

TOWN OF FALMOUTH
SELECT BOARD
Meeting Minutes
Open Session
MONDAY, APRIL 11, 2022
SELECT BOARD MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

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

Select Board Members present: Doug Brown, Chair; Sam Patterson; Onjalé Scott Price.
Via telephone: Megan English Braga.
Absent: Nancy Taylor, Vice-Chair.

Staff present: Peter Johnson-Staub, Assistant Town Manager; Maura O’Keefe, Town Counsel.
Absent: Julian Suso, Town Manager.

1. **Chair Brown called the open session to order at 6:30 p.m. and motioned to convene the executive session under 1. M.G.L. Ch.30A s.21(a)(3) and s.21(a)(6) – To consider, with potential vote, the value of Mayflower Wind Electric Cable easements and to discuss strategy, with potential vote, regarding pending regulatory litigation before the Energy Facilities Siting Board for Mayflower Wind, EFSB 21-03/D.P.U. 21-142 & 21-143 and M.G.L. c.30A s.21(a)(3) – to discuss strategy with respect to collective bargaining with the Falmouth Public Library Association because to not go into executive session could prejudice ongoing negotiations. Mr. Patterson seconded the motion. It was followed by a roll call vote in Open Session to go into Executive Session for the purpose of discussing the above-listed items, and to return to Open Session after discussion. Roll Call Vote: Ms. English Braga, aye; Chair Brown, aye; Mr. Patterson, aye; Ms. Scott Price, aye. Absent: Dr. Taylor.**
2. Pledge of Allegiance
3. Proclamations:
 - a. Arbor Day
Mr. Patterson read the proclamation in the packet as a motion. Second Ms. Scott Price. Roll Call Vote: Ms. English Braga, aye; Chair Brown, aye; Mr. Patterson, aye; Ms. Scott Price, aye. Absent: Dr. Taylor.

Jeremiah Pearson, Tree Warden, explained the celebration to be had, including planting trees and a pollinator garden with children from the local schools participating throughout the day.
 - b. National Public Safety Telecommunicators Week
Ms. Scott Price read the proclamation in the packet as a motion. Second Mr. Patterson. Roll Call Vote: Ms. English Braga, aye; Chair Brown, aye; Mr. Patterson, aye; Ms. Scott Price, aye. Absent: Dr. Taylor.
4. Recognition

Chair Brown thanked the Bikeways and Pedestrian Committee for their work.

Ms. English Braga noted passing of Kevin Lynch on 3/24/22, he attended Town Meetings, was a veteran, a volunteer for FCTV, and very connected within our community. Mr. Lynch was ill last few years. Ms. English Braga thanked his family for supporting him in all he did for the Town.
5. Announcements – Select Board vote to retain special counsel
Chair Brown announced the executive session vote to hire Robert S. Troy as Special Counsel on 3/29/22. Special Counsel will assist in negotiating with non-union staff.
6. Public Comment

Joe Lamay, invited the community to attend a stone walk. He explained that this involved loading the pandemic stone, a 4,000 pound granite stone, onto a cart that is pulled by people. It is walk one year ago in Boston, it is now in Sandwich, Thursday evening it will be at the Falmouth Hospital and available for people to visit. At 9am Friday morning a memorial service, community is invited, heroes hospital workers, Police Department, Fire Department, are welcome to participate as well. After Cape Cod, the stone will go to New York City.

Dave Moriarty, resident, regarding the Mayflower Wind project, asked if the cable is 800 megawatts or 1200 megawatts? Has there been a route established?

Dianna Mota, running for Select Board, in Friday's local paper there is a picture of her son at the Falmouth High School talking to seniors about the military and next to it that she was arrested for harassment in 2020. She feels it is not right to take personal digs at someone who is trying to do something good for the Town. Ms. Mota requested a copy of the budget book, she is aware it is online, but would prefer to be provided with a hard copy version.

William Marston, Falmouth, asked about Pheasant Lane and if they can speak, Chair Brown noted he may.

TOWN MANAGER'S PRELIMINARY REPORT

Mr. Johnson-Staub said the Board voted to approve the collective bargaining agreement with Library for 2 years. Both public hearings appear to be in order, the property is eligible. The Town works with Church routinely on sign variance. Lawrence School auditorium is available for the Mayflower Wind forum. The 40B project at 33 Pheasant Lane is to be discussed, and the Board has a memo from Town Special Counsel on that matter.

