

TOWN OF FALMOUTH
SELECT BOARD
Open Session
Meeting Minutes
MONDAY, JUNE 13, 2022
SELECT BOARD MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

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

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

Staff Present: Peter Johnson-Staub, Acting Town Manager; Maura O'Keefe, Town Counsel.

1. **Chair Taylor called the open session to order at 6:30 p.m. and motioned to convene the executive session under M.G.L. c. 30A s. 21(a)(2) – To discuss strategy with respect to collective bargaining: DPW union and non-union personnel (COVID premium pay) M.G.L. c. 30A s. 21(a)(5) – To investigate charges of criminal conduct or to consider the filing of criminal complaints 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: Mr. Brown, aye; Mr. Patterson, aye; Ms. Scott Price, aye; Chair Taylor, aye; Mr. Zylinski, aye.**
2. The Select Board (Board) was in Executive Session and authorized the Acting Town Manager to pay \$1,000 Covid-19 premium pay to each DPW union employee and non-union Town employee. The Board also considered filing criminal conduct charges during the executive session.
3. Pledge of Allegiance

JOINT MEETING – SELECT BOARD AND AFFORDABLE HOUSING COMMITTEE

Mr. Johnson-Staub thanked the Affordable Housing Committee (AFC), subcommittee, and Attorney Laura Moynihan for their research into items 1 and 2. The purpose of the tonight's meeting is to get more information, noting the staff still needs to research what needs to be done in order to implement these items and how they suggest doing it along with policy decisions that the Board will need to consider. This is an informational session.

Ed Curley, Chair of Affordable Housing Committee said that about a year ago Attorney Moynihan sent letters to the Select Board, the Affordable Housing Committee, the Planning Board, the Zoning Board and other groups with these ideas that she is going to present. She has been working with an Affordable Housing Committee member, and she presented the details of the program to the Affordable Housing Committee, and they recommend the Board consider implementing these as another way to assist in affordable housing.

Ms. Scott Price thanked Mr. Curley for his nine years of service on the AFC, she is excited that he will be around and still participating.

Attorney Moynihan volunteered with the working group that formed by the Affordable Housing Committee to come up with programs. A lot of the research is based on what other towns have in place in the state. They came up with these two proposals. The two programs are distinct. One creates units for subsidized housing inventory so the rules are driven by what the Department of Housing and Community Development (DHCD) would approve under a Local Initiative Program (LIP). The second program would not result in units being added to the Subsidized Housing Inventory (SHI) and DHCD approval is not needed for this program so the Town has more flexibility.

1. Home Opportunity Purchase Program (HOPP)
Attorney Moynihan explained this program and made a PowerPoint presentation explaining this would be a grant program to qualified homebuyers to cover the difference between an affordable sale price and the

market value of the home. The amount the she and the subcommittee are recommending is up to \$250,000 for a 2, 3, or 4 bedroom home. Income limits up to 80% Area Mean Income (AMI) and the household's assets cannot exceed \$75,000 to be eligible to purchase a home through this program. Once the home is purchased a deed rider is placed against the property and it is included in the Town's SHI. When the owner sells the house, the price is restricted per the deed rider as an affordable housing unit.

Maximum income limits were reviewed. First time homebuyer definition according to DHCD was reviewed. The buyers could be reimbursed for initial home inspections, property must be in reasonably good condition, a lottery process, selection of eligible applicants based on the number of grants deemed available. The Board could have a set number of grants each year, perhaps three grants in the first year, and the lottery process would be held after an application eligibility period. An applicant is deemed eligible by the monitoring agent, entered into the lottery, and then three people are picked. Those picked have 120 days to locate a home and may request an extension for up to 90 days. It is unknown at this time if applicants would have to have been residents of Falmouth for some period of time. It is possible eligible applicants could include applicants from other communities, but the home would need to be in Falmouth. They would have to review with DHCD regarding a local preference pool. An applicant would need to have an application submitted by a deadline, applicant prequalified for the lottery, and preapproved for a mortgage. Maximum resale value of the home would be set similar to other homes with affordability in perpetuity. A resale calculator is included in the deed rider. FHA and VA loans would not be eligible because they do not accept the affordable housing deed riders that go with these programs. There are local banks on the Cape that accept the deed restrictions and will finance this type of transaction. The funding would come from the Affordable Housing Trust, created by the special legislation. Would have to work through a staff member to find out what is available and allocated, annually. The Board would review how much they want to allocate for this program for the following year.

