TOWN OF FALMOUTH
SELECT BOARD
Meeting Minutes
Open Session
SATURDAY, JANUARY 15, 2022
SELECT BOARD MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

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

Staff Present: Julian Suso, Town Manager; Peter Johnson-Staub, Assistant Town Manager; Jennifer Mullen, Finance Director.

1. Call to Order at 8:00 am by Chair Brown.

2. Pledge of Allegiance

SUMMARY OF ACTIONS

1. Administrative Orders
   a. Vote to exempt Nancy R. Taylor, a member of the Select Board, from certain provisions of the Conflict of Interest Law, M.G.L. Ch. 268A, s. 20(b).

      Dr. Taylor recused herself.

      Mr. Patterson asked about the nature of the contract, Ms. English Braga said it is way of a grant for supplemental learning services that she would be directing and working; it is short term and funded by the grant. Dr. Taylor will act as an Education Advocate to work with dropout prevention, working with kids and families from January to June 2022.

      Mr. Patterson motion approval. Second Ms. English Braga. Vote: Yes-4. No-0. Recused-1 (Dr. Taylor).

BUSINESS

1. Discussion of Charter Review Committee recommendations

   Dr. Taylor said the Charter Review Committee did nice work regarding recommendations for how we function as a board and work on their agenda. She made notes on an article Dr. Clark put in the newspaper. She looked at other communities on the Cape and how they structure their agendas. She looked at 1. Town Manager's report to guide some of their conversations. 2. Staff prepare analysis/precedent/legal constraints when considering the Town Manager's report. Need to go from huge discussion to a funnel; the Town Manager's Office would show what options, homework they did, and why it is recommended. They do not have the guiding questions that need to be answered to make a good recommendation. The Town Manager Report should be earlier in the agenda. Suggested streamlining so they can spend more time on policy and their 5 top priorities. This would be for items they will have a discussion about, major points, and the Select Board's 3-4 top options, and what the Town Manager recommends. Need to guide the conversation and process a little tighter.

   The Select Board discussed the agenda, there is a process structure piece: run the meeting, order of items. Unless someone has flagged a licensing issue concern, why ask them to be present. There is so much detail in the form and all departments check it out before. Put stuff that requires public input at the front of the agenda. If there are 2-3 involved issues where they will vote and set policy, it is helpful to make the conversation productive, it should not be at entry level, it should be on the third tier. This will not be for every issue. It may prevent staff from having to be here until late at night. It can be done and be more respectful of time of staff and the public.

The Select Board needs to get the policy clear, so it is clear to staff what is expected of them.

Dr. Taylor noted the Harwich agenda uses the form of a consent agenda. Items that do not need a lot of discussion would be voted as one and done. Spend more time talking about policy which is what they are charged to do. Like the time, reinforce the time, look into assignment of liquor licenses and get information on creating or electing a liquor commission.

Discussed getting out of beach wedding business. Mr. Johnson-Staub said that it could be put on the administrative agenda to vote to delegate to the Town Manager approval of weddings or if they want to do it for all special events. The Select Board would like the Special Events Committee to take care of this and maintain a calendar of events. If there are clear public grievances and concerns about the events, those items may come to the Select Board. Special events take up a lot of time, however these are vetted, and the Select Board does not track a calendar of events. Spending an hour of their meeting on special events is not a good use of the Select Board's time. The Special Events Committee would need to have a public meeting of the Special Events Committee; the current process allows for public input of those who may have a concern. Mr. Johnson-Staub will get information to the Select Board about the public meeting component and will craft a proposal. The Special Event Committee has been holding meetings as needed 2-3 times per year, applicants are invited in to talk with the committee, technically the public meeting laws do not apply, but needs to be publicly posted so the public is notified of the events and dates; post the events within the same calendar day.

Dr. Taylor provided Select Board members with notes she was referencing.

