

TOWN OF FALMOUTH
SELECT BOARD
Meeting Minutes
Open Session
MONDAY, AUGUST 8, 2022 – 6:00 P.M.
SELECT BOARD MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

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

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

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

1. **Chair Taylor called the Open Session to order at 6pm. Ms. Scott Price motioned to enter into executive session M.G.L. c.30As.21(a)(2)-to discuss strategy with respect to collective bargaining: Firefighters Union Minimum Shift Staffing because to not go into executive session could prejudice ongoing negotiations. Mr. Brown 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; Mr. Zylinski, aye; Chair Taylor, aye.**
2. Chair Taylor reconvened the open session at 7pm and announced that the Select Board has authorized the Acting Town Manager to open collective bargaining negotiations regarding the Firefighters Union Minimum Shift Staffing
3. Pledge of Allegiance
4. Proclamation – Farmers Market Week 2022

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

5. Recognition
Ms. Scott Price recognized Falmouth Fire Department (FFD) Chief Smith's 35 years with the Fire Department, and the Department of Public Works (DPW) for the successful rollout of the large trash containers and clean-up of the beaches after the Fourth of July.

Mr. Brown noted the Falmouth Farmer's Market is doing well and recognized Tony Andrews Farm and the work being done managing the crops given the current drought conditions.

6. Announcements – Citizens Police Academy
Ms. Scott Price announced the Police Department Coffee with a Cop event on 7/17/22, for more information go to www.coffeewithacop.com. The Citizens Police Academy will take place this year, those interested may get an application on the Falmouth Police Department (FPD) website or at the FPD headquarters.

Chair Taylor noted Dan Gessen, Falmouth Representative to the Barnstable County Assembly of Delegates, provided an update, including a small and medium grant program by the Barnstable County Grant. \$5 million of ARPA money will be distributed in small grants and final rules to be published--go to www.ARPA.barnstablecounty.gov for more information. Chair Taylor thanked Mr. Gessen for the updates.

Mr. Brown announced a reminder of the internet essentials partnership program, if you are on some sort of public assistance, you may qualify for this low cost internet access program.

7. Public Comment-none.

TOWN MANAGER'S PRELIMINARY REPORT

Mr. Johnson-Staub reviewed his preliminary report.

Further water use restrictions are recommended to ban all but hand watering, current circumstances warrant it, there is a motion in the packet.

The Bicycle and Pedestrian Committee recommend a series of actions, Mr. Johnson-Staub recommends deferring actions tonight.

Energy Committee will not be present tonight.

Mr. Peter Jeffrey, Steamship Authority (SSA) Board of Governors, asked to discuss concerns, Mr. Johnson-Staub noted that the Select Board has received correspondence from Woods Hole residents regarding concerns about traffic, noise, and the health effects of diesel exhaust.

The Conservation Commission update by Dr. Gladfelter is on the next phase of the Coonamesset River project. Mr. Johnson-Staub's only concern is if the DPW has the staff capacity to assist with this project. Mr. Johnson-Staub recommends approval of the grant applications associated with this work and will do all possible to have the grant and capital funding provide project management oversight by the consultants.

Art Gaylord will provide the status of efforts to bring broadband through the Municipal Light Plant. Town Meeting approved and the Select Board filed special legislation to authorize a November special election to elect the first Board of Commissioners for the Municipal Light Plant, that has not yet been approved by the legislature.

Public Hearings:

Marine and Environmental Services (MES) Director Gregg Fraser's regulations for docks.

New Wine and Malt beverage application and reviewed by staff.

PUBLIC HEARINGS

1. Vote to Establish and Adopt Rules and Regulations for Use of Municipal Dinghy Floats and Docks
Ms. Scott Price read the hearing notice.

Mr. Fraser said many policies and procedures are being converted to regulations. The Conservation Commission review was positive and approved. The Waterways Committee also approved them. There were few public comments and these have been in place as a policy for some time.

Public Comment:

Chuck Eastman, Waterways Committee, Town Meeting Member Precinct 6 commented that there are large dinghy's used for boats that are kept there and he feels these regulations will stop that.