The home ownership program would be eligible for CPC funds, but Attorney Moynihan felt the account created with the special legislation would be appropriately used for houses already built. Since this legislation came about, this could give it some purpose as a municipal action because the Town itself is creating the units.

Mr. Patterson noted there are municipalities that are purchasing houses that exist with CPC funds.

Mr. Brown is concerned about a large amount of money for one applicant. The subsidy approved for the Falmouth Housing Corp senior living project is about \$50,000 per unit. The project provides a benefit to multiple families. Attorney Moynihan explained that if you look at the Housing Production Plan the Board adopted, the Town is far behind with the home ownership part of it. The target goal is 56 units over 5 years. The plan talks about the impact of the workforce in the community and the inability to have our workforce members buy a home in the community. In some cases, the cost of rent is more than the cost of a mortgage, so they are purchasing homes in other communities off Cape. Typical DHCD LIP rider would be the protection and recorded with the house upon closing. It includes standard provisions for default and potential sale. The Town has the right to first refusal. The subsidy of up to \$250,000 seems like a lot, but it costs \$400,000 or so to construct a new home, not including acquisition costs of the land. The DHCD representative noted it is a good deal for the community, to build these housing units would cost more than \$250,000 per unit.

Mr. Johnson-Staub stated that he wants to gauge the support of the Board for these concepts.

Ms. Moynihan spoke with Mary Waygan, Housing Coordinator for Yarmouth who has administered a buy-down program and said it is the quickest way the Town will get units on the SHI. It can take at least two years to build similar housing.

Per attorney Moynihan, they did not do formal market research. They looked at what is available and what has been sold in the market. In this kind of market, the market can change, you can have private sales, it does not have to be a large home, and there are many things that make it worth trying. They could do a market analysis with several agents to see what is available.

2. Down Payment/Closing Cost Assistance Program
CPC funding limited to 100% AMI households.

Attorney Moynihan explained this program does not have to be approved by the State, it is in-house. Bourne has a similar program, but the difference is that Bourne's is for down payment and closing cost assistance for deed restricted affordable units. Falmouth has a workforce housing crisis and needs to keep the young people in the community. We need to bring in workers to fill positions, and give them the opportunity to buy in the community. This is for down payment and closing cost assistance and allows applicant's income to be up to 120% of the AMI. Household assets are limited, and it requires the house to be their principal residence. Applicants need to be eligible for the first mortgage. This would be up to 5% of the purchase price and no more than \$30,000. Buyers contribute at least 1.5% of the purchase price, this would be a type of second mortgage security and repaid if the house is sold within five years. The loan to value ratio is 90%, and repayment could be in full if the house is sold at any time. A portion could also be forgiven on an annual basis.

An applicant would apply, submit their information to show they are income-eligible, and they receive a preapproval letter from the program administrator. The applicant would provide a completed confirmation notice from the lender regarding first mortgage approval, copy of the mortgage commitment letter to the buyer, copy of the lender's good faith estimate, copy of the appraisal, and total loan to value of all loans. Closing documents and check from the Town go to the closing attorney once the settlement statement is given to the administrator.

3. DHCD recommended the HOPP program use a professional lottery and monitoring agent that administers the program. The Down Payment/Closing Cost Assistance Program could be contracted out for someone to administer and run it. There is a regional planning commission at the State level where certain municipalities got together to hire monitoring agents to monitor their programs, one office, and towns pay a monthly fee.

Karen Bissonnette, Executive Director of Falmouth Housing Trust, noted that \$250,000 is a great deal of money, but it costs that much to build a house. The Affordable Housing Fund is giving \$100,000 per unit but there is additional subsidy between that number and what the house is sold for that is coming from philanthropy or from other state or federal sources. The Town is not contributing all of that; the money is coming from somewhere. If this program happened, it would be great because the Town would be doing that project and her organization and state agencies could use their funds to do additional homes. The money for this program could come from several sources including ARPA funds, short-term rental money, and the community impact fee. It costs that much money to build these houses. We should not wait; we have to step it up. People are desperate, and this is the best bang for our buck.

Mr. Brown agrees the costs are realistic but wonders about the efficacy to use Town funds and allocating so much to a single applicant when it is such a random luck thing.