Dr. Taylor asked that when policies are adopted, can they be on the website and accessible? It is difficult to get to the policies. The Select Board discussed whether Wetlands and Special Permits need to go to them. Mr. Johnson-Staub said the Select Board has a role under the current bylaws, but that is unusual; most other towns do not. Chair Brown thinks it is important to keep an eye on it.

Charles McCaffrey, Precinct 5, member of Charter Review and Coastal Resiliency Action Committee. As the shoreline becomes more dynamic due to sea level rise, review of this may be very important. He would like more exploration to be done. At the Charter Review meeting, they discussed a dock issue for over an hour, the Select Board did not have analysis of the relevant issues; it puts more work on the administration, but it is important to understand; took a lot of discussion to get to it.

The Select Board discussed having their own binders with information about what the Select Board's responsibility is for some things, such as the 25% rule regarding docks/waterways; it will help when Select Board members onboard there will be less of a learning curve of what needs to be considered when the issues come forward. The resource binder should include fiscal policy, the strategic plan, Local Comprehensive plan and it should be an available reference each member has at each meeting. Staff will need to do specific stuff, the background information should be available to the Select Board. The reference guide will be a lot of work to create, but as they move forward it will become less work for staff in some ways.

Mr. Patterson would like it cited in the presentation--staff can list the issues so that the Select Board can go to their binder and find the guiding information. He does not want to rely on the applicant and their engineer.

Dr. Taylor would like to look into how a liquor commission could be set up.

Specific action steps:
1. Town Manager report at beginning of the agenda.
2. Special Events Committee taking over review, approval, and maintaining a calendar of special events. Johnson-Staub will look into public meeting component.
3. Creating reference manual for the Select Board.
4. Liquor Commission
5. Order of the agenda
6. Policies on the Town website and easy to find.

7. Consent agenda for some items; innumerate all items and take a vote.

The Select Board will have a timekeeper, this will allow the Chair to focus on what is being said.

Put the people who are present to interview for volunteer committees at the beginning of the agenda.

Add consideration for Town employees having to wait, they have worked all day because they have been asked to be there; if there is a way to move it up sooner, Taylor requests that be done.

2. Discussion of short-term rental revenue – allocation of rooms excise tax revenue including short-term rentals and hotel/motel

Jennifer Mullen, Finance Director, noted much has been done in the last few months and explained what she understood to have occurred. The Town would like to approach affordable housing, recommendations to approach this that have been voted for; one recommendation was to increase the 1% of the hotel/motel rental and put it towards affordable housing, this was passed by Town meeting. There were two articles in warrant book, short term rental and community impact fee that were to be allocated to affordable housing. There was a lot of discussion regarding the recommendation: many wanted in to include that this money was going to affordable housing. However, this was just increasing the tax and needs to go to the DOR; the money comes in and has to go in the general fund. Mullen went to Town Meeting and was told there was a different Select Board vote taken the night of Town Meeting and it confused her. When looking at the actual calculation; 1% short term and hotel/motel, you need to figure out what how much 1% was. Her other concern is that she has been working here for 9 years and is governed by what was the intent of Town Meeting. After this vote was taken by the Select Board, she was concerned that we are not giving the extra 1% to affordable housing, it was actually all short-term rental. She gets concerned that we brought to Town Meeting and told them what we were going to do and wants to make sure we give Town Meeting what they understand. During budget proposal the Select Board said it is all short-term rental.

Chair Brown felt it was discussed before printing of warrant book, he thought the consensus was that all the short term rental go to affordable housing.

Mr. Johnson-Staub said it was discussed and raised, but there was no disagreement to the Select Board at that time, after it may have been raised, however not voted until the vote before Town Meeting. Legally the only thing Town Meeting did was increase the tax by 1%. The intent of the legal action is an important element, for a month or so Town Meeting members had written explanation of the 1%. There was no opportunity for dialogue/question, it was on the consent vote. What did Town Meeting really understand and come away with; it may not have been clear to Town Meeting.