7:30 p.m. PUBLIC HEARINGS

1. Application for an Alteration of the Licensed Premises of a Seasonal All Alcoholic Club License – Seacoast Shores Association, Inc. at 7 Farview Lane, East Falmouth

Ms. Scott Price read the hearing notice.

Darya Latypova, stated there are 120 seats inside the clubhouse, they would like 40 seats at the pool and the rest in the dining area, then 5pm-closing they will have all 120 seats inside.

Public comment: none.

Ms. Scott Price motion to close the hearing. Second Mr. Patterson. Roll Call Vote: Ms. English Braga, aye; Chair Brown, aye; Mr. Patterson, aye; Ms. Scott Price, aye. Absent: Dr. Taylor.

Ms. Scott Price motion to approve. Second Mr. Patterson. Roll Call Vote: Ms. English Braga, aye; Chair Brown, aye; Mr. Patterson, aye; Ms. Scott Price, aye. Absent: Dr. Taylor.

2. Flow Neutral Bylaw – Evaluation of Request for Variance – Excel 464 Main Street, LLC – 464 Main Street, Falmouth (parcel 47B 02 013 000)

Ms. Scott Price read the hearing notice.

Kevin Klauer, Falmouth Attorney, representing the applicant. Joe Valle is the consultant. This property has been a vehicle repair site, but have proposal for mixed use, restaurant on the first floor and ten rental apartments on the upper floors, three affordable, although all units are eligible for inclusion on the Town's subsidy housing list. Requires a variance from the flow neutral bylaw. This property is already on the sewer. The Wastewater Superintendent found that sufficient capacity exists, and it is Title V eligible. Meets the Board's policy, and he believes this qualifies for a variance. They have been working on plans for 4-5 months; they are not seeking the maximum of 15 units on the site.

Ms. English Braga believes the functionality and proposed design looks like a nice improvement to that part of Main street.

Public comment: none.

Ms. Scott Price motion to close the hearing. Second Mr. Patterson. Roll Call Vote: Ms. English Braga, aye; Chair Brown, aye; Mr. Patterson, aye; Ms. Scott Price, aye. Absent: Dr. Taylor.

Ms. English Braga motion to approve. Second Mr. Patterson. Roll Call Vote: Ms. English Braga, aye; Chair Brown, aye; Mr. Patterson, aye; Ms. Scott Price, aye. Absent: Dr. Taylor.

BUSINESS

1. Request for Variance to Sign Code – Chapter 184-30 (C) Special Events – John Wesley United Methodist Church, 270 Gifford Street, Falmouth

Ms. Scott Price motion approval. Second Mr. Patterson. Roll Call Vote: Ms. English Braga, aye; Chair Brown, aye; Mr. Patterson, aye; Ms. Scott Price, aye. Absent: Dr. Taylor.

2. Discuss and vote to approve Falmouth Housing Trust's Local Initiative Program (LIP) application to the Department of Housing and Community Development for premises at 33 Pheasant Lane, East Falmouth

Attorney Laura Moynihan, representing the Falmouth Housing Trust, made a presentation. The 40B housing developer asking to approve endorsement of the application to the State for review of the proposal for issuance of a project eligibility letter. One affordable housing unit, construction completed, showed plan of the neighborhood, there are 35 existing houses, and the location is walking distance to services. The house is a three bedroom, two bath, two story home built in 2019, it has a garage, deck, and yard. The lot is below that permitted by the Zoning Bylaw, and energy efficient. Atty. Moynihan presented photographs of the residence. It meets all zoning setbacks, three bedroom Title V septic system, and the floorplan was reviewed. Developer has standing under MGL 40B. Sale price of the home would be \$265,000, the appraised value as a market rate home is \$900,000. Town of Falmouth Affordable Housing Production Plan was approved in 2019. Current status of the plan includes: 1 unit on Deerpond, 3 units in Locustfield estates, 3 units on Old Main Rd. This unit would add to the subsidized housing inventory. Waivers needed for bylaw were reviewed and include lot size; this lot is comparable to what is in the neighborhood. Development standards were reviewed.

