TOWN OF FALMOUTH
SELECT BOARD

Meeting Minutes

MONDAY, DECEMBER 5, 2022 – 6:30 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:
Present: Nancy Taylor, Chair; Onjalé Scott Price, Vice Chair; Samuel Patterson; Douglas Brown; Edwin (Scott) Zylinski II
Absent: None
Others present: Peter Johnson-Staub, Interim Town Manager

OPEN SESSION

Call to order: By Chair Nancy Taylor at 6:30 p.m.
Pledge of Allegiance: Led by the Select Board.
Recognition:

1) Ms. Scott Price recognized Amy Lowell and additional staff members/employees at the wastewater treatment facility by name, saying how much the Town appreciates the work they do at that facility.
2) Mr. Brown complimented the Falmouth Youth Skating Club for the recent program held at the ice arena, lauding it and the facility as great resources for the Town.
3) Mr. Patterson congratulated the Chamber of Commerce for the delightful Christmas parade held this past weekend.

Announcements:

1) Ms. Scott Price announced an upcoming presentation on Wednesday, Dec. 7, from 11-noon at Redfield Auditorium at 45 Water Street, Woods Hole focusing on indigenous science and its possibilities.
2) Mr. Brown offered a reminder of the availability of a form offered by Comcast on its website for more affordable internet/Comcast rates.

Public Comment:

1) The first commenter was advised to speak on a license issue during the scheduled hearing.
2) Steven Cohen thanked the Select Board and the fire department for the recent agreement that has brought consistent fire and EMS protection to the residents of West Falmouth.

Affirm appointment of Finance Director:
Peter Johnson-Staub summarized the process used to fill the position of Finance Director, reviewing some details of the advertised position, including salary range, signing bonus, and flexible schedule. He said there were 3 qualified applicants interviewed, although none of the candidates was able to serve in the position long-term. Mr. Johnson-Staub said that Eduard Senteio was an extremely qualified candidate, and he was recommending that the Board affirm his appointment to the position, even though it would be for a two-year duration only. Mr. Senteio then spoke briefly, confirming his desire to serve in the position of Finance Director for Falmouth.

Board discussion focused on how Mr. Senteio would help with the transition to a successor after two years. Mr. Senteio praised the finance program in Falmouth and said he knew he would receive the support he needed.

Motion by Douglas Brown: To affirm the appointment of Eduard Senteio to the position of Finance Director.
Second: Sam Patterson Vote: Yes – 5 No - 0

BUSINESS #1

Consider Submitting Comments to Massachusetts Department of Environmental Protection (MADEP) Regarding Draft Title V Regulations

Peter Johnson-Staub summarized the issue, referring to a document highlighting the salient points of the new MADEP proposed Title 5 regulations and a new watershed permit. The information he presented included Falmouth's unique situation with 14 estuaries, costs associated with the proposed regulations, and the timeline for implementation. He detailed how such costs and timeline would negatively impact Falmouth's own wastewater plan. He said the new regulations would entail not only a loss of local control over meeting the goal for nitrogen reduction in Falmouth's embayments and estuaries, but also, if implemented, would fail to achieve the goal by not removing enough nitrogen.

Mr. Johnson-Staub said the two detailed letters provided to the Board regarding the Title 5 regulations and the watershed permit had been drafted and reviewed by parties highly knowledgeable about the issue (Water Quality Management Committee (WQMC), Board of Health (BOH), for example), and were focused on maintaining local control for nitrogen reduction.

Select Board comment included the following:

- The $30k cost for an installed I/A is conservative; it will likely be $40k.
- The cost of added staff to implement the regulations would be incalculable.
- The plan for nitrogen reduction needs to be financially and logistically reasonable.
- The new regulations will need to be approved by voters, which would prove a challenge given the cost and disruption to the Town.
- There is agreement with the goal, but this is not the way to achieve it.
- Constructive criticism presented in the watershed permit letter was excellent, and appreciation is owed staff for taking the time to detail that information.

Chair Taylor read aloud two paragraphs from the letters both focusing on onerous financial ramifications to the Town if the new regulations resulted in 1) litigation and settlement costs with issues not involving Falmouth, or 2) a possible legal challenge due to violating Proposition 2½.

Motion by Sam Patterson: To endorse both letters to MADEP and ask the Town Manager to send them out on the Select Board's behalf Second: Scott Zylinski Vote: Yes – 5 No – 0

At this point, Chair Taylor called for a motion regarding waiving the residency requirement for the newly appointed finance director, Eduard Senteio, the issue having been brought to the chair's attention by Ms. Scott Price.