Mr. Johnson-Staub noted the Town meeting vote for 1% increase to all the room tax rentals. Sequence of events; written explanation in the Town Meeting warrant book and the moderator suggested there be a Select Board vote to implement that explanation, motion was recommended and crafted by Town Counsel, however the Select Board went with a different motion.

Dr. Taylor said when the Select Board is talking about something that may impact a fiscal policy, they need to include the Finance Director so that we are not in this position again.

Jennifer Mullen said if she does not understand what they are trying to do, then no one else will; so, she tried to simplify it. When the State legislature voted to tax short term rentals, when it finally passed, we never knew how much money this would bring in; there was no way to estimate that revenue. During a joint meeting with School Committee, the School Committee wanted some of the money, there is a certain formula used to allocate an amount to the schools. Jennifer Mullen's recommendation at that point was she does not know how much money that will bring in, so to give it a year, see what the revenues are, then discuss allocation. Then pandemic hit, they were developing a budget and had no idea the impact on the economy that the pandemic would cause. When she looked back at the revenue: DOR does not split it, you have to request that information split. $990,000 short term rental tax was received in fiscal year 2021, that amount was used as a base figure. When money comes in it has to go to the general fund, eventually want to get it into the Affordable Housing Trust

Fund, estimate it for fiscal year 2022 so it becomes part of the budget. What she recommends at this time is to take the $1 million and delegate $500,000 to Affordable Housing Trust Fund and $500,000 to the Schools. The additional 1%, about $350-400,000 estimated amount into the Affordable Housing Trust Fund for a total into that fund of $850,000 from reoccurring revenues. Write that into the fiscal policies; right now, the revenues are strong. When you set your budget, have conservative estimated revenue, that is where hotel/motel is; that supports your budget. Anything over the estimates becomes the free cash at the end of the fiscal year. We could write the policies in a way to have a conservative estimate amount of $850,000 to the Affordable Housing Trust Fund on a reoccurring basis, which can be reviewed yearly. There is over $6 million in the Affordable Housing Trust Fund, no real large scale projects; that does not include the $2 million voted for the affordable housing project on Scranton Ave. This results in doing what Town Meeting voted.

Ms. English Braga asked of the $850,000, can we write in our policy that we are estimating this conservatively? If the revenue from that tax is more, than the policy is free cash allocation to affordable housing. Jennifer Mullen said there is a yearly budget policy voted in September yearly, she suggests putting that there because they look at it every year. When you do this and take the short term rental tax, this will decrease the free cash which takes away from capital projects. It is based on the Select Board’s priorities.

Chair Brown felt it was more a symbolic vote; if the short-term rentals are creating a shortage of affordable housing; to have $6 million now is good, but we need $6 million every year if they want to be on target to have 74 units every year. Jennifer Mullen stated we do not have that kind of money and questioned where it would come from.

Ms. English Braga noted that if could budget out affordable housing, we would. Trying to think of ways to help to chip away at it; no way to fund that amount of building as a community without massive cuts. Ms. Scott Price would like to look at renovating existing homes without building new buildings and without taking up open space. Patterson noted this is a land use issue, there is not a lot of available vacant land already owned; there is a choking of the opportunity. Need a developer to apply for subsidy for their projects, he is not aware of the applications submitted to the Town. Mr. Johnson-Staub said there are no applications at this time and the Select Board is informed when there is an application. Chair Brown feels they should look at inventory of Town parcels to do our own projects.

Ms. English Braga likes what Jennifer Mullen laid out, it makes sense to have a basement level and the Select Board makes policy decisions each year. The Select Board has to balance all competing needs; capital projects/infrastructure, need to look at the whole picture. This can always be revisited.

Mr. Patterson wants something from staff to look at Town property and come to the Select Board working with Planning Board/staff to present an opportunity and put out an RFP. Suso said the staff did so several years ago and can do it again; there is a small amount of land the Town has, relative few opportunities; there are some for single family housing with little impact on the inventory. Mr. Patterson would like to include the school department property, population going down, and they have a vested interest in the number of students.