Joe Netto, Precinct 9, supports the Harbor Master because the last couple years it's amazing what people think their dinghies should be and there is overcrowding. Green Pond needs at least two more floats to accommodate the boating public.

Ms. Scott Price motion approval to close the hearing.. Mr. Zylinski seconded the motion. Vote: Yes-5. No-0.

Mr. Brown motion approval of the regulations with the amendment of minimum of ten foot pennant. Mr. Patterson seconded the motion. Vote: Yes-5. No-0.

2. Application for a New Wine and Malt Beverages Common Victualler License – Dilly's Grill, LLC d/b/a Dilly's Taqueria, 281 Main Street, Falmouth

Ms. Scott Price read the hearing notice.

James Morse, attorney representing the applicant, stated that the applicant is present, and described the premises and location. The Building Inspector noted reduction of load from 25 to 22 seats, total occupancy

is 25 people. Hours of operation are 11am to 8pm. The first location is on Circuit Ave., Oak Bluff's, and the Falmouth location has been open for 14 months.

Public comment: none.

Mr. Brown motion to close the hearing. Mr. Zylinski seconded the motion. Vote: Yes-5. No-0.

Mr. Brown motion approval. Ms. Scott Price seconded the motion. Vote: Yes-5. No-0.

BUSINESS

1. Amend state of water supply conservation including, but not limited to, ban on all irrigation except hand watering

Cathal O'Brien asked for an amendment to the existing water use restriction, all irrigation outdoor areas prohibited except for watering by hand temporarily until the demand for water subsides. Memorandum in the packet. All Cape water districts are in the same position, pumping out on maximum demand and struggling to meet peak demand. There are turbidity issues and the Town is currently relying on mechanical systems rather than gravity to meet the demand.

Mr. O'Brien said they are not currently concerned with the aquifer for this request, and this only addresses the municipal supply, it does not include private wells.

Irrigation is what is the problem, the nature of sprinklers when they all operate at the same time causes a massive issue for supply. When appropriate by public notice, they will go out daily to enforce the bylaw to the full extent.

Ms. Scott Price motion to approve a ban on all irrigation of outdoor areas except for watering by hand, as amended. Mr. Patterson seconded the motion. Yes-5. No-0.

Mr. Johnson-Staub read the entire motion into the record.

2. Report – Bicycle and Pedestrian Committee

Scott Lindell, Bicycle and Pedestrian Committee Chair, made a PowerPoint presentation. There is an area of the bikeway with root bumps, warning paint was recently added. The long term solution would be to remove the evasive Black Locust trees responsible and can be done selectively while maintaining the tree cover. Less than half a mile of pavement needs to be addressed and would take care of about 70% of the root bumps.

Mr. Lindell talked about having a signaled crosswalk at Katharine Lee Bates Rd. and a multi-use path would open up the downtown area safely to bike path traffic. Wayfinding is needed and is in the master plan for Main Street. A Wayfinding Committee was already authorized by the Select Board, and he would like to see it in place this fall by having the Town Manager advertise for members.

Mr. Lindell reviewed Complete Street Progress.

Mr. Brown asked if any root barriers have been installed? Mr. Lindell said they were installed behind Wood Lumber at one time but were not effective.

3. Report – Energy Committee this item will be rescheduled.
4. Steamship Authority – Falmouth's Priorities and Concerns – Peter Jeffrey, Falmouth Member Board of Governors

Peter Jeffrey, Falmouth member to the SSA Board, briefed the Select Board on the issues affecting the Town and requested their guidance on how to vote on upcoming issues.

