**<u>TOWN OF FALMOUTH</u>**
**<u>SELECT BOARD</u>**

# Open Meeting Minutes

**MONDAY, MARCH 25, 2024 – 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:
Present: Nancy Robbins Taylor, Chair; Edwin (Scott) Zylinski II, Vice-Chair; Douglas C. Brown; Onjalé Scott Price; Robert P. Mascali
Absent: None
Others present: Mike Renshaw, Town Manager; Peter Johnson-Staub, Assistant Town Manager; Maura O'Keefe, Town Counsel

**6:00 p.m. OPEN SESSION (Select Board Meeting Room)**
Call to Order: By Chair Nancy Taylor
Chair Taylor called for a **motion to go into Executive Session to discuss strategy with respect to collective bargaining – AFSCME C**

**Motion by Mr. Brown: So moved Second: Ms. Scott Price**

**Roll call vote:**
**Zalinski: Aye**
**Mascali: Aye**
**Brown: Aye**
**Scott Price: Aye**
**Taylor: Aye**

Chair Taylor said the Board would return to Open Session by 6:30.

**6:00 p.m. EXECUTIVE SESSION**

1. M.G.L. c. 30A s. 21(a)(3) – To discuss strategy with respect to collective bargaining – AFSCME C

**6:30 p.m. OPEN SESSION**

Call to Order: Chair Taylor called to order the open session of the meeting saying that in Executive Session the Board had unanimously approved an MOA with AFSCME Unit C

Following procedural announcements, Chair Taylor asked for a **motion to make a change in the agenda to bring Business Item #7 into a public hearing as it was noticed in the newspaper as of 3/15/2024.**

**Motion by Mr. Mascali: So moved Second: Mr. Brown Vote: Yes – 5 No - 0**

Pledge of Allegiance: Led by Select Board

Proclamations: None

Recognitions:
Samuel H. Patterson, Jr.
Chair Taylor invited Mr. Patterson to the podium and then honored him with a plaque in grateful appreciation for his extraordinary service and dedication for 9 years as Town of Falmouth Select Board member. Mr. Patterson spoke briefly, saying it was his honor to serve the town both as a School Committee member for 16 years as well as Select Board member.

Each Board member offered a personal comment, acknowledging Mr. Patterson's dedication and commitment to the Town and thanking him for his many contributions.

Next, Mr. Mascali recognized Mr. Renshaw and the Town Manager's office for getting out the meeting agenda and materials a couple days early, saying it was of great benefit for the Board and the public.

Mr. Mascali also recognized the Falmouth High School girls' hockey team for their wonderful season.

Mr. Brown recognized Women's History Month and Falmouth women who were continuing to make history.

Announcements:
Chair Taylor announced that Falmouth Housing Corp. applications are available on line for the Scranton/Main apartments, and that the lottery is May 18.

Public Comment: None

**COMMITTEE INTERVIEWS -** Interview, vote and appoint committee members
Affirmative Action Committee – Mananjo Jonahson
Ms. Jonahson provided academic credentials by way of background – said she has lived in Falmouth for 10 years – said she has encountered discrimination and racism and has also seen positive changes and wants to contribute to them – said she would like to help Falmouth be more welcoming and inclusive.

Ms. Scott Price and Mr. Brown made positive comments on Ms. Jonahson's candidacy for the position.

**Motion by Ms. Scott Price: To appoint Mananjo Jonahson to the Affirmative Action Committee for the term ending June 30, 2026 Second: Mr. Zylinski Vote: Yes – 5 No - 0**

Board of Health – Dr. George P. Topulos
Dr. Topulos made no additional remarks beyond what was included in his application. Mr. Brown commended Dr. Topulos's education and experience.

**Motion by Mr. Brown: To appoint Dr. Topulos to the term ending 6/30/2025 Second: Mr. Mascali Vote: Yes – 5 No - 0**

Community Preservation Committee – Ralph Herbst
Mr. Herbst advocated advertising open committee positions in the Falmouth Enterprise monthly. Mr. Brown noted Mr. Herbst's previous service of three terms on the Community Preservation Committee.