Mr. Johnson-Staub said if the Board consensus for these programs is for staff to put time into the research of programs, the next step is for the Board to tell him whether they want to proceed with vetting one or both programs and then return to the Board with more information.

Ms. Scott Price likes both these programs, she is interested in the second program because rent in most cases is more than her mortgage. Some people can afford the rent but cannot save the money for a down payment on a home. There is a great need right now.

Chair Taylor likes the HOPP program. One of the Board's priorities is making housing affordable in Falmouth. Attorney Moynihan donated her time, presented the group's work, and she would like to look into it more closely. Committing to the process of looking closer at these two options that they have not seen before.

Mr. Patterson said both programs make a lot of sense, and the ability to turn around units sooner. He hopes to look to other towns who implemented programs to find out their overhead costs and time investments to determine the impact to the Town and their staff.

Mr. Brown asked if a consultant could do the research on grant opportunities. Mr. Johnson-Staub noted there may be some grants, though he likes to go after grants that have more payback then what it takes to get the grant.

Mr. Zylinski, said by doing it this way, the two years' development time can be equated to money not spent and get something on the inventory more quickly.

Mr. Johnson-Staub would like to talk with the Housing Coordinator about working on these.

The Board supports the Town staff researching these items.

Attorney Moynihan said that the Town could start with just one or two grants, not the three she suggested. It is not about the recipient of the grant, it is about the house because the money goes to permanently restrict that house. The initial grant winner facilitates the purchase of the house, the benefit is that the community gets that house and furthers the state mandated ten percent affordable housing unit goal. The Board decides how close they want to get to the ten percent goal. The \$250,000 remains in the home because the home becomes permanently restricted. When that person decides to sell it, they have to notify the Town, and the Town has the opportunity to find a new eligible buyer. The affordability is in perpetuity. There is a resale multiplier by the DHCD, when the first owner sells. The initial buyer will not get a windfall, but they may get the money back from the capital improvements made to the home.

REGULAR MEETING

1. Proclamations

- a. Eagle Scout Edward "Ned" H. Heywood, Boy Scout Troop 40

Mr. Patterson read the proclamation in the packet as a motion. Second Ms. Scott Price. Vote: Yes-5. No-0.

- b. Falmouth Station 150th Anniversary

Mr. Patterson read the proclamation in the packet as a motion. Second Ms. Scott Price. Vote: Yes-5. No-0.

2. Recognition

Mr. Brown recognized the D-Day invasion of 70 years ago; the bravery showed on the battlefield was pretty incredible.

Mr. Patterson said the Falmouth Rotary Club and the Transitioning Warriors Group hosted a golf tournament fundraiser at the Pocasset County Club, and the funds will be used throughout the Town.

Ms. Scott Price recognized Mr. Curley as Chair of the Affordable Housing Committee and thanked him for his service to the Town.

3. Announcements

Falmouth Police Department (FPD) is collecting baby formula, and there is a drop box at the FPD Headquarters.

Open Ship for Sea Education Association is celebrating its 50th anniversary this year. The ship will be open for tours from 10:00 am to noon on 6/24/2022.

- a. Beach Update

Maggie Clayton, Beach Superintendent, reported the opening date for seven days per week staffing and enforcement is on 6/26/2022. Additional parking attendants were hired, so all parking lots will be monitored by at least two staff members. They will continue sunset hours at Chapoquoit and Old Silver Beach lots. They have close to the number of lifeguards they had last year, and are in an active hiring pattern. Applications are still open on the Town website. Any questions about the job can be directed to the Beach Department or Ms. Clayton. The target number of staff for the ten beaches to be fully staffed is 57 staff; they currently have 42 full time staff, 2 part time staff, and 2 signed up for certification courses. Those staff returning who are unable to commit to a schedule

may be on the per diem substitute list. Parking attendant numbers to get to fully staffed levels require 37 full time attendants and 8 part time attendants. She is trying to be flexible with all applicants by accepting a 2-4 day commitment.

Stickers are being sold at the Surf Drive bath house and processing online orders. They could not do what they are doing without the cooperation of other departments: Town Clerk's Office, Department of Public Works, Marine and Environmental Services for buoys to establish a swim area, and a constant open chain of communication with all department heads.