Motion by Scott Zylinski: To waive the residency requirement for Eduard Senteio Second: Onjalé Scott Price Vote: Yes – 5 No - 0

TOWN MANAGER'S PRELIMINARY REPORT

Peter Johnson-Staub orally previewed/summarized all agenda items for the Board, referring to a memo in the Select Board packet entitled "Agenda Topics-Preliminary Report."

COMMITTEE INTERVIEWS

Veterans Council Committee

1) At-large position – Brian Hodor – Mr. Hodor highlighted his qualifications and history working in the military and government service. He said that he has counseled veterans on benefits available to them, and having retired from the Navy, wishes to continue working with fellow veterans.

Motion by Douglas Brown: To appoint Mr. Hodor to the Veterans Council Committee. Second: Sam Patterson Vote: Yes – 5 No – 0

2) DAV representative – Ron Nasif – Mr. Nasif passed out copies of an article and his CV to Board members, also saying that as a retired orthopedic surgeon, he understood the issues facing disabled veterans. Mr. Brown said he had no concerns and was ready to move appointment. Ms. Scott Price raised the issue of Mr. Nasif"s medical license being revoked. Mr. Nasif offered details regarding his period of probation ordered by the medical licensing board, and his use of an unlicensed physician helping him in his office with non-medical assistance. He said that the medical board suspended his ability to re-apply for his

license, but that he is now awaiting a hearing with that licensing board regarding this issue. He assured the Select Board that there was never any unethical or immoral behavior, and that he never crossed a line. He said he enjoys helping people. Mr. Zylinski asked why he is seeking to have his license re-instated if he is retired, and Mr. Nasif replied, saying that his health is still good, and that he can fill a medical need as an orthopedist.
Mr. Brown commented that it is not required to be a doctor to do the job of being on this committee. Mr. Nasif said he understood the questions asked by Board members, but again assured the Board that despite the one licensing issue, his behavior was never unethical.

Motion by Douglas Brown: To appoint Ron Nasif to the Veterans Council as a representative from DAV
Second: Sam Patterson Vote: Yes – 3 No – 2 (Nancy Taylor and Scott Zylinski)

PUBLIC HEARINGS

Tax Classification Hearing
Ms. Scott Price read out the hearing notice.
Trisha Favulli, Director of Assessing, reviewed the 5 options to consider when setting the tax rate (Residential Factor of 1; Small Commercial Exemption; Open Space Exemption; Residential Exemption; and Split Tax Rate), explaining what each one would mean for residents of Falmouth. Ms. Favulli referred to documents included in the Select Board meeting packet. She said that after analysis of financial impact, the Board of Assessors was recommending a Residential Factor of 1 and to reject residential, open space, and small business exemptions.

Board discussion included these comments:

- An appreciation for the complexity of the situation, and the need to continue to examine financial impacts on Town residents
- The possibility of exploring other options for exemptions
- The need to take into account staffing needs when considering other solutions
- The possibility of further study of the residential exemption, which would include a Board policy and increased staffing

Mr. Johnson-Staub suggested that the Board hold a workshop meeting on the issue, possibly in tandem with short-term-rental regulation, before exploring other exemption options. Chair Taylor said that because so many things were in need of attention currently, she would favor not directing the town manager to move forward at this time. Mr. Patterson said that the Affordable Housing Committee frequently faces the issue of the unaffordability of residing in Falmouth, and agreed that further exploration would be welcome, if not at this time.

Public comment – Louis Carboni, East Falmouth, said he has lived in Falmouth since 1979, and pays taxes "by an illegal commercial zone since 1985." (An additional comment was unrelated to the subject of the hearing.)

Motion by Scott Zylinski: To close the hearing Vote: Yes – 5 No – 0

Motion by Onjalé Scott Price: That the Town of Falmouth continues to tax all classes at the same rate by adopting a factor of "1" and to reject the residential, commercial, and open space exemption Second: Sam Patterson Vote: Yes – 5 No - 0

Application for an Entertainment License – Olive Restaurant, Inc. d/b/a/ Shiverick's Café & Bar, 285 Main Street, Falmouth
Ms. Scott Price read out the public hearing notice.

The applicant, Elias Gregoriadis, was present. Abutters were invited to speak to this application. Before public comment, Mr. Patterson raised the concern about amplified music in close proximity to abutters, and Chair Taylor asked if the applicant would be open to modifying the license from closing at 1:00 a.m. to closing at 11:00 p.m.