**Motion by Mr. Brown: To appoint Mr. Herbst for the term ending 6/30/2026 Second: Mr. Mascali Vote: Yes – 5 No – 0**

Conservation Commission – Ronald F. Driscoll
Mr. Driscoll said his family has vacationed in Falmouth for years and has been a resident for 4 – said his background fits in with the conservation commission – said he has the time and interest to volunteer. Mr. Brown asked for his views on coastal resiliency and Mr. Driscoll said he has read the Woods Hole report and walks Shore Dr. all the time, and would like to connect the CONCOM and resiliency somehow to protect the wetlands.

**Motion by Ms. Scott Price: To appoint Ronald Driscoll to the Conservation Commission for the unexpired term ending 6/30/2025 Second: Mr. Zylinski Vote: Yes – 5 No - 0**

Council on Aging – Kevin Murphy
Mr. Murphy said he has served 3 terms on the Select Board – said he was focused on getting funding for the senior center – said he uses the senior center now and could bring his institutional knowledge to the council.

**Motion by Mr. Mascali: To appoint Kevin Murphy to the Council on Aging for the term ending 6/30/2024 Second: Mr. Brown Vote: Yes – 5 No - 0**

**PUBLIC HEARINGS**
Shade Tree Hearing – on application of D & M Civil for the removal of one (1) Platanus acerifolia (London plane tree) tree at 556 Main Street, Falmouth
Mr. Zylinski read out the hearing notice.

Jeremiah Pearson was present and summarized the details of the situation as presented in his letter entitled *Tree Warden's Opinion Letter for the removal of one London Plane tree located at 556 Main St.* as presented in the Select Board packet. Replacement trees are part of the design. Mr. Brown said the picture says it all.

Public comment: None

**Motion by Ms. Scott Price: To close the hearing Second: Mr. Zylinski Vote: Yes – 5 No – 0**

**Motion by Mr. Brown: To approve Second: Mr. Zylinski Vote: Yes – 5 No - 0**

Application filed by Falmouth Yacht Club for three One-Day Entertainment Licenses to be exercised at 290 Clinton Avenue, Falmouth on June 23, July 21, and September 1, 2024, from 3:30 p.m. to 6:00 p.m. (Item moved from BUSINESS to PUBLIC HEARINGS)
Mr. Zylinski read out the hearing notice.

Arianne Damon, food and beverage director for the FYC, was present to represent the applicant, and briefly reviewed the details of the application where the alcohol would be served and where the band would be located. She said they were being cautious not to block the driveway of the neighbor directly behind the club. Mr. Brown noted the applicant's understanding that noise not extend beyond the parking area. Ms. Scott Price asked if there were complaints from last year. Mr. Renshaw said there had been noise complaints in the past, and to address the issue, said he was recommending that the motion include stating that if a police officer is called on any of the three days to respond to a noise complaint and determines that there is noise beyond the parking lot entry or any violation of the bylaw, that the music be stopped.

Mr. Brown recalled most of the complaints were of the driveway being blocked more than the noise. Ms. Scott Price noted that no emails had been received regarding this issue.

Public comment: None

**Motion by Ms. Scott Price: To close the hearing Second: Mr. Zylinski Vote: Yes – 5 No - 0**

Mr. Brown said it was an improvement over previous events and that the applicant understood the conditions they were working under.

Mr. Brown said he would move approval and continue to support the event. Ms. Scott Price offered a second.

**Ms. Scott Price then moved the following: To approve the application for the Falmouth Yacht Club for three One-Day Entertainment licenses to be exercised at 290 Clinton Avenue, Falmouth, on June 23, July 21, and September 1, 2024, from 3:30 PM to 6:00 PM as presented, with the condition that if the Police Department responds to a complaint of loud music and determines that it is a violation of the Town by-law or the volume of music exceeds beyond the parking lot then the music must cease for the remainder of that day**
**Second: Mr. Brown Vote: Yes – 5 No - 0**

**BUSINESS**
Vote to approve final Housing Production Plan
Town Planner Jed Cornock and Housing Coordinator Kim Fish reviewed the 6-month process for creating the 139-page housing production plan, including adjustments made along the way. Mr. Brown complimented the way comments were dealt with and how engaging it is to read. Ms. Fish complimented the consultants who worked in collaboration preparing the plan, and Ms. Scott Price and Chair Taylor praised Town staff for their incredible work on the plan.

