in order to meet the personnel needed, the Town will require commitment of substantial funds for new employees.

Describing the staffing plan, it was noted that all firefighters are trained as emergency medical technicians or paramedics. Shift staffing and the number of staff required to staff each station was reviewed. These numbers represented what the Chief considers the minimum number to operate each station at the start of each shift. Five-station model: sixteen at start of shift, and six-station model: eighteen at the start of shift. There are four groups of shifts, each works 24 hours on, 24 hours off, 24 hours on, five days off. They need to account for vacancies and various types of leave. This fiscal year there are 78 firefighters (including lieutenants and captains) budgeted for shift strength. Of these 78 budgeted position, 8 are vacant:

4 new positions added to the budget this year; 2 vacant due to retirement/resignation; 2 new hires not yet fully trained. In addition to these vacancies there were 4 firefighters out on long-term medical leave, and one member is on military leave as of July 1, 2022. This leaves sixty-five firefighters actually available to work a shift. We have three groups of sixteen firefighters and one group of 17 firefighters. Then we account for absence due to leave. By contract there can be up to four firefighters on vacation in one given day. Given the current staffing, there are frequently fewer than sixteen firefighters reporting at the start of shift. One or more firefighters must be hired on an overtime basis on specific days to reach the goal of 16 at the start of shift. Mr. Johnson-Staub reviewed how often we are reaching the current goal; the number of days not staffed at sixteen was reviewed. There is a minimum staffing level in the union contract of fourteen firefighters at the start of shift, at this time.

Actions to reach current goal to staff five stations include filling vacancies, complete training for the two recent hires, offer of voluntary overtime to get to 16 firefighters. Short-term goal this fiscal year is to get to sixteen firefighters at the start of shift. The Select Board Chair is planning an executive session to consider negotiating a change in the union contract to increase the minimum shift staffing from 14 to 16.

Minimum staffing provision in the union contract allows the Chief to hold over a firefighter who worked a previous shift. They would not have a firefighter work 48 hours straight. There is no contractual provision to require a firefighter who did not work the previous day to work an overtime shift.

Mr. Johnson-Staub reminded the Board that prior to July 2020 contractual minimum start of shift staffing was ten firefighters. The contractual minimum was increased to fourteen effective July 1, 2020 to ensure that 4 fire stations could be staff every day.

Consideration needs to be given to when the right time is to consider increasing minimum staffing.

July snapshot: 27% of the time they would have had to hold over firefighters to get to 16 firefighters at the start of shift. Holdover is done by seniority for mandatory overtime. For all employers, hiring and retention is becoming more challenging. Many firefighters do not live in Falmouth due to high housing costs. Forcing overtime shifts may be a disincentive for a firefighter to continue working for Falmouth. It is a collective bargaining issue. He put the union president on notice that we will be talking about this and communicating with the Select Board in executive session about opening the conversation on when the potential right time to increase minimum staffing might be.

When the override was done two years ago and put 8 positions on the override and put two more in the budget without an override, they hoped at this point, when all the override positions were filled and fully trained, the Town would be closer to the goal of 16 firefighters at the start of shift daily. With the FFD being larger, the prior rule of thumb about difference between the number of position budgeted per shift and the number who show up for work each day no longer applies, there is a bigger gap than anticipated. They want to be careful as forecasting ahead and look to staffing sixteen, more analysis needs to be done.

When the new station in Hatchville opens, more personnel will be needed. Sometime in 2024 the station may be complete. Firefighters will need to be hired at the next April Annual Town Meeting and if there is an override, the May 2023 election. It takes sixteen months or more to go through hiring and training process. Even with new positions in the FFD budget next spring, the new hires will not be hired and trained until late 2024 at the earliest.

Is the Board willing to entertain a multiyear plan to get to staffing six stations on an everyday basis? We may be in the mode of using overtime to get to eighteen at the start of shift, as they continue to hire more positions. Bargaining changes in minimum staffing will be needed. It may not be possible to hire the number of firefighters needed to staff the fire stations daily.

The number of positions hired through a SAFER grant should be based on the number of positions that can be fit into the budget without an override. The Town is not eligible for a SAFER grant if positions are already funded in the budget. The Town cannot vote to approve an override to be implemented in a future year. We don't want to be in a position of hiring firefighters and having to lay them off if a future override is not approved. The SAFER Grant is a good tool to hire a few firefighters.