Public comment:

Linda Tsimortos – An abutter, Ms. Tsimortos said she was passionate about this issue, partly because of her experience with another establishment. When asked, she said she agreed that the suggested modification of an 11:00 closing time was reasonable, and said she also wanted volume control.

Marc Finneran – Mr. Finneran said that the applicant deserves the same license as other businesses on Main St. which have operated with no problems. He said the applicant's family has operated other businesses in Town for decades, and to "penalize him before he is out of the box is unfair and inconsistent."

Louis Carboni – Mr. Carboni made random comments that did not pertain to the hearing. Chair Taylor, after several invitations to him to speak to the licensing issue, directed Mr. Carboni to be seated. When Mr. Carboni did not comply, Chair Taylor asked the Town Manager for a police officer to address the disruption, and for a motion to close the hearing.

Motion by Onjalé Scott Price: To close the hearing Second: Sam Patterson Vote: Yes – 4 No – 0 (Mr. Zylinski was not present for vote.)

5-minute recess called by Chair Taylor due to the disruption

Select Board reconvened at 7:56 after a brief recess. Chair Taylor apologized to the public for the disruption. The Board returned to the issue of the application for the entertainment license.

Mr. Patterson, to support the business, suggested a compromise of 11:00 p.m. closing for entertainment on weeknights, and on Fridays and Saturdays, 1:00 a.m. Mr. Zylinski noted that no notified abutters came to the hearing, so the applicant should be treated the same as other Main St. businesses.

Motion by Sam Patterson: To approve the application as submitted Second: Scott Zylinski

At this point, Peter Johnson-Staub said that he was not certain about the details of other Main St. businesses regarding entertainment, and that if there were complaints, it is more challenging to restrict an already-approved license. He cautioned that there may be standards involved regarding showing cause for restrictions in those cases.

Vote: Yes – 5 No - 0

<u>Flow Neutral Bylaw</u> – Evaluation of Request for Variance – New Creek LLC – 13 Davis Straits, Falmouth (parcel 39 15 049D 004), continued from August 22, 2022, September 26, 2022, October 24, 2022; November 7, 2022

Ms. Scott Price read out the public hearing notice.

Peter Johnson-Staub advised the chair that the Board could entertain a motion that would allow the applicant to withdraw the pending application without prejudice.

Motion by Scott Zylinski: To allow the applicant to withdraw the pending application without prejudice. Second: Sam Patterson Vote: Yes – 5 No - 0

BUSINESS #2

<u>Report – Board of Health</u>

Diana Molloy, Board of Health Chair, began the annual presentation, explaining the approximately 15 slides that comprised the report, the entirety of which was in the Select Board packet. BOH activities highlighted in the report included proposed Title 5 changes, COVID 19 updates, solid waste regulations, commercial septic-related concerns, housing complaints, stable regulations, local septic regulations, and pool-related issues. Chair Molloy also praised Scott McGann, Health Agent, and his team for tireless and invaluable service, especially during recent challenges due to the pandemic.

The Select Board also offered its thanks to Scott McGann, and to Chair Molloy for the BOH report.

Consider votes to amend inter-municipal agreement among the towns of Falmouth, Sandwich, Mashpee and Bourne, Massachusetts for the maintenance and operation of a regional municipal services facility at the Joint Base Cape Cod

Peter Johnson-Staub briefly reviewed the issue, referring to the two suggested motions to bring about the two actions related to this item. Ray Jack, who represented Falmouth on the 4-town collaborative, was present to answer questions.

Mr. Jack first presented a brief overview of the history of the transfer station, its use and value to the towns that use it, and changes that have occurred over the years. His overview highlighted the following points:

- The transfer station was created in 1987, providing the removal of solid waste from Upper Cape towns.
- The first goal was, by transferring solid waste by train, to alleviate truck traffic from crossing bridges.
- Changes have occurred over the years regarding which towns continue to use and maintain the station.
- Maintenance of the station is now managed by Cavossa, providing a fee return to the Town of approximately $35,000 currently. This return will increase if Bourne withdraws from the agreement.
- The facility is a major resource for the Town, both now and into the future, for the removal of solid waste.

Mr. Jack recommended that the Select Board approve both amending the agreement and extending the term of the amended agreement among the 3 towns.