Mr. Jeffrey said the SSA has positive and negative effects on the Town, employs 184 residents. The Enabling Act does not apportion voting evenly among the members, Nantucket and Martha's Vineyard representatives have 35% of the vote, being veto proof; it takes act or actions of at least 1 island member in conjunction with the port members to pass anything. There is a very pro island view. The SSA is 100% fair

box driven. Operations and capital expenses, have to be replaced by the revenue the SSA generates. The bond limit is \$1 million. There is an aging fleet, which puts pressure on the other ports and ships when a ship is out of service. Electric vessels would have the least carbon impact, various hybrid options were considered, absent all electric vessel, the carbon savings are almost negligible with a hybrid vessel and only in cases when energy to charge batteries come from a green source. It is cost prohibitive and the technology would not allow longer trips, such as from Hyannis to Nantucket, and the batteries would weigh the vessels down so they cannot enter some areas. He is seeking Select Board input regarding the 5:30 a.m. ferry proposed for summer 2023 schedule from Woods Hole to Martha's Vineyard. Martha's Vineyard wants it, and he asked, how does the Select Board want him to vote on the 5:30 a.m. ferry? There is a petition for a public hearing from Edgartown businesses to have the SSA expand late night service to have a post-11:00 p.m. ferry; it will likely go to hearing. The businesses would like the SSA to expand service so that they may bring hospitality workers off island back to the Cape due to housing issues.

Mr. Brown attended the public hearing. The Select Board sends a letter each year opposing the 5:30 a.m. ferry; however the Select Board did not send a letter this year. There is only a one-acre lot in New Bedford that may be available; however there has been no commitment from New Bedford to supplement the one-acre lot that may be an option. We need to petition legislatures to help us with this and have New Bedford share their dock space.

Ms. Scott Price asked about going to Nantucket from Hyannis; there is a 5:30 a.m. ferry from Woods Hole to Martha's Vineyard and Hyannis to Nantucket during the summer. Hyannis is restricted due to the harbor water depth; Woods Hole is a deep water, sheltered port, and the shortest trip to and from Martha's Vineyard. Mr. Brown noted the SSA has a memorandum of understanding that there would be a limited number of trips per day out of the port.

The SSA has to put all schedules out in advance and open to public hearing. The 5:30 a.m. ferry would be for freight, which is what Martha's Vineyard (MV) has requested for its businesses. He believes it will pass. Mr. Malcom, MV Board Member, has empathy for Woods Hole and has spoken against extending hours and having the 11:30 p.m. ferry to Woods Hole and is pushing for a third party passenger carrier to be an option, such as the Island Queen. We are beginning landside construction in the fall in Woods Hole, traffic will be impacted, and a local company won the site grading contract. The Town should consider greater enforcement because many problems stem from lack of enforcement of current traffic laws. The SSA has asked State Police Commercial Vehicle Enforcement Unit to conduct random checks, which has been done.

Mr. Lindell has concerns about the area, enforcement is important, but wayfinding, lines on the pavement; anything would be better than what is there now. There is traffic coming off the third berth and attention is needed. A study should be done to make this area safer.

Mr. Brown asked if construction costs are fully funded yet? Yes, majority of the bond now is committed to the Woods Hole terminal reconstruction. Mr. Brown feels the Enabling Act needs to be looked at soon due to the general way it is affecting the Town, and there could be some improvements. He supports petitioning the State legislature for more oversight or revisiting the Enabling Act for improvements.

Chair Taylor likes the idea of the traffic study and would like to bring it to the SSA to fund the study.

5. Coonamessett River Restoration Update and National Oceanic and Atmospheric Administration (NOAA) grant application for approximately \$1.75 million – Betsy Gladfelter

Dr. Betsy Gladfelter, Project Coordinator for the Coonamessett River Restoration and Conservation Commission member, described the Coonamessett River Restoration Project. They partnered with Division of Ecological Restoration and worked all along the way with technical and limited monetary support for the lower river project. The upper river is being addressed in tonight's presentation. Dr. Gladfelter reviewed the lower river project and made a PowerPoint presentation.

The Select Board is glad to hear the trout have made a comeback and appreciates Dr. Gladfelter's work. Dr. Gladfelter said that with additional projects, the Town may need more help in the DPW, more resources are needed for these projects.

The Wayfinding Committee was authorized in 2021, Mr. Lindell will send the date it was authorized to the Select Board. Mr. Johnson-Staub asked whether the Select Board will appoint the committee which takes

more time or prefer to have the Acting Town Manager appoint the committee, which could be done more quickly. The Select Board prefers the Acting Town Manager to appoint the committee.

