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 Finton 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 a capacity 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/Acapesket 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/Acapesket Project is divided into 2 phases, moving forward with the Teaticket Path peninsula and then followed by the Acapesket portion of it. The infrastructure is being planned in coordination for that sewering.

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 Falmoutport 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 recharge 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 sewering 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/Acapesket 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 revote 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 Towns' 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