Questions from Select Board:

- What is the future of SEMASS? (Mr. Jack said because no more facilities of that type are being permitted, its future is limited.)
- What is the acreage at the site, and can it be used for other purposes, such as composting? (Mr. Jack said that the acreage is 18.76 and only approximately 5 are currently being used. Other uses such as composting are being considered. Mr. Johnson-Staub said that the agreement is not confined to the rail transfer station and allows for considering other uses.)
- Why does Bourne wish to withdraw from the agreement? (Mr. Johnson-Staub said that Bourne's action is likely due to having its own station now and that Bourne may wish to avoid possible unknown future costs connected with the joint rail station. He reiterated that there are no costs to participating towns currently.)

Chair Taylor noted that Mr. Johnson-Staub had recommended approval of both motions in his Preliminary Report.

Motion by Onjalé Scott Price: That the Board approve an Amendment to the Intermunicipal Agreement among the Towns of Falmouth, Sandwich, Mashpee and Bourne For the Maintenance and Operation of a Regional Municipal Services Facility at the Joint Base Cape Cod, dated July 1, 2018, for the purpose of effecting the Town of Bourne's withdrawal from the intermunicipal Agreement prior to the December 31, 2022 Agreement termination date. Second: Sam Patterson Vote: Yes – 4 No – 0 Abstain – 1 (Scott Zylinski)

Motion by Onjalé Scott Price: Further, that the Board vote pursuant to Article XIV of the *amended* intermunicipal Agreement among the Town of Falmouth, Sandwich and Mashpee to extend the term of said Intermunicipal Agreement to June 30, 2026 upon the mutual agreement of said Towns. Second: Sam Patterson Vote: Yes – 4 No – 0 Abstain – 1 (Scott Zylinski)

Vote to approve request from Wendy Y. Hill, Trustee of the 75 Nashawena Street Nominee Trust, owner of 75 Nashawena Street to apply to the Conservation Commission for invasive species management within the layout of Nashawena Street and on the abutting property to the North owned by the Town of Falmouth

Mike Borselli from Falmouth Engineering, speaking for owner Wendy Hill, said that Ms. Hill wishes to do work on her property managing invasive species, and since her property abuts Town-owned land along West Falmouth Harbor, the work would extend to that property to avoid future re-invasion of non-native species such as bittersweet and phragmites growing in the native buffer.

Motion by Douglas Brown: To approve the application to the Conservation Commission for invasive species management. Second: Sam Patterson Vote: Yes – 5 No – 0

Consider allocation of $120,000 from Direct American Rescue Plan funds to Edward Marks Building Improvements

Mr. Brown, liaison to the Edward Marks Building Committee, said he is not surprised that the work on the building is requiring more funding as the project progresses.

Motion by Douglas Brown: To approve the requested allocation. Second: Scott Zylinski.
Vote: Yes – 5 No – 0

Announce April 2023 Town Meeting schedule

Peter Johnson-Staub orally presented the schedule, saying it is similar to past spring Town Meeting schedules with incorporated calendar changes.

Motion by Douglas Brown: To approve the April 2023 Town Meeting schedule Second: Sam Patterson
Vote: Yes – 5 No – 0

Approve Annual License Renewals for 2023

Chair Taylor reiterated that there is no longer a need to read aloud all the licenses and addresses as long as they are listed on the agenda.

Motion by Sam Patterson: To approve all license application for each of the types of applications provided to us Second: Onjalé Scott Price Vote: Yes – 5 No – 0

CONSENT AGENDA

1. Licenses
    a. Approve Application for Transfer of a Common Victualler License – J2 Bagels, Inc. d/b/a Cape Cod Bagels, 419 Palmer Avenue, Falmouth

2. Administrative Orders
    a. Vote Appointment of Town Accountant, Victoria Rose
    b. Approve a Grant of License to Michael & Linda Lambert to maintain an existing post and lattice fence along the southwestern edge of the property encroach onto the road layout at 30 Davis Road
    c. Approve request to withdraw up to $16,000 from the Manduano Gift Account (28-632-5657-5780) to fund the construction of 5 parking attendant booths by Upper Cape Tech. students using the design by Jill Neubauer Architects Inc.
    d. Approve request from Falmouth Housing Corporation for a Waiver of the Building Permit Fees for the Scranton Main Senior Affordable Housing Project, located at 763 Main Street
    e. Vote to accept donation from the Roger & Kathy Marino Foundation to the Falmouth Fire Rescue Department donation account in the amount of $500.00
    f. Vote to approve expenditure in excess of $500.00 from the Falmouth Fire Rescue Department donation account to purchase a new replacement commercial grade range for the Fire Department Headquarters

Items c and d under Administrative Orders were held. Chair Taylor recused herself from the vote on d.