There was a stranded dolphin at Old Silver Beach this week. Civilians responded to an active drowning situation at Menauhant Beach on Saturday. A swimmer was caught in rip tide, two civilians assisted, others on beach called for EMS, and a nurse on the beach assisted as well. They will formally recognize those people at a later date. Ms. Clayton reminded the community to swim within your abilities and be cognizant of the hazards, including boats and currents.

Pre-season parking lot hours are posted on the Town website and in the local newspaper. Three parking lots: Goodwill, Chapoquoit and Old Silver closed at 9:00 pm on Friday-Sunday nights in response to the initial 8:00 pm closing on Memorial Day Weekend.

Public Comment:

Barbara Schneider received confirmation from two parents of lifeguards, whose children were hired by local private beaches, that their children are getting paid at the level the Beach Committee suggested setting and also being paid for rainy days. The Committee did so much homework, she wishes they were not looking at a low number of guards, and is hopeful that in the future they can work closer together to those numbers.

b. "Open Ship" for Sea Education Association (SEA)

4. Public Comment

Robert Duggan, Falmouth Heights, Former Clerk of the Zoning Board of Appeals (ZBA), watched a recent Board meeting and there was a statement made that he had not given a resignation letter when leaving the ZBA. He submitted the letter to the Town Manager's office, Chair of the Select Board, and Chair of the ZBA. He was approached by someone in the public who saw the meeting and was disappointed that Mr. Duggan did not have the courtesy to provide notice to the Town.

TOWN MANAGER'S PRELIMINARY REPORT

Mr. Johnson-Staub noted the ZBA appointment needs to be revisited. There were three vacancies at the time of the Board meeting, but only two were advertised in advance of the meeting. It was a timing issue. Two terms were advertised, but they mistakenly listed all three terms in the packet. This is a regulatory board, we want to be sure that there is no question about the validity of the appointments. So we are revisiting one of the appointments that was made for a term not advertised.

The current lessee with the Tony Andrews Farm Lease is asking the Town to extend the lease by a 15-year term. It is recommended for approval by the Agricultural Commission, and the Board is the entity that enters the lease. He recommends Board approval of that extension.

The Board at the last meeting allocated all the ARPA funds presently allocated by the County to Falmouth, but because there is an application process for that, there are two items that are over budget and time sensitive and concerned that the county process to approve those projects may not be quick enough to allow the projects to proceed so he is asking that the Board reconsider the allocation of the ARPA funds approved last week.

COMMITTEE APPOINTMENTS

1. Vote to appoint committee member:
 - Zoning Board of Appeals (full member) until 6/30/22 – Susanne Murphy

This term is through 6/30/2022, the reappointment will need to be advertised separately, there were two other terms advertised.

Mr. Patterson motion to appoint Susanne Murphy to a term ending 6/30/22. Second Ms. Scott Price. Vote: Yes-5. No-0.

BUSINESS

1. Andrews Farm lease extension

Mr. Johnson-Staub explained that this will be a 15-year extension added to the end of the 5-year term. The farm is viable. Mr. Andrews is meticulous about maintaining the farm, and has allowed community gardens to do a sublease on the property. The acquisition of the farm is working out well. Mr. Johnson-Staub recommended approval.

Karen Schwalbe, Chair Agricultural Commission, reported that the farm is meticulous, there is a balance of local products at his farm, and the 15-year extension allows him to do some long-term planning.

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

2. ARPA allocation correction (Town ARPA for Nye Park and Water Projects)

Mr. Johnson-Staub is asking Board to reconsider the \$110,000 for Nye Park and \$200,000 for water well treatment upgrades be allocated from the direct federal government award, and adjust wastewater treatment upgrades to \$1,334,782. The total amount is increasing in order to fully allocate the County money. The drawdown of the County funds right away demonstrates the Town is ready to spend the funds.

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

The Art Market is looking for additional funding for their activities. Mr. Johnson-Staub noted there are a lot of things the Town can spend ARPA money on, but capital projects are the focus.

CONSENT AGENDA

1. Administrative Orders

- a. Approve Eversource petition to install approximately 60' (feet) of conduit and cable under town road northwesterly starting at handhole 293/H2A and to install (1) new handhole labeled 293/H2A in public ROW on side of road at base of existing pole 293/2. This work is to be done to provide electric service to #8 Mast Road
- b. Approve Eversource petition to install approximately 38' (feet) of conduit and cable under town road and to install (1) new handhole labeled 1029/H3A in public ROW on side of road at base of existing pole 1029/3. This work is to be done to provide electric service to #17 Shoreview Avenue
- c. Approve Eversource petition to relocate 1 JO pole labeled 211/3 approximately 30' (feet) southwest towards pole 211/4. Pole to be relocated for customer at #58 Montauk Street.