There is currently ongoing litigation with this home, the owner is involved in litigation, it has been stayed by the court. The owner's attorney filed an application with the judge to stay the litigation to allow for this process to take place. A Comprehensive Permit can allow for waivers under 40B for lot size and minimum size width. If the house was gone, there could be more than one unit built on that parcel. This is a good result for the community, Housing Trust, and a needy family. Deed restricted in perpetuity, there would be a monitoring agent, and a lottery for homeowner. The \$400,000 purchase price is reasonable, the Housing Trust currently estimates it would cost that, if not more, to build a home alone, and it does not include the land acquisition.

The Zoning Board of Appeals (ZBA) appreciated update by Chair Brown; the ZBA has not decided on the case to date.

Ms. Scott Price likes this creativity.

Ms. English Braga noted the legal issues are not for the Board to decide tonight, she cannot think about tearing down a house already built. There are rules and regulations for a reason, given the desperation for housing, there is nothing in this price range, and very little in the range twice the price of this project. There are people who work hard at well-paying jobs who cannot afford to live in this community. We need many more units, but it is a single opportunity for a family that needs to stay in Town; the foundation of our community. She wants the Board to use the authority they have.

William Aston, Falmouth, commented that this is an unbuildable lot, nothing changes there. If they do anything with it, it still lowers the property values of the houses next door. This project is not friendly to the neighbors or taxpayers; should they have notified people that this was coming. This building was built knowing it was a substandard lot. It has been to court, deemed that it is supposed to be torn down. It is not right. Neighbors are the ones who get it stuck to them, take the greenspace out of the development. Building Commissioner said it should not have been built. He was given bad information, it was still allowed to be built, got an occupancy permit, and has been rented for months. Mr. Aston asked if every substandard lot is able to be built upon.

Ms. English Braga noted that to rip down a home that could be a beautiful place to raise a family is not a good idea.

Attorney Moynihan said this is in court, Falmouth is paying Special Counsel for this litigation. Everyone should be concerned the taxpayers are funding this litigation. There are appeals going on about the ZBA decision. Nothing established in court, trying to come up with a result to allow for the house to be legalized under a different mechanism, which is State law, as a 40B housing unit. Sticking it to the neighbors is not what is happening, one house on a lot similar in size to many lots in the neighborhood. The lot was designated as a buildable lot on the old plan, not green space. Market values in the area are high, look at Lewis Neck Rd. application, three units under construction, neighbor said property values would be negatively impacted by the development. The owner made a significant profit selling a home next to a lot with three units. There is no evidence of loss of property value, 40B is there for a reason because everyone wants affordable housing but not in their backyard. No one is even going to know it is an affordable housing unit when they drive by it. If the house was torn down the lot would be vacant. Housing Trust could buy the land, then apply for 40B housing permit and build another house, or more than one unit. The people who service the rest of us are buying these homes. The claims that it is illegal, none of that has been established, the litigation is stayed, and the Board should review the application based on the merits of the application not the litigation. If building affordable housing, it will be built on unbuildable parcels, any lot out there in the community unbuildable under zoning is eligible for 1 or more units of affordable housing. This is not a public hearing, notice to neighborhood is not legally required, it will go to the Zoning Board for a full hearing. All they are asking now is to start the process and allow it to get to the Zoning Board.

Mark Finneran, 98 Grand Ave., noted the house will be worth \$1 million next year.

Dianna Mota said it was done the wrong way.

Mr. Johnson-Staub noted it is a complicated issue because of the history and suggested, as upset as we might be, the Board should play it out for themselves on what you want to see happen. If the Board denies the LIP application, play it out, there will be litigation if the property owner is forced to tear the house down. If the neighbors had been the owner and have to tear the house down, you have the right to apply for 40B, the ZBA would have a difficult time denying the two exemptions for three units of housing. This would be an easy standard for the property owner to meet. If the ZBA denies it, it goes to the State Housing Appeals Commission. Let's think about where it goes if it is not approved as a legalized house through a 40B process.

Ms. English Braga motion approval. Second Ms. Scott Piece. Roll Call Vote: Ms. English Braga, aye; Chair Brown, aye; Mr. Patterson, aye; Ms. Scott Price, aye. Absent: Dr. Taylor.