Dr. Taylor said the School Department has to be part of the conversation about affordable housing and how it impacts schools overall. Jennifer Mullen’s plan gets the Select Board out of a bit of a mess. If a previous Select Board committed money for schools, the current Select Board needs to honor that; this was discussed at a joint meeting with the School Committee. No projects are in the queue, she agrees with putting the money in there but need to balance and think about the competing interests.

Jennifer Mullen will amend the overall fiscal policies and bring back to the Select Board. In September she will amend the budget policy, it will be effective for fiscal year 2024. They can look at free cash at the end of fiscal years 2022 and 2023.

Ms. English Braga asked that when the amended policies are done, can it be articulated the commitment and piece on the allocation; still want to try to allocate available funds in fiscal year 2023 to affordable housing.

Scott Price motion approval of a one percent increase in short term rental/hotel motel be allocated to the Affordable Housing Trust Fund and $500,000 from the short term rental tax go to affordable housing and $500,000 to the schools. Second Dr. Taylor. Vote: Yes-5. No-0.

3. Discussion of potential future large-scale infrastructure projects

Mr. Patterson was concerned about the operating budget, but he is not sure it includes sea level rise, environmental remediation, and affordable housing. He looks to staff to make plans and propose how those will be implemented; he feels this is an element that has been missing. The budget should reflect the processes of addressing these strategic risks.

Mr. Patterson would like staff to provide the executive plan with narrative on how they got to the estimates.

The Select Board talked about identifying what the projects might be, start with budgeting for the engineering and planning now.

Ms. English Braga suggested the Select Board, staff, coastal resiliency, DPW, and MES create some priority projects, have a discussion on a Saturday like this where they discuss what projects make us more resilient and protect key infrastructures. Some of these projects are policy driven, potentially have to abandon some property in Town and make hard decisions that impact residents. The Select Board needs to outline their priorities, tell staff what their priority is; for large scale projects, the Select Board needs to direct it. Look at the strategic plan and give priorities to the Town Manager to develop.

The Select Board noted they have not prioritized projects.

Dr. Taylor suggested they identify their priorities and then task the Town Manager with finding out more information.

Chair Brown said they have $60 million for sewering, now WQMC to spend $30 million on land-based discharge, maybe we should spend $60 or $100 million on the outfall pipe, that cost will be shared by the entire Town.

Jennifer Mullen has the Capital Facility Plan graph, she showed overhead graph of projects they have planned. These are large projects paid for by debt exclusions: money raised over 2.5%, vote the exclusion on the ballot. Always want to pay same amount yearly, but when structuring debt, the interest decreases over time, gives opportunity for other large scale projects that are debt exclusions. Bournes Pond project is $6 million and to begin in the Spring 2022. This was voted in 2014. Wastewater Treatment Plan upgrades $20 million. Teaticket School roof replacement in the summer 2022. Sandwich Road Fire Station going to this Town Meeting for debt exclusion. When the Select Board voted the fiscal policies, they are the Select Board policies and if there is a big project the Select Board wants to do, it may seek to raise taxes for it. The Northwest Fire station is not included in the Capital Facility Plan. This is a plan, plans change all the time. $60 million in sewering includes betterments. There was a presentation by Amy Lowell and Water Quality Management Committee, the article will be presented to the Select Board about the beginning of the outfall; that will start the conversation. These are the large scale borrowing projects over $2 million. She recommends not getting into the practice of wanting to do so much that we do not have the cash on hand and then start borrowing for smaller projects. The School Department wants to rehab the FHS tennis courts for about $1 million, free cash. An override would be recurring expense, debt excluding is for debt excluded from Proposition 2-½.

Ms. English Braga noted as debt falls off, there is a window of opportunity to take on new projects.

Chair Brown noted the West Falmouth Fire Station is back online from the water main break. Asked how a $100 million project would affect the tax rate.