Mr. Johnson-Staub updated: grant application was on the consent agenda for Select Board consideration, however was not on the consent agenda because it is a large project and he wanted to make sure it was looked at individually. Mr. Johnson-Staub recommends it, he feels his concerns of staff capacity are being addressed.

Mr. Patterson motion approval to support the grant application to the National Oceanic and Atmospheric Administration. Vote: Yes-5. No-0.

6. Broadband – Municipal Light Plant update – FalmouthNet, Art Gaylord

Mr. Gaylord provided an update. They have done community outreach, had a Tilson Engineering Study with public meeting in May 2022 which was lightly attended, talked to neighborhood groups, maintained social media presence, and learned from existing Municipal Light Plants throughout the State. They are pursuing funding opportunities. Senator Moran proposed an amendment for \$125 million for broadband improvements on the Cape, but it did not make it out of Committee. Representative Fernandes put forward amendments in the MA Economic Development Bill, both made it into the final bill, but at this point it is in limbo. Representative Fernandes is confident that something will pass. They are also evaluating County ARPA Broadband grant possibilities. They are hoping the Municipal Light Plant will make it to ballot this year.

Mr. Brown reported the county just allocated \$5 million for nonprofits, Mr. Gaylord is looking into that funding. Mr. Gaylord noted Dan Gessen, who is also a member of their board, has been helpful in keeping them informed.

CONSENT AGENDA

1. Administrative Orders

- a. Approve Eversource petition to install on Nobska Road one (1) new handhole labeled 115/H1-A at the base of existing pole 115/1 and to install approximately 33' (feet) of conduit and cable under town road southwesterly from new handhole #115/H1-A. This work is necessary to provide new electric service to 5 Nobska Road.
- b. Approve Eversource petition to install on Bridge Street approximately 59' (feet) of conduit and cable under town road easterly starting at existing handhole 235/H14 at base of existing pole 235/14. The work is to be done to provide new electric service to 12 Bridge Street.
- c. Sign variance request – off-premise promotional signage for special event – Buzzards Bay Watershed Ride
- d. Assign right of first refusal for 5 Esker Place to Falmouth Housing Trust (FHT)

Held.
- e. Authorize expenditure from Air Force Center for Environmental Excellence (AFCEE) funds for continued monitoring/analytical costs relating to the Shorewood Drive Permeable Reactive Barrier (PRB), not to exceed \$5,000
Held.
- f. Vote to approve expenditure from the Library Department Donation Account in the amount of \$2,500 for the replacement of the refrigerator.
- g. Authorize special counsel – interim Town Manager contract
- h. Approve application to Mass Wildlife Habitat Management Grant Program – Sandplain Grassland Expansion and Invasive Plant Management on the Coonamessett fields
- i. Approve application to Mass Wildlife Habitat Management Grant Program – Invasive Plant Control on the Upper Coonamessett River Wetland Complex
- j. Approve application to Community Preservation Fund – Ecological Restoration of the Upper Coonamessett River Complex

- k. Approve application to Community Preservation Fund – Little Pond Landing: Parking & Path Infrastructure and Native Plant Landscaping
- l. Vote to approve the submittal of an application to the Community Preservation Committee (CPC) from the Edward Marks Building Advisory Committee for funds for Phase 2 of the restoration

Mr. Zylinski motion approval of the consent agenda items, excluding d and e. Mr. Patterson seconded the motion. Vote: Yes-5. No-0.

Item d was discussed, Mr. Johnson-Staub updated the Select Board, information was posted, Town Counsel and the Housing Coordinator working on this item; the Town does not have right of first refusal, so he recommends this not be approved. That does not mean the Town is giving up on preserving the affordability of that unit, they are still working on that.

Ms. Scott Price motion to support the Acting Town Manager's recommendation. Mr. Patterson seconded the motion. Vote: Yes-5. No-0.

Item e was held because Chair Taylor recused herself from the vote.

Mr. Brown motion approval. Mr. Patterson seconded the motion. Vote: Yes-4. No-0. Abstention: 1. (Chair Taylor)

2. Review and Vote to Approve Minutes of Meetings
 - a. Public Session
June 21, 2022

Mr. Patterson motion to approve with edits and release for public access. Ms. Scott Price seconded the motion. Vote: Yes-5. No-0.