Mr. Mascali asked about periodic updates and how frequently they would occur. Ms. Fish said she would provide updated information, and Mr. Renshaw said that quarterly reports to the Select Board would be the goal. Mr. Brown suggested annual review so the plan would not expire. Ms. Fish explained how she could use the executive summary as a tool for more effective review. Mr. Zylinski asked if the plan could be amended before the end of its term if it is found something is not working. Ms. Fish said that amending would not be necessary – that if something were not working, it would not be carried over into the next plan's production. Mr. Cornock provided information how to access the plan on the Town website.

**Motion by Ms. Scott Price: To approve the Housing Production Plan as presented Second: Mr. Zylinski Vote: Yes – 5 No - 0**

Presentation on the East Falmouth Library project

Brian Stokes, Interim Library Director, summarized and explained the key points of the building assessment of the East Falmouth Branch Library completed by Gale Associates, the details of which are included in the Town Manager's *Agenda Item Summary Sheet, Business 2* included in the Select Board packet, as well as in the 30+ page report from Gale, also in the packet. Mr. Stokes' comments focused on necessary steps and related costs. He said May 31 is the deadline for the grant application and laid out the rest of the timeline.

Regarding the bowing in the basement (question from Ms. Scott Price), Mr. Stokes said Gale indicated there was no immediate cause for concern. He said the grant is not contingent upon renovation vs. new construction (question from Mr. Brown). Mr. Brown also asked about a contingency plan for a temporary site once the project is underway. Mr. Stokes said that issue would be a priority as the process moves forward. No action was required of the Board at this time.

Mr. Brown commented that he would support a similar approach to the police station with implementing minimal health/safety repairs needed now.

Approve Recreation Department request to submit an application to the Community Preservation Committee (CPC) for an amendment to the Bell Tower Tennis Court application approved at the June 2021 Town Meeting

Joe Olenick, Recreation Department Director, orally presented the item, providing details from the CPC application for funding included in the Select Board packet. Mr. Brown clarified for the public that this request is for supplemental funding and providing an ADA accessible path to the parking lot and ADA parking spaces.

**Motion by Ms. Scott Price: To approve the Recreation Department's request to submit an application to the Community Preservation Committee (CPC) for an amendment to the Bell Tower Tennis Court application in the amount of $82,000 Second: Mr. Mascali Vote: Yes – 5 No – 0**

Update – Cape Light Compact programs – Matt Patrick

Mr. Patrick, Falmouth's representative to the Cape Light Compact, updated the Board concerning current programs being offered by the Compact. He narrated approximately 5 screens of information regarding energy efficient programs, equipment, and costs. He said he was seeking Board approval to use the Town's logo on marketing brochures.

Mr. Mascali asked how best to get information out to the public; Mr. Patrick provided again the number to call and email address. Mr. Brown asked about renters and what they are eligible for regarding program participation.

Mr. Renshaw clarified that an example of the marketing brochure used in Hyannis was in the packet and that Falmouth's would look the same.

**Motion by Ms. Scott Price: To approve the use of the Town logo/seal on the marketing flyer of the Cape Light Compact's Main Streets Initiative brochure that will be used to market the program to Falmouth businesses**
**Second: Mr. Brown**

There was brief Board comment on how best to increase awareness in the Falmouth business community.

**Vote: Yes – 5 No - 0**

Approve application filed by Seacrest Concessionaire, LLC d/b/a Seacrest Concessionaire for a Change of Manager of its All Alcohol Innholder License located at 350 Quaker Road, North Falmouth

Elizabeth Pisano, counsel for the applicant, was present. The proposed manager, Jason Sheldon, was also present. Atty. Pisano outlined the details of the request as presented in the application. Mr. Sheldon explained he is living on site at the Seacrest while he seeks permanent living arrangements.

Chair Taylor asked about the fingerprint background check. Mr. Sheldon said he had done it in February. Mr. Renshaw said that a note in the office file indicated the police had no concerns pending the background check, so "if they came back in February, we're good."