Mr. Johnson-Staub noted a $100 million project would require a lot of calculations.

Ms. English Braga noted when they do their strategic plan a good topic would be setting priorities for large infrastructure, will require a lot of background information and would be a good use of the Select Board's time and oriented towards action. If we had something in the spring where the Select Board gives direction of priorities and then in the summer for weigh in from staff. Taylor would like a meeting to measure progress towards those actions.

Ms. Scott Price would like to have the strategic planning meeting over the course of two days.

Mr. Patterson would like spring and summer strategic planning meetings.

4. Coastal Resiliency report

Charlie McCaffrey said that adding expertise to Town staff is critical at this stage and one of the most important things the Select Board can do. Need to develop what are the specific projects; including moving the sewer line from Trunk River. Difference between sea level rise, occurring gradually over the next 50 years, need to have done the action before the rising. Also facing a significant impact from a major storm; we could get one at any time. Talked about a berm to protect Town Hall from sea level rise and Main Street from a category 3 hurricane; redevelopment planning of the area where the berm may go could be important. He will speak at the 1/25/22 Planning Board Meeting regarding the planning studies that need to be done. Significant data in the study, DPW could begin establishing priorities. At this stage, adding expertise onto Town staff, how it will be structured and how the Town will be organized across departments to provide the type of data needed to make those decisions. Maybe the Town could hire consultants. There may be grant opportunities for projects. More research is needed on how the shoreline will evolve as we experience sea level rise; can Surf Drive maintain itself as a barrier? The geomorphology of the shoreline will be important; how do we have a shoreline that is valuable, wide beaches, dunes? There are places where you raise a road a little and protect several homes; other areas where it is not possible. Need to refine what can be protected and what has to be let go in the neighborhoods?

Chair Brown wants a second vulnerability assessment that addresses residential properties. He would like to look at the areas at risk, assessment value, tax income, and how to protect it. Need delineation of what is likely to be salvageable and what is not.

Mr. Patterson would like to look long term for future generations.

Action items on p. 19-21 that are clear and constructive; Chair Brown would like to adopt the policy, however he is concerned that if they adopt it there may be roads that need to be elevated, not just the ones that should be abandoned.

Ms. English Braga saw this as data used to create a policy. Initially a consultancy component, then address whether they need a resiliency director and create priorities for the Select Board to focus on. Charlie McCaffrey suggested integrating the departments that are responsible for the physical development and future. This is about community development, some position such as Community Development Director, needs to be more focused on this issue to pull people together so it is not lost.

Charlie McCaffrey suggested replacing the bathhouses with portable structures.

Dr. Taylor suggested changing the way we think through all Town departments, look at sustainability, resiliency, and smart growth.

Chair Brown said they asked not to have another study, this one has more action items in it, but what he wanted was a list of what to do and where to start. He is unclear on the priority and where to begin. What is our first action item? According to Mr. McCaffrey that would be to move the sewer from Trunk River and consider physical protection somewhere south of Main Street. The Planning Board could do an assessment of the area and opportunities. Work in Woods Hole is important.

Ms. English Braga thinks if we focus in our next area of action and more specificity of possible options, what do we do about Surf Drive and what are options the idea of a berm for Town Hall and

Main Street. These are two enormous projects and undertaking. Focus on the area that damage would prevent the Town from providing vital services. Give a specific directive to come back to the Select Board for specific options.

Mr. Patterson asked, how do we make decisions to use taxpayer money for long term vulnerability for businesses and residents. The consultant could provide information and options to the Town.

Dr. Taylor said the report is accepted, but not as policy.

Ms. English Braga motion to accept the report as submitted. Second Dr. Taylor. Vote: Yes-5. No-0.

Marc Finneran said natural erosion and sea level rise are the issues. Next time we have a consultant, could the sea level rise be quantified in a future report. The technology exists to tell us what the rate has been. We have the largest coastline of the 15 towns on cape, but 13^{th} in the use of Barnstable County dredge; we are not maintaining our beaches enough.