Ms. English Braga said that we have an obligation to meet the housing production standard and a moral obligation to make sure those working and being productive members of their community have housing. Housing will be a challenge for our community, the character is going to change dramatically if the regular folks who want to raise their family and age in Falmouth are unable to afford to do so.

3. Discussion on date/location for Mayflower Wind public forum **(10 minutes)**

Mr. Johnson-Staub reported that the Lawrence School Auditorium is available. He has presented dates to the Mayflower Wind representatives, they have not gotten back to him yet. His suggestion is to leave 4/30/22 and 5/7/22 as possible options for meeting dates.

Dave Buzanoski, President Falmouth Heights Maravista Association feels the open meeting with Mayflower before the hearing is premature. Mayflower needs to go in with their revised application, and it will be a different meeting before they submit their revision. He would like the public meeting to be done after the new Energy Facilities Siting Board (EFSB) hearing date has been set. He would like a Saturday morning meeting so that more can attend.

Mr. Johnson-Staub said that he does not know if Mayflower will change their landfall locations and part of the reason to have a public forum before Mayflower restarts the process with EFSB is to influence Mayflower.

Ms. Scott Price said that they are getting comments from the community, so it would be helpful to have people at the meeting to ask those pointed questions. If people show up and present their thoughts, maybe that will influence Mayflower to move in their direction a little more.

Dave Moriarty likes the idea of a Saturday meeting, should have several meetings, we would like to see the plan of the project including the amount of voltage and megawatts coming into Falmouth.

Ms. English Braga exited the meeting.

CONSENT AGENDA

1. Licenses
 - a. Approve application for a Special One-Day Liquor License – Bands for Badges, Cape Cod Fairgrounds – Saturday, 8/13/22
 - b. Approve application for three Special One-Day All Alcohol Liquor Licenses – Falmouth Theatre Guild, Highfield Theater, 58 Highfield Drive – Friday, Saturday, and Sunday; April 29, 30, & May 1; May 6, 7, 8; and May 13, 14, 15, 2022
 - c. Approve application for a Change of Address of a Wine and Malt Beverages License – Quicks Hole, LLC dba Quicks Hole Taqueria, located at 28 Water Street, Unit #C, Woods Hole
 - d. Approve application for a Class II Used Car Dealer License – Intergas, Inc., located at 10 North Main Street, Falmouth
2. Administrative Orders
 - a. Vote to Appoint Members to Board of Registrars: Grace O’Gorman, Kathleen Mortenson, Edward McCormack, III
 - b. Vote to approve ballot questions for May 17, 2022 municipal ballot
 - c. Vote and execution of petition to Legislature for special act to hold a special municipal election in November, 2022 to elect a Municipal Light Board
 - d. Approve Eversource petition to install approximately 40’ (feet) of conduit and cable under town road southwesterly starting at handhole 542/H1B and to install (1) new handhole labeled 542/H1A in public ROW on side of road at base of existing pole 542/1. This work is to be done to provide electric service to #118 Bywater Court.
 - e. Vote to request a list of long-term parking permittees including vehicle information from the SSA of vehicles using the long-term parking permit system (Palmer and Woods Hole lots)
 - f. Vote to approve request to submit application for FY23 MVP grant for low-lying roads
3. Approve 2022 Seasonal/Annual License Renewals

SEASONAL COMMON VICTUALLER LICENSE

The Tea Room, 196 Crystal Springs Avenue

LODGING HOUSE LICENSE

Elizabeth Hathon, 165 North Falmouth Highway

SECOND-HAND DEALER LICENSE

Cape Cod Gold & Silver Coin, 424 Main Street
Falmouth Stamp & Coin, 11 Town Hall Square

BOWLING ALLEY/POOL TABLE LICENSE

Grumpy’s Pub, 29 Locust Street

ENTERTAINMENT LICENSE

Falmouth Pier 37 Boathouse, 88 Scranton Avenue

SUNDAY ENTERTAINMENT LICENSE

Falmouth Pier 37 Boathouse, 88 Scranton Avenue

MOVIE THEATER LICENSE

Falmouth Cinema Pub, 137 Teaticket Highway

Ms. Scott Price motion approval. Second Mr. Patterson. Vote: Yes-3. No-0. Absent-2. (Ms. English Braga, Dr. Taylor)

4. Review and Vote to Approve Minutes of Meetings:
 - a. Public Session –
February 14, 2022

Mr. Patterson motion approval as edited. Second Ms. Scott Price. Vote: Yes-3. No-0. Absent-2. (Ms. English Braga and Dr. Taylor).