**Motion by Ms. Scott Price: To approve the application by Seacrest Concessionaire LLC d/b/a Seacrest Concessionaire for a Change of Manager located at 350 Quaker Road, North Falmouth, as presented**
**Second: Mr. Zylinski Vote: Yes – 5 No - 0**

<u>Approve application filed by Quicks Hole, LLC d/b/a Quicks Hole Taqueria for a Change of Manager of its Seasonal All Alcohol Common Victualler License located at 28 Water Street, Unit C, Woods Hole</u>
Amanda Benoit, general manager, was present. Mr. Brown asked about Ms. Benoit's experience with management of restaurant and liquor licenses. Ms. Benoit said she has been in and out of restaurants since she was 16 and has the requisite experience.

**Motion by Ms. Scott Price: To approve the application by Quicks Hole, LLC. d/b/a Quicks Hole Taqueria for a Change of Manager located at 28 Water Street, Unit C, Woods Hole as presented Second: Mr.Zylinski Vote: Yes – 5 No - 0**

<u>Approve application filed by Falmouth Yacht Club for three One-Day Entertainment Licenses to be exercised at 290 Clinton Avenue, Falmouth on June 23, July 21, and September 1, 2024, from 3:30 p.m. to 6:00 p.m.</u> (Item moved from BUSINESS to PUBLIC HEARINGS)

<u>Consider and vote to extend the Taskforce on Sustainable Living for Falmouth's Workforce Families date of operation in the committee charge</u>
Mr. Renshaw orally introduced the item for the Board, referring to the document entitled *Agenda Item Summary Sheet,* Item umber and Title: *Business 8 - Consider and vote to extend the Taskforce on Sustainable Living for Falmouth's Workforce Families date of operation in the committee charge* in the Select Board packet.

It was clarified that the date of the charge is July 1, 2024, with end date of July 1, 2026. Mr. Renshaw listed costs, staff time, and effort as reasons for the shortened duration of the task force. Mr. Johnson-Staub said the duration could be extended if warranted or necessary. Brief Board discussion revealed optimism that this new effort could result in success, and the importance of community support for this type of venture.

**Motion by Ms. Scott Price: To approve the Taskforce charge, which is the mission statement, as presented**
**Second: Mr. Mascali Vote: Yes – 5 No - 0**

<u>Discuss and vote on a Firearm Disposal Policy</u>
Mr. Renshaw orally introduced the item for the Board, referring to the document entitled *Agenda Item Summary Sheet,* Item umber and Title: *Business 9 – Discuss and vote on a Policy for the Disposal of Surplus Firearms* in the Select Board packet. The draft revised policy, referred to as the red-line version, was included in the packet.

Mr. Brown asked why the language that "the Select Board is under no obligation…" is kept in the policy. Chair Taylor asked if that language was actually in the policy. Town Counsel Maura O'Keefe clarified that the policy is discretionary for firearms referred to in the first category and that hasn't changed. The change is adding an option to provide for financial offset. The policy, she said, has preserved the discretionary nature of the decision that the town manager gets to make, i.e. whether either to destroy them or to offset them.

Ms. Scott Price asked if the town manager could opt to destroy the firearms, and then either to offset them or not. Town Counsel said yes, that was possible, and restated that the policy was written to preserve as much discretion as possible.

Mr. Mascali asked for clarification of the second red-line paragraph regarding the intended use of the donation fund. Atty. O'Keefe said that if funds are drawn from the donation account, then the firearms would be destroyed. Mr. Mascali asked that the language be tightened up, adding to that paragraph "in which event the firearms would be destroyed." He said he understands the importance of discretion in the policy but thinks that the public wants assurance that the firearms were indeed destroyed.

Captain Reed from the Falmouth Police Dept. said that the Massachusetts state police destroy the weapons and that there is no opportunity for making their way back into the market. This is done at no cost to the town.

Mr. Mascali also asked about the language (in the first paragraph) "or may otherwise be disposed of " and that it means only being resold. Atty. O'Keefe said that the discretionary nature of the policy would also allow the town manager to use them as trade-in value. She said that because the town does not have the authority to resell them, the only way to otherwise dispose of them is to trade them in. Mr. Brown asked about the method the state police use for destroying the firearms. Captain Reed said that Falmouth police transport the firearms to the state police, who then take control of them and completely destroy them, leaving no part available for future use or recirculation.