There is no SAFER Grant open at this time so we would not be able to use the SAFER grant to hire and train firefighters by 2024.

The Town and Board have added 21 positions in the last ten years; that annual cost in fiscal year 2021 was \$2.5 million. We have better responsiveness, more effective responses and better firefighters safety as a result. Response time have been held in check despite the increase in the number of calls for service. If staffing levels had not been increased, the response times would have increased.

The Board will need to consider acceptable costs, a potential override amount, and acceptable staffing plan.

Mr. Brown believes they should fold what they can into the budget, then apply for SAFER grants. He does not feel they should build the Hatchville station until they have the staffing.

Chief Smith reported two firefighters are currently in the academy and graduating 8/5/22, they come back for orientation and work on their job qualifications, which takes months. They have interviewed six candidates and are vetting them now; next step for those six are the physical agility exams done before the Town applies for spots at the academy, which is backlogged at this time.

Chief Smith said that they are still in the Civil Service system at this time, which requires the State exam process, they are looking to bring to Town Meeting an exit from Civil Service. It is difficult to have transfers that desire Falmouth, a contributing factor is that pay rates are not at the top of the pay scale, along with the high cost of living and residency requirement. FFD looks to recruit firefighter candidates who are also paramedics. Recruitment from other fire departments is not taking place. They rely on Civil Service to provide a list when they are ready to hire. The State holds exams yearly. Some residents have come on the list due to a residence preference, so that is good. What used to be a sought after job in public safety is no longer as desirable. Since August of 2020 they have hired 24 personnel and are working diligently to get vacancies filled as quickly as possible.

Mr. Zylinski gets calls from the public about this issue: we cannot fill the West Falmouth Station, we need firefighters before building the new station. Chief Smith said it has been a challenge, based on daily staffing and trying to achieve fourteen at start of shift and get to sixteen. He is doing everything he can to work with resources they have available.

Mr. Coan, said that there were many people in West Falmouth, but no firefighter at the West Falmouth Station. When West Falmouth residents call 911 they should know those answering the calls are coming from the local station. We are not much better than they were in January 2020 forum. Mr. Coan left the October 25, 2021 meeting feeling good, and many here tonight were at that meeting. He played a portion from that meeting via computer. They seek voluntary staffing of West Falmouth Station; however, when override positions and remaining vacancies are filled, voluntary overtime will no longer be needed because they will have sufficient staffing to be in the West Falmouth Station. The following Friday the Enterprise carried a story about the outcome of the meeting. The headline was West Falmouth Station Anticipated to be Fully Staffed by Spring. What happened in the last nine months? This week a guest editorial by Eric Turkington regarding future decisions with buildout of fire department infrastructure stated, "the town should not reduce an essential public service that people in the North Falmouth and West Falmouth area have relied on for over a century"; they lost what they had when West closed and is now operated on a part time basis. How do we get the needed resources back?

Marc Finneran said that he found it disingenuous in Mr. Johnson-Staub's presentation about the SAFER Grants, having it necessary to have the money in the budget. We would have had the money had Mr. Suso not dumped all excess capital building a six bedroom station only to be staffed by two firefighters. He feels that when it is done, the size of the totally unnecessary station will cost \$14 million and would have been better spent hiring firefighters, building a smaller station, and rehabbing the West Falmouth Station.

Todd Taylor, West Falmouth, retired FFD firefighter for thirty years. They went from ten to fourteen which is safer for firefighters. When they did, firefighters were held over to make the fourteen. Now asking to go to sixteen, has anyone asked the firefighters to provide the two needed at West Falmouth Station? It would be good to know if the firefighters are supportive of this. They have waited long enough, maybe the Town or union can have the second half of the summer with staffing to go to sixteen and there will be increased holdovers.

Mark Sullivan, retired FFD Chief, applauded the work the Town is doing for the FFD. The leadership has done a great job over the last five to six years supporting equipment, staffing, and the new station. They

have been waiting for the Hatchville fire station since the 1950's. He asked everyone to work together to make things work.

Mr. Patterson asked Chief Smith how much of an effect having two firefighters at each station has affected personnel. Chief Smith said that previously, Woods Hole, West Falmouth and North Falmouth stations were one-person stations. These things were worked out during previous administrations. They used to have to float someone to Woods Hole for the ambulance. The two firefighter minimum at each station is contractual, and safety is there now for the firefighters.