Mr. Brown opined that the person who sent the letter made valid points, they already have a pole at the other corner of their lot. The Board would like more information to address the issues as outlined.

Mr. Patterson motion to hold item c. Second Mr. Zylinski. Vote: Yes-5. No-0.

Mr. Patterson motion approval of items a. and b. Second Ms. Scott Price. Vote: Yes-5. No-0.

2. Review and Vote to Approve Minutes of Meetings

- a. Public Session
May 23, 2022

Mr. Patterson motion approval with edits and release for public access. Second Ms. Scott Price. Vote: Yes-5. No-0.

May 26, 2022

Mr. Patterson motion approval with edits and release for public access. Second Ms. Scott Price. Vote: Yes-5. No-0.

b. Executive Session

May 23, 2022

Mr. Patterson motion approval with edits and not release for public access. Second Ms. Scott Price. Vote: Yes-5. No-0.

TOWN MANAGER'S SUPPLEMENTAL REPORT

Mr. Johnson-Staub reported the difficulties Republic Services is having with curbside trash pickup. It is unacceptable, and not something they take lightly. As of 6/1/2022 there is a new contract, and with increased cost, they should have the ability to hire more staff to meet the requirements.

Mayflower Wind (Mayflower) public forum had a lot of strong opposition to the proposed landfall and installation of electrical equipment. There was expressed concern about lack of transparency. The reason there has not been more public discussion is because not much has happened. Mayflower submitted a proposal with both a preferred and alternate location. The Town retained consulting engineers to look at that, but we do not have complete designs to review. Also, per direction of the Board they have pushed back on those two locations. The Board has addressed this appropriately. Mayflower announced they are going to change the plans, the engineering design, from high voltage alternating current to high voltage direct current, which is a substantial change. The Board and staff are waiting for Mayflower to present updated designs and we will have the consulting engineers to take a look at when they are received.

Chair Taylor would like to be more careful on how they use language, it was presented that it is going to happen, it is just a question of how it will happen. Be careful how the Board presents, clear about the control the Board has about this project.

Mr. Brown would like to share the limited information that the Board has been privy to.

Mr. Patterson noted a number of citizens were concerned about noise that may come out of one of these substations. Can one of the contractors working on the Town's behalf provide feedback about the effect on noise?

Mr. Johnson-Staub stated the Town was notified by Massachusetts DEP of proposed new septic system regulations to address nitrogen regulation. We only received an outline of the proposed regulations and there are not a lot of details. The MA DEP would like to meet with staff.

Mr. Patterson said Andrew Gottleib gave a run down and status: official draft regulations will come out in October or November 2022 and driven by a lawsuit against the State and Cape Cod involving nitrogen loading into estuaries and fresh water ponds. This is broad, extensive, and will start pushing people with today's Title V systems to go to more innovative facilities or pushing for more wastewater treatment. Governor Baker has increased the budget for wastewater treatment targeted to coastal communities like the Cape. If our projects can get closer to shovel ready, the Town could tap into this and advance the wastewater treatment planning. The Cape Cod Commission (CCC) Cape Summit will be held on 8/1/2022 and 8/2/2022.

Mr. Brown attended the Cape Cod Commission update on the fresh water pond initiative. They will create a database of water quality of all the freshwater ponds, and are committed to paying for the testing of the monitoring. Conservation Law Foundation original lawsuit was against DEP and CCC for not enforcing individual septic owners as target loads.

SELECT BOARD REPORTS

Ms. Scott Price and Mr. Zylinski attended the Day of Portugal on 6/11/22.

DISCUSSION OF FUTURE AGENDA ITEM

Trash contract: Are there ways to monitor, manage, and enforce. Mr. Johnson-Staub welcomes the Board's suggestions. They may not need an agenda item to talk about it, but he will keep the public and Board updated on the status.

The Board's next regular business will take place on 6/27/2022.

The next Board meeting is on 6/21/2022 for a hearing at 1:00 p.m.

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

Respectfully Submitted,

Jennifer Chaves
Recording Secretary