Ms. Scott Price sought this clarification from the Town Manager - that it was left to his discretion at the appropriate time either to destroy the firearms or trade them in. Mr. Renshaw said yes. Ms. Scott Price then asked if he would make the decision on his own or bring it to the Board first. Town Counsel Maura O'Keefe said that because this is founded on the principles of procurement, that aspect is solely within the town manager's function under the charter, and she would want to see that delineation continued on through this policy. She then carefully explained the governance structure involved in this issue where the town charter and procurement requirements, and the statute calling for a Select Board disposal policy, all need to be observed. She said this policy parses that out, where the Board creates the policy but because of the charter, gives the town manager the necessary discretion to implement it. She concluded by saying the policy honors both the statute (the authority of the Select Board) and the charter (the town manager's responsibility and procurement).

Ms. Scott Price asked about specifics regarding using the donation fund and how it would work. Asst. Town Manager Peter Johnson-Staub said that clarifying language addressing the use of the fund would be helpful. He said the public needs assurance that the donation fund would not cause weapons to be destroyed; instead, available funds would be used for no other purpose than destroying weapons. The funds would be used to offset the loss of the weapons based upon fair market value.

Mr. Brown said that it feels like this policy is the "will of the Town," but that he has spoken to a number of people for whom it is not a big deal and who do not like the idea of the Town wasting their tax dollars. Chair Taylor agreed saying that lately she was hearing the same thing.

Public comment:
Mr. Duby (first passed out multi-page materials to the Board) said there are two issues, one a warrant article where more was spent than appropriated and the second was about the destruction of firearms – read passages from materials passed out involving the specifics of monies appropriated – said actions involving overspending predated the arrival of Chief Lourie – said now the town is saying we want residents to contribute to the error that took place by the dept. head – said there is nothing in Mass General Laws that covers the setting up of a donation fund because the town didn't appropriate enough money and the dept. head overspent– said the value of weapons was never considered when asked for an amount to purchase new shotguns – addressed Mr. Zylinski regarding a letter that appeared in the Enterprise - said the people who want weapons destroyed far outnumber those who don't.

Mr. Zylinski asked if approving the policy as presented is in line with what Town Meeting voted for. Atty. O'Keefe asked if he meant the proposed by-law. He said yes. Atty. O'Keefe said the purpose of the proposed by-law was to codify this policy, to turn this policy into a by-law so it was similar if not along the exact same lines.

Public comment:
Tom Stone, Old Campus Dr. – asked if trading in firearms increases or decreases public safety – asked the same of guns that have been traded in – said more guns in circulation decreases public safety and trading in guns decreases public safety.

Marc Finneran – said the most law-abiding demographic in the USA are licensed gun owners – said guns will be sold legally – distinguished between licensed and unlicensed guns – said the majority of gun crime involves unlicensed guns so this action will have no effect on that – said FBI crime statistics would let everyone see that this is a waste of money.

Nan Logan, Precinct 1 – questioned what to do with the 3 short -barrel shotguns – said Nov. 2022 Town Meeting overwhelmingly voted to destroy town guns and no concerns were mentioned about contributions of money for weapons to be destroyed, which demonstrated that destroying surplus town guns with no requirement to contribute financially was "harmonious with the will of the residents" - said other towns destroy guns in more financially viable ways and gave examples from Hawaii and Seattle – said she is confused about if donations mean guns would be destroyed.

Mr. Brown asked how other towns do this. Mr. Johnson-Staub said that the examples just given do not have to follow Massachusetts procurement law. Ms. Scott Price said she personally wished there were a way to say the weapons would be destroyed but understands that this Board does not have the authority to do this due to procurement law. Atty. O'Keefe said that if Ms. Scott Price is asking if it is possible to take the decision-making away from the town manager, she does not know the answer to that because it is a new situation where there is no case law to research or guidance from the inspector general to follow. She said the draft policy tries to do the best thing following her best guess regarding compliance with the law.

Ms. Scott Price said that she was not trying to take power away from the town manager, but that she would like a way to have that option. Atty. O'Keefe then then said that regarding the by-law, the AG was loathe to disapprove it, but felt they had to because of specific language in Chapter 30B. She said there were existing parameters that Falmouth must observe, but that challenging the state statute is an option. She said the Board may wish to keep trying and that she is not afraid of a challenge.