Mr. Fish said the Board has the responsibility to expect better of Chief Smith and Mr. Johnson-Staub. They have heard explanations, but no answer to what is going to be done in the short term to fix this problem. The Board should expect them to deliver that plan to the Board soon. Many in West Falmouth ask little of the Town, they are here three months a year. They ask for police and fire, and they are at risk. How would you open a new fire station when you cannot staff the ones you have?

Maureen Harlow-Hawkes asked, would other stations be shut down instead of West Falmouth Station?

The Board heard their concerns and will meet in executive session next week regarding this matter.

5. Announce November 2022 Annual Town Meeting schedule (5 minutes)

Mr. Johnson-Staub noted the proposed schedule in the packet. The Board previously voted to hold the Town Meeting on Monday, November 14, 2022. Mr. Johnson-Staub read the schedule of dates.

Mr. Patterson motion to post the proposed schedule in the packet. Second Ms. Scott Price. Vote: Yes-5. No-0.

CONSENT AGENDA

1. Licenses

- a. Approve application for a Change of Management Agreement of a Wine and Malt Package Store License – OSJL Spirits, LLC d/b/a Ocean State Job Lot located at 50 Teaticket Highway
- b. Approve application for two Special One-Day Wine and Malt Liquor Licenses – Quissett Yacht Club – H12 Championship Reception & Dinner – 70 Quissett Harbor Road – Friday, 7/29/22 and Saturday, 7/30/22
- c. Approve application for a Special One-Day Wine and Malt Liquor License – Woods Hole Historical Museum – Oyster Talk and Tasting – 579 Woods Hole Road – Friday, 8/26/22

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

2. Administrative Orders

- a. Authorize approval of grant agreement with Barnstable County for receipt of American Rescue Plan Act (ARPA) grant funds for Wastewater Treatment Facility Improvements

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

- b. Retroactively approve application for the 2022 Edward Byrne Memorial Justice Assistance Grant funds in the amount of \$10,516 for Bosch Crash Computer Reader (CDR) for use by Police Department in crash reconstruction investigations

Mr. Johnson-Staub said this is retroactive because it was a regional grant, there was not enough time to get all towns on board. It is a purchase of equipment and the Falmouth Police Department is responsible for procurement.

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

- c. Approve Warrant for the Tuesday, September 6, 2022 State Primary
Mr. Brown motion approval. Second Mr. Patterson. Vote: Yes-5. No-0.

- d. Vote to accept donation from Teaticket Civic Association in the amount of \$600.00 to the Veterans Department Donation Account
Mr. Patterson motion approval. Second Ms. Scott Price. Vote: Yes-5. No-0. .
3. Review and Vote to Approve Minutes of Meetings
- a. Public Session –
June 6, 2022
Mr. Patterson motion approval with edits and release for public access. Ms. Scott Price second. Vote: Yes-5. No-0.
Mr. Patterson provided his edits to Chair Taylor.
- June 13, 2022
Mr. Patterson motion approval and release for public access. Ms. Scott Price second. Vote: Yes-5. No-0.
- June 21, 2022
- July 11, 2022
Mr. Patterson motion to hold the June 21 and July 11 minutes for revision. Second Mr. Zylinski. Vote: Yes-5. No-0.
- b. Executive Session –
July 11, 2022
Session 1
Mr. Patterson motion approval and release for public access. Second Ms. Scott Price. Vote: Yes-5. No-0.
- Session 2
Mr. Patterson motion to approve and not release for public access. Second Ms. Scott Price. Vote: Yes-5. No-0.

TOWN MANAGER'S SUPPLEMENTAL REPORT

Falmouth Police Department renovations have gone out to bid. The bid will open on 9/1/22. The renovation is a reconfiguration of the first floor.

Seven Falmouth Police Department recruits completed the academy. There is a lengthy in-service training before they work independently. Two additional recruits have been hired and are awaiting placement in the academy. There are currently ten vacancies. A Communication Officer was hired, and another vacancy needs to be filled.

There are currently 17 full-time year-round vacant Town positions.

A grant award was received for the Coonamesset River Restoration.

Falmouth Housing Corporation received a grant for the senior housing units to be constructed at the corner of Scranton Ave. and Main Street. The Lt. Governor will announce this at the Falmouth Housing Corporation facility.

Curbside trash and recycling pickups have improved in the last week, it remains an ongoing issue. Nauset has to hire additional drivers. The number of complaints the Town receives from residents has dropped since June. Nauset is doing better at catching up.

