TOWN OF FALMOUTH
SELECT BOARD

Open Meeting Minutes

MONDAY, JUNE 17, 2024 – 5:30 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 Robbins Taylor, Chair; Edwin (Scott) Zylinski II, Vice-Chair; Douglas C. Brown; Robert P. Mascali; Heather M. H. Goldstone
Absent: None
Others present: Mike Renshaw, Town Manager; Peter Johnson-Staub, Assistant Town Manager: Maura O'Keefe, Town Counsel

5:30 p.m. OPEN SESSION
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 – Public Works; discuss strategy with respect to collective bargaining – Police Patrol Federation; discuss strategy with respect to collective bargaining – Police Lieutenants**

Motion by Mr. Zylinski: So moved Second: Mr. Brown

Roll call vote:
Zalinski: Aye
Mascali: Aye
Goldstone: Aye
Brown: Aye
Taylor: Aye

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

5:30 p.m. EXECUTIVE SESSION

1. M.G.L. c.30A s.21(a)(3) – Discuss strategy with respect to collective bargaining – Public Works
2. M.G.L. c.30A s.21(a)(3) – Discuss strategy with respect to collective bargaining – Police Patrol Federation
3. M.G.L. c.30A s.21(a)(3) – Discuss strategy with respect to collective bargaining – Police Lieutenants

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 reached agreements with respect to collective bargaining with Public Works, with respect to collective bargaining with Police Patrol Federation, and with respect to collective bargaining with Police Lieutenants.

Pledge of Allegiance – Led by Select Board

Proclamation – Honoring the service of Rabbi Elias Lieberman
Chair Taylor read out the proclamation honoring Rabbi Elias Lieberman included in the Select Board packet. Rabbi Lieberman offered gracious remarks of thanks to the Falmouth community.

Recognition:
Mr. Mascali recognized Mr. Brown for his being elected president of the Cape and Islands Municipal Leaders Assn. for a one-year term.

Announcements:
Mr. Brown said there are slots available for anyone who has anything to share with local veterans at the Veterans' Center.

Mr. Mascali announced a Juneteenth celebration on June 19th at St. Barnabas Church from 1:00 t0 3:00. He also announced a Pride celebration event at Gus Canty Thursday from 5:00 to 7:00.

Ms. Goldstone announced Juneteenth celebrations at Highfield Hall and Gardens at 10:00.

Public Comment:
Joe Netto, Precinct 9 – spoke of the new bridge at Menauhant Beach and the need for the bid specs to include specific plans for traffic mitigation in East Falmouth – said the shore road would be blocked requiring traffic to use Acapesket and Davisville Roads and that mitigation would be needed especially in the mornings and afternoons to alleviate the congestion at the intersections with Rt. 28.

Dan Shearer, Prec. 6 – thanked the performance of the fire station in West Falmouth – said "we need help in West Falmouth" with traffic concerns and noise, especially from motorcycles.

COMMITTEE INTERVIEWS - Interview, vote and appoint committee members
Regulatory boards
Historical Commission – Annie Dean
Motion by Mr. Brown: To reappoint Second: Mr. Zylinski Vote: Yes – 5 No - 0

Zoning Board of Appeals – D. Scott Peterson
Mr. Zylinski said that Mr. Peterson was unable to attend the meeting but is willing and able to serve. Chair Taylor said the interview would be re-scheduled to July 1 because this is a regulatory board.

Non-regulatory boards
Bicycle and Pedestrian Committee – Michael Taylor, Mitchell Flaherty, Stephen Morris

1. Michael Taylor said that he is well suited to bring the needs of the Falmouth running community to the committee.
2. Mitchell Flaherty provided information about the school projects he worked on in Boulder, Colorado. He said he began attending meetings of the committee in February.
3. Stephen Morris – not present.

Chair Taylor said the Board would interview Mr. Morris on July 1 and make a decision at that time.

Council on Aging – Karen Dusini, James Vieira
Ms. Dusini said she has volunteered over 700 hours to date.
Motion by Mr. Mascali: To appoint Second: Mr. Zylinski Vote: Yes – 5 No – 0

James Vieira – **Motion by Mr. Brown: To appoint to a term ending