Dan Shearer, member of the Beach and Waterways Committees. The Town has in the past 6-7 years not taken care of things. Beaches are in bad shape, beach houses falling down, and the Town has not spent any money on the harbors which are in bad shape. We will lose what we have now if we do not start taking care of our stuff. We are doing and building things, we are a tourist town, the residents are here because of the harbors and beaches, they pay the taxes to pay all of this.

Paul Dreyer, a coastal resource person is important, there are other assessments around Town that need to be done.

Dave Moriarty noted that we should take as much care of protecting the residents, home values, tax base, and health and safety of the community. He would like a presentation by Mayflower Wind. Mr. Johnson-Staub said the Select Board will bring Mayflower Wind in for a presentation of what they plan to do.

Chair Brown noted potential offshore reef was not included, suggested considering an offshore reef, maybe a program they could develop to have a standing capacity to make these jar shaped boulders out of concrete, they could then be deposited.

Marc Finneran noted the actions are different on all beaches, Chair Brown's suggestion is good; you could take the central location where the actions pivot from and start doing what is proposed there. It would almost be immediately measurable.

5. Discussion of FalmouthNet Board

Vote to create the Municipal Light Plant (MLP) and second vote on creating an elected 5 member internet board, it may be early to introduce the second vote. If votes are not made at the same time, the Select Board will make operational decisions.

Mr. Johnson-Staub said ideas were reviewed by Frank Duffy, it would be timely to have Town Meeting vote along what he is suggesting. If the Select Board does not want to sit as trustees, they could have that second vote. The earliest the board will be elected is April 2023, because they cannot elect officers for something that does not allow it yet. They looked at possibility of November, it would require a special act of the legislature to hold an election for the plant by November. Election of officers for a new entity are held at a Town election, not a special election; that would require an act of legislature.

Mr. Art Gaylord said first he heard it would be May 2023 they could elect a board. Other towns have done the process much faster. There are huge federal/state funding opportunities now, many will go away. From point of electing the board, there is still a process. Looking at 6 months or more beyond that that the Select Board can do anything, also need planning, developing budgets; so, they are talking about delay of about 1-1.5 years. Two articles submitted, second vote to create the Municipal Light

Plant and elect a 5-member board. In the article submitted, they did not put a date for an election; he urges it be no later than November 2022.

Mr. Patterson motion that strategically they plan to submit a request to the State legislature to allow Falmouth to go forward and proceed with an MLP board at the November 2022 State election. Second Ms. Scott Price. Vote: Yes-5. No-0.

David Moriarty, Falmouth Resident, asked the extent of the MLP? It was explained the Select Board have the choice to create their own internet based with communications. There is State legislation that creates an MLP, it is a way to create broadband internet for the Town. The warrant article booklet voted last April has information in the explanation.

Mr. Johnson-Staub said that typically if the Town will petition the State legislature, it requires Town Meeting Vote to petition the legislature to hold a special election in November and place the election of officers on the State ballot.

Mr. Gaylord was asked if FalmouthNet will share their financials with the Select Board. When FalmouthNet talks about hiring a manager, where are the funds coming from?

Mr. Gaylord said this would not be a new Town department, the Town may be asked to partially fund the MLP manager for a year or two as it gets going. State or federal grants could be an option to fund the position. This is FalmouthNet, Inc., is nonprofit as an advocacy group to promote this, but do not seek to operate the MLP. They had the engineering study, and they expect the report draft next Friday, which will include a more accurate budget and costs.

Ms. English Braga said that if a contribution from the Town, earliest it could occur is April 2023.

Mr. Patterson motion to adjourn at approximately 11:15 am. Second Ms. English Braga. Vote: Yes-4. No-0. Absent-1 (Ms. Scott Price).

Respectfully Submitted,
Jennifer Chaves
Recording Secretary