- b. Executive Session –
March 14, 2022

Mr. Patterson motion approval and not release for public access. Second Ms. Scott Price. Vote: Yes-3. No-0. Absent-2. (Ms. English Braga, Dr. Taylor)

March 28, 2022

Executive Session 1

Mr. Patterson motion approval and not release for public access. Second Ms. Scott Price. Vote: Yes-3. No-0. Absent-2. (Ms. English Braga, Dr. Taylor)

Executive Session 2

Mr. Patterson motion approval and not release for public access. Second Ms. Scott Price. Vote: Yes-3. No-0. Absent-2. (Ms. English Braga, Dr. Taylor)

Executive Session 3

Mr. Patterson motion approval and release for public access. Second Ms. Scott Price. Vote: Yes-3. No-0. Absent-2. (Ms. English Braga, Dr. Taylor)

TOWN MANAGER'S SUPPLEMENTAL REPORT

Mr. Johnson-Staub noted the Internal Working Group for Special Events met last week and approved 17 special event permits. Falmouth Road Race is seeking 12,000 runners, but approved permit was for 10,000 runners. There have been meetings with the Town and road race. They may be appealing that decision to the Board.

Completed Town Meeting and thanked the Board and staff for completion.

Monday, April 18 is Patriot's Day; Town offices will be closed for the holiday. The next Board meeting will be held on Monday, April 25, 2022.

SELECT BOARD REPORTS

Mr. Patterson:

Cape and Islands Municipal Leaders Association meeting 4/8/22 had reports from county officials, including Barnstable County Public Health and Environment and noted there are some grant opportunities. These are the One Stop grants the State is putting out: www.mass.gov/onestop for a list of grants.

Mr. Brown :

Daniel Gessen gave a detailed update of the Barnstable County Assembly of Delegates meeting and reported it is off to a good start.

DISCUSSION OF FUTURE AGENDA ITEMS

Ms. Scott Price would like to set a date for meeting with the Affordable Housing Committee.

Mr. Patterson noted training in staff safety practices; MIIA, our insurer, is paying for municipal department heads training to teach safe practices.

Art Gaylord asked if he could get a copy of the petition being sent to the State legislature concerning the article. He thanked the Board and Town administration for help and support during the process of establishing the Municipal Light Project.

Ms. Scott Price motion to adjourn. Second Mr. Patterson. Vote: Yes-3. No-0. Absent-2. (Ms. English Braga, Dr. Taylor)

Respectfully Submitted,
Jennifer Chaves
Recording Secretary

TOWN OF FALMOUTH
SELECT BOARD
Meeting Minutes
Executive Session 2
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SELECT BOARD MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

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

Select Board Members present: Doug Brown, Chair; Onjalé Scott Price, Sam Patterson.
Via Telephone: Megan English Braga.
Absent: Nancy Taylor, Vice Chair.

Staff present: Peter Johnson-Staub, Assistant Town Manager; Maura O’Keefe, Town Counsel.

M.G.L. c.30A s.21(a)(3) – to discuss strategy with respect to collective bargaining with the Falmouth Public Library Association

Mr. Johnson-Staub reviewed the contract, which includes 2% COLA for the current year and next year along with some modest changes in management of hours and schedules. The contract is only for two years because a consultant has been engaged to begin a compensation study so that it may be implemented in fiscal year 2024.

Ms. Scott Price motion approval. Second Mr. Patterson. Roll Call Vote: Mr. Patterson, aye; Ms. English Braga, aye; Ms. Scott Price, aye; Chair Brown, aye. Absent: Dr. Taylor, Vice Chair.

Mr. Patterson motion to adjourn at 7:07 pm. Second Ms. Scott Price. Roll Call Vote: Mr. Patterson, aye; Ms. English Braga, aye; Ms. Scott Price, aye; Chair Brown, aye. Absent: Dr. Taylor, Vice Chair.