Mr. Mascali asked what a challenge would encompass. Atty. O'Keefe said that if the goal is to destroy weapons, state law is not on their side and that challenging the law would be necessary. She provided a brief explanation about a possible way to proceed involving a request from the legislature to deviate from the law as it is written.

Public comment:
Janet Azarovitz, Precinct 5 – said she was present at the meeting where many attendees said they wanted the guns destroyed – said the Board reversed their decision – said then there was an overwhelming Town Meeting vote – asked what "the will of the people" means – (Mr. Brown responded explaining that Town Meeting decisions are not binding on the town manager) – said she feels that the voice and the vote of the people was nullified by the proposal put forth by Mr. Renshaw – said she wished the policy would not get passed tonight – (Mr. Brown said this policy provides more flexibility in case the Board wants to employ this option. He said he agrees that it's not ideally what Town Meeting envisioned but what it wanted did not pass muster with the AG's office.) – asked about the amendment and why it reads the way it does, that it sounds like it is an unending thing that we're signing on for and asking taxpayers to fund it – (Mr. Brown said the Town did not have a clear understanding if it would be within the law by simply destroying the weapons because of procurement law limitations. He said we have to walk a fine line between what we want and what is legal.) – said New Bedford destroyed weapons it got from buy-back – (Mr. Brown said that was a different thing.)

Ms. Scott Price said that she would like to challenge the AG's office. Mr. Brown said he would like to accept the draft policy and continue to work on the issue. Mr. Mascali asked what would happen if the policy were not approved tonight. Mr. Johnson-Staub said the only change from the current policy is it facilitates a donation to offset the lost value of the trade-in. Chair Taylor clarified that even if there is no money in the donation fund, the town manager still has the discretion to destroy the weapons.

Mr. Renshaw then gave specific information about the weapons in question: 26 shotguns with a fair market value trade-in of $4,125 from the contracted vendor. If the town opted not to accept the trade-in, the invoice price for new shotguns would reflect that and would go up. Regarding what then to do with the old weapons, he said his office is currently vetting the option to have the weapons destroyed by the state police at no cost.

Brief Board discussion included these points:

- If nothing happens tonight, the current policy remains in place.
- The proposed policy provides more options.
- Policies can be amended or changed.
- Even if the fund has a shortfall, the weapons can still be destroyed, and the Board can demonstrate it is trying to be responsible with taxpayer money.
- Action tonight would have no bearing on the contract regarding the purchase of the new shotguns.
- Decisions made now will affect future purchases.

**Motion by Mr. Zylinski: To approve the policy for the disposal of surplus firearms as initially presented by the Town Manager Second: Mr. Brown**
**Vote: Yes – 4 No – 0 Abstain – 1 (Mr. Mascali)**

Follow-up discussion focused on how information concerning the decision regarding the weapons would be reported and what is required. Mr. Renshaw noted that information regarding fair market value of the weapons is posted on the town website**.** Atty. O'Keefe said that there is one reporting requirement to the Select Board in the new policy: what the fair market value of the proposed surplus is. This would allow those who wish to donate to know what that dollar amount is. She said the new policy states the following: 1) to publish the fair market value of the surplus firearms to the Town's website, and 2) report said value to the Select Board.

Ms. Scott Price asked how residents would be able to know the balance in the donations account. Mr. Johnson-Staub said that they could request that information from the Town Manager's office or the Finance Department.

<u>Discuss and vote to approve a Resolution in Support of Higher Education for All</u>
**Motion by Ms. Scott Price: To approve the Resolution in Support of Higher Education for All as presented and to send a copy of the Resolution to our legislative delegation Second: Mr. Zylinski**
**Vote: Yes – 5 No - 0**

<u>Presentation by the Falmouth Municipal Light Board</u>
Ed Swartz, chair of the Municipal Light Plant Board and Town Meeting member from Precinct 3 narrated the 6-screen presentation, which involved the details of establishing a locally directed broadband network, including the timeline for the project and funding options. Mr. Swartz said they were requesting that the Board authorize the town manager or designee to engage in dialog and negotiation with the MLP.

Mr. Zylinski clarified that the 5 members of the MLP board were elected. He then asked what the next move of the Board would be. Mr. Swartz said it would be to sit down and negotiate with Boundless to see what they would do for the Town.