July 11, 2022

Mr. Patterson motion to approve with edits and release for public access. Ms. Scott Price seconded the motion. Vote: Yes-5. No-0.

July 25, 2022-not in packet.

TOWN MANAGER'S SUPPLEMENTAL REPORT

The MES received a grant award for the seaport grant for \$61,000 for design of Simpson's Landing.

Mark Kasprzyk was recognized as service partner of the year by AmeriCorps Cape Cod.

Curbside trash/recycling complaints are down this week, not perfect, but Nauset has caught up and hope they continue the improvement.

Roll out of the 96-gallon carts was successful--21,000 were delivered. 50 households do not want to use the larger cart-- smaller recycling vessels will be provided for those with disabilities or unable to physically manage the larger carts by request.

Sandwich Road paving: The first segment has been resurfaced, another segment is under way this week. It is being done this time of year because in the fall there is an issue with number of busses and the contractor has greater availability this time of year.

The Select Board received complaints concerning the Auto Camp. Mr. Johnson-Staub said the Board of Health (BOH) has taken significant enforcement action, there is no untreated septic going into water ways from Auto Camp, limited effluent is being discharged, and is going into the one leaching field intact and operating. Further monitoring and daily testing is being done by the BOH. Interests of the Town are being protected. Health Agent has found no evidence that the effluent from the Auto Camp is related to the condition of the beaches.

SELECT BOARD REPORTS

Mr. Patterson:

Attended the One Cape Summit, he did not observe any Town staff present. Regional awareness and proposals are taken more seriously than those just from municipalities. Highlights on affordable housing, wastewater issues, preserving environments and what attracts people to this special place. The Association for Protection of Cape Cod and the Housing Assistance Corporation got together and did a study of where it makes most sense to have most density of affordable housing, it is online and can be accessed by going to www.Growsmartcapecod.org.

Mr. Johnson-Staub said that the opportunities to learn from peers and Cape Cod Commission is extremely valuable. This was the first year he missed it and it was due to a covid-19 exposure. The Housing Coordinator was unable to attend due to a personal emergency, Town Planner had immediate priorities and was unable to take the time out to attend the One Cape Summit.

Ms. Scott Price:

Attended the first day of the One Cape Summit and passed along info to Mr. Johnson-Staub.

Attended Falmouth Heights Maravista Neighborhood Association. There were lots of questions, and brought information back from the people who are most impacted by the Mayflower project. She invited all to symposiums PEP researchers presentations of projects. Her students are presenting their research at 9:00 a.m. on Friday. Three may be of interest to Town staff, Coonamesset River, Little Pond sewerage impacts, and Buzzards Bay Coalition is doing Citizens Science. She hopes the Select Board is able to attend, virtual attendance is an option. The presentations will also be recorded and available on the website.

Mr. Brown :

Attended the Joint Base Cape Cod (JBCC) tour, saw firing ranges, water filtration plants, and the proposed machine gun range (it is being widened). The future extension of the range would require taking down the majority of the trees, and that part may not ever actually happen. It is more like about 60 acres of trees taken down, questionable if the second phase may even happen.

Attended North Falmouth Village Association Porchfest, six venues with different bands and something for everyone.

Chair Taylor:

The Select Board made a tentative meeting date of 8/15/22, which may include public session and an executive session.

Mr. Zylinski:

Yesterday was the 11th anniversary of a local Cape Cod Navy Seal's death in Afghanistan. Senior Chief Kevin Hudson and other Navy Seals lost their lives on the Extortion Exercise.

DISCUSSION OF FUTURE AGENDA ITEMS

Mr. Brown would like sewerage of East Falmouth, would like the Select Board to consider filing an application with the county for ARPA funds for design of that sewer main. This will be discussed in strategic planning meetings.

Ms. Scott Price motion to adjourn at approximately 9 p.m. Mr. Patterson seconded the motion. Vote: Yes-5. No-0.

Respectfully Submitted,
Jennifer Chaves
Recording Secretary