Motion by Chair Taylor: To approve all items under the Consent Agenda except for "c" and "d" under Administrative Orders Second: Onjalé Scott Price Vote: Yes – 5 No – 0

Item c- Douglas Brown said that the Beach Committee would be returning to the Board for more funding for additional structures. Maggie Clayton, Beach Superintendent, addressed a question about the design of the hut and its functionality. Barbara Schneider, Chair of the Beach Committee, said that there had been discussion about a counter on the hut and how best to take that need into account. She also spoke about future plans for additional huts, possibly involving kits for constructing them. Ms. Schneider said the committee is actively involved in continuing to provide the huts and would be returning to the Board when appropriate. Mr. Brown thanked Jill Neubauer Architects, Inc. for the design of the huts.

Motion by Onjalé Scott Price: To approve Second: Sam Patterson Vote: Yes – 5 No – 0

Item d -
Motion by Onjalé Scott Price: To approve Second: Sam Patterson Vote: Yes – 4 No – 0 Abstain: 1 (Nancy Taylor)

MINUTES

Review and Vote to Approve Minutes of Meetings

Public Session – October 3, 2022; October 24, 2022
Motion by Sam Patterson: To approve and release Open Session Minutes 10/3/2022 Second: Onjalé Scott Price. Vote: Yes – 5 No – 0 (October 24, 2022 minutes– held)

Executive Session – September 12, 2022
Peter Johnson-Staub said there are two executive session items for 9/12/2022. The first item can be released, he said. The second set he would recommending holding. Sam Patterson noted that he didn't see a recorded vote on the second one and it would need a correction. He said if that were clarified, the Board could pass it as edited. There was further discussion about what portions of the minutes should not be released.

Motion by Sam Patterson: To approve Executive Session minutes for 9/12/2022 Items listed as 2, 3, and 4, with correction, and not release for public access. Second: Onjalé Scott Price. Vote: Yes – 5 No – 0

Motion by Sam Patterson: To approve Executive Session Minutes for 9/12/2022 Item #1, and release for public access Second: Onjalé Scott Price. Vote: Yes – 5 No – 0

TOWN MANAGER'S SUPPLEMENTAL REPORT
Peter Johnson-Staub provided updates on two topics:

- FAHF – 2 applications for funding have been received; balance of over $7M currently in the fund - $2.5M for the 2 projects and $5.8 M for anticipated applications; the CPC will be asked to allocate an additional $3M at April Town Meeting; the Town will propose allocating $925K from tax revenues
- Mayflower Wind - They have not filed an updated plan, so everything is on hold that would result from that. A future SB agenda item would address their request for an updated access agreement involving 3 additional parks.

SELECT BOARD REPORTS
Sam Patterson reported on the following:

- Attendance at a CPC meeting where $2.5M to $3M FAHF funding was talked about. Mr. Patterson said that the CPC seemed to support adding additional CPA funding to the FAHF.
- Peter Clark's communication supporting Comcast's reduced rates for eligible people to have more affordable internet services
- Cape and Islands Municipal Leaders meeting at the Seacrest on Friday, discussing Title 5 regulations
- Mass Municipal Association Annual Meeting on January 20 in Boston

Douglas Brown reported on the following:

- The value of the Friday meeting at the Seacrest
- Possible consensus regarding a comment letter to send to MADEP re: Title 5

Scott Zylinski reported on having attended the Eagle Scout ceremony, which he called a "very eye-opening and touching ceremony." He said the ceremony highlighted the basics of teaching men how to be men.

Onjalé Scott Price reported on the following:

- Touring the wastewater treatment facility, mentioned earlier under Recognition
- A Habitat for Humanity build on Tuesday at Willett Way

DISCUSSION OF FUTURE AGENDA ITEMS

Onjalé Scott Price asked to remove her previous request to put Housing to Protect Cape Cod on an agenda.

Douglas Brown asked for a future item regarding extending the sewer line to East Falmouth, including funding options, possible use of infrastructure money, and what kind of funding can be used for design. He said Mass Housing One Stop is a good first step for design.

ADJOURN
Motion by Onjalé Scott Price: To adjourn Second: Sam Patterson Vote: Yes – 5 No – 0

Respectfully Submitted,
Carole Sutherland, Recording Secretary