Mr. Brown said he would be in favor of a partnership where the Town would be a limited investor, say, 25% to 50% so that if the venture failed, the Town could salvage things and carry on. He said he felt it would be unwise not to explore what the company was offering, citing the low costs and the multiple benefits of increasing fiber connectivity in the Town. He said he recommends investigating it further.

Chair Taylor said the issue is confusing because the way the MLP is set up, it does have the authority to do the negotiation, as she understood it. Atty. O'Keefe said that for any of the presented options to be viable, it would have to be a Town department, but that was never part of the arrangement. She said it would be a huge undertaking. She reiterated that the MLP has no funding, resources, or revenue stream. She said that the MLP is its own entity, and that the Town can't negotiate on its behalf.

Mr. Johnson-Staub further clarified that MLP is its own entity, and that as he understood it, in the Boundless option, there is no municipal role or control over the operation, and that this would be like dealing with Comcast or Eversource, which are private entities. Building up the network, he said, would still involve interaction with the Town following the process.

Mr. Mascali asked how Boundless fits within the mission of MLP to be locally controlled and if there is contradiction there. Mr. Swartz said he understood the question and had considered the impact of those two words in the mission statement, because the number one comment coming to their board was that it would be great to have competition for Comcast. He said this offer brings the best opportunity for that.

Ms. Scott Price said that since Boundless can put fiber in Falmouth without having any conversation with the Town, what are they asking. Mr. Swartz said they are requesting to have conversations with the Town. At this point, Mr. Renshaw said that in response to a prior email from Mr. Swartz also involving a Boundless representative, that he takes directives from the Select Board, and that is why this item is on the agenda.

Chair Taylor returned to the question about what Boundless is seeking if they can put fiber in Falmouth anyway. Mr. Swartz said that they are open to negotiate because they want to be a good partner in Town. Mr. Brown said that they want to do the whole Cape and would like to be successful in Falmouth as a model for other towns. He said there are many ways the Town can assist them, using the DPW and tree clearing, for example, to enable new poles to be installed. Mr. Zylinski noted that if Boundless would operate like, say, Comcast, there would be no need for the MLP Board, which Mr. Swartz acknowledged.

The Board then engaged in discussion about the options that lay before them now. They reviewed how best to move forward since, as Atty. O'Keefe said, the MLP is independent of the Town, can do whatever they want, and because of this independence, the Board cannot grant them any authority. Mr. Brown said it could be thought of as a cooperative request to get more clarity or information, and referred to the bullet points to know what to be looking for. Ms. Scott Price said that it would be possible to cooperate with the MLP to initiate conversations with Boundless regarding this project.

Mr. Renshaw said that MLP has the authority now to negotiate with Boundless, the result of which would then enter into the permitting process, like any other utility. He said he felt uncomfortable with being asked to be the negotiator for the Town, because the MLP has that authority. Mr. Swartz said that he felt that his board does not really have the legal background, skill set, or funding necessary to do such negotiations according to the way the board is organized. Jim Newman, clerk of the MLP Board, said that the quid pro quo that Boundless is looking for is what the Town controls, such as access to permitting and use of Town-owned property. Chair Taylor said there is a process in place for such things. Mr. Swartz said that Boundless could be coming directly to the Town instead of going through the MLP.

The discussion then focused on what the MLP was and was not authorized to do according to the structure of Chapter 164. Mr. Swartz said MLP does not have the authority to negotiate with a telecom utility. He said Chapter 164 is to build your own utility. He said without funding, "this would fall to the town," similar to the way things are negotiated with Comcast.

Mr. Mascali said that there are other options on the table and that the discussion has focused only on the one MLP recommended. Mr. Brown said that if the Board chooses to go with what the MLP is recommending, the Town does not need the MLP to do it. Or the Board could keep the MLP and explore the other options presented. Mr. Mascali said it was important to think about what would happen in 5 years if the Board chose moving forward with Boundless, and what protections the Town would have. Now, he said, the Board can choose to explore what would happen under the other options.