The Board's next regular meetings will be on 8/8/22 and 8/22/22. Strategic Planning Sessions will be held on Saturday 8/27/22, 9/10/22 and 10/1/22.

SELECT BOARD REPORTS

Mr. Brown:

Attended the Friends of Cedar Lake meeting in North Falmouth. They are concerned about the quality of the water there, plant proliferation, and there are hardly any fish in the pond. They are looking for ways to address it and

Select Board Meeting Minutes Open Session July 25, 2022

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looking at Mill Pond as an example. An invasive species plant has been identified that has taken over 90% of the pond; it looks like broccoli under the water. The herring run to get to Cedar Lake was built, but there are no herring in the pond. The plant was identified, and they have received an offer of \$27,000 for permitting/application to address this one species of plant in the pond.

Mr. Brown looked at possibilities of improving water flow through Mill Pond; the water in is so blocked it is preventing flow of the water.

The East Falmouth Village Association's annual meeting was well attended.

Attended the Marks Building Committee meeting. The Committee is looking at rehabbing historic details and the exterior.

Attended the Beach Committee meeting.

Mr. Patterson:

Attended the Falmouth Affordable Housing Committee meeting on 7/21/22. The Committee has a new Chair, and there is more than usual attendance, due to interest in the issues and crisis we are facing. We have a serious problem if we want people to live in this Town, there is an imbalance here for the long term. Kim Fish is the new Housing Coordinator. The Town needs developers to propose projects to the Town. There are funds to subsidize projects and help is needed from the ZBA to move the projects forward in a reasonable time frame. The One Cape Summit may provide ideas to address this issue.

Ms. Scott Price:

A memorandum of understanding was signed regarding the Food Justice Initiative at the Falmouth High School.

Ms. Scott Price is on the committee searching for a new President for Sea Education Association (SEA) in Woods Hole.

Mr. Zylinski:

Attended the Solid Waste Advisory Committee meeting.

DISCUSSION OF FUTURE AGENDA ITEMS

Ms. Scott Price would like a presentation on how a person or group may bring an article to Town Meeting,

Mr. Patterson requested a status report on Town staffing vacancies. Mr. Johnson-Staub reported there are twenty-seven full-time vacancies at this time.

Mr. Brown and Mr. Patterson would like to discuss the coastal resiliency issue and whether it should be a committee or focus on staff to take action on identified issues. How do we prioritize capital projects?

Ms. Scott Price motion to adjourn. Second Mr. Patterson. Vote: Yes-5. No-0.

Respectfully Submitted,

Jennifer Chaves
Recording Secretary

TOWN MANAGER'S SUPPLEMENTAL REPORT

September 26, 2022



TOWN OF FALMOUTH
Office of the Town Manager & Select Board
59 Town Hall Square, Falmouth, Massachusetts 02540

TO: Select Board
FROM: Peter Johnson-Staub, Acting Town Manager *PJS*
SUBJECT: Supplemental Report for September 26, 2022
DATE: September 23, 2022

Wind Turbine Demolition

The Town and the contractor performing the demolition agreed not to publicize the specific dates on which the two turbines are scheduled to be felled due to safety concerns. Both turbines are expected to be felled by October 8th.

Finance Director Transition:

I have had several meetings with Jennifer Mullen and with her direct reports to prepare for the major Finance Department functions to be addressed in the coming months. We are well prepared for setting the tax rate, developing the FY2024 budget and addressing borrowing needs. I am looking into retaining a consultant, preferably a retired Finance Director, to assist on a limited basis while the Director position is vacant.

Staffing Updates:

- A Principal Office Assistant was hired to fill a vacancy in the Conservation office.
- A Principal Office Assistant vacancy in the Planning office was filled through an internal promotion.
- A Wastewater Treatment Plant Operator position was filled.
- A Facilities Custodian was hired.
- We presently have 13 Full-Time vacant positions posted excluding Police and Fire.

Gifford Street/Dillingham Ave Intersection:

The Public Works Department has undertaken a series of measure to improve the safety of this intersection prior to an accident that took place this week. This week flashing stop signs were ordered. DPW will be doing further tree work to improve street light illumination and will be installing addition signage on the east side of the intersection to provide further visual cues to drivers heading west that they are at an intersection.

Next Meetings:

- Saturday, October 1, 2022 – strategic planning and FY24 Budget Priorities
- October 3, 2022
- October 17, 2022 – Possible joint meeting
- October 24, 2022

//Supplemental Report 09-26-2022