Public comment:
Courtney Bird, Sippewissett Rd., MLP board member – said the original dream was a municipally owned network – said Chapter 164 is very broad and is the authority that creates the municipal light board – said that because the MLP had no "skin in the game," they had to bring the Select Board into it – said the Boundless option would always have a competitor if they decide to sell in 5 years – suggested that the Select Board delegate back to the MLP Board the nuts and bolts of the negotiation, understanding that there are Town commitments – said that in order to deal with the details of those commitments, MLP would need the involvement of the Town, such as the town manager or a member of the Select Board, as part of the group that does the negotiation – said they need to get started – said Boundless might not work out so it would not be prudent for MLP to dissolve itself – said MLP needs to explore the municipal options that are part of its mission statement.

Mr. Brown said that a municipally owned network can be open to other internet service providers, which would be given up if the Town goes with a private provider.

At this point, Chair Taylor sought some guidance from staff on how to proceed. Mr. Renshaw suggested requesting that MLP continue discussions with Boundless and develop a list of "asks," specifically what is it that they are seeking from the Town. Mr. Swartz said that MLP would like to know specifically what the Town would like to get in return. Board members said that MLP has done a lot of work in that area and knows best what the Town needs.

Mr. Renshaw also requested that as part of that, that the MLP report back to him with results of these future discussions. It was also clarified that future communication goes through the MLP.

<u>License Renewals – 2024 Seasonal and Spring Annual</u>
Mr. Renshaw read out the 3 license renewals. He recommended renewal of all three.

<u>SECOND-HAND DEALER LICENSE</u>
Blooming Resale, 557 North Falmouth Highway, Bldg. B
Cape Kids Treasures, 15 Davis Straits
Hannoush Jewelers, 352 Main Street

**Motion by Mr. Brown: To approve** **Second: Mr. Zylinski** **Vote: Yes – 5 No - 0**

**CONSENT AGENDA**

1. Licenses

a. Approve application filed by King Kraken, Inc. d/b/a Romeo's for a new Common Victualler License located at 75 Davis Straits, Falmouth

2. Administrative Orders
    a. Approve the petition of NSTAR Electric Company d/b/a Eversource Energy for permission to install approximately 5' (feet) of 1-3" PVC conduit under town sidewalk starting at existing handhole 44/HA13-A at base of existing pole 44/13-A southerly to customers private property. This work is necessary to provide electric service to #5 Harrisburg Avenue.

    b. Accept the FY24 Wellness Grant in the amount of $600.00 from Cape Cod Municipal Health Group to the Human Resources Department grant account

    c. Approve request from the Falmouth Cultural Council to apply to the Henry & Virginia Behrens Trust fund for its music outreach program for the homeless, Music at the Table

    d. Appoint member to the Board of Registrars of Voters: Kathleen Mortenson

    e. Authorize the non-binding Solar Letters of Intent (LOI's) for the Senior Center and Water Treatment Plant

**Motion by Ms. Scott Price: To approve Second: Mr. Zylinski Vote: Yes – 5 No - 0**

**MINUTES**

Review and vote to approve minutes of meetings

- Executive Session – February 12, 2024, and February 26, 2024

**Motion by Mr. Zylinski: To approve both sets of executive session minutes and not release to the public at this time Second: Ms. Scott Price Vote: Yes – 5 No - 0**

**TOWN MANAGER'S SUPPLEMENTAL REPORT**

**Mr. Renshaw reported on the following:**

- Town Planner's request regarding Shivericks Pond improvement project information: that on 4/1 tree clearing will begin

**SELECT BOARD REPORTS**

**Mr. Brown reported on the following:**

- Attended a Belonging To Each Other meeting

**Chair Taylor reported on the following:**

- Did a follow-up at the police station last Friday and there have been great improvements there
- Called attention to precinct meetings: Mr. Brown, Precincts 5 and 6; Chair Taylor, Precincts 3, 4, and 7; Mr. Zylinski, 4 and 7; Ms. Scott Price, Precinct 9; Mr. Mascali, Precincts 8 and 9. (Unclear about Precincts 1 and 2) Mr. Zylinski said that the list was likely to change but all precincts would be covered.

**ADJOURN**

**Motion by Mr. Zylinski: To adjourn Second: Ms. Scott Price Vote: Yes – 5 No - 0**

Respectfully submitted,
Carole Sutherland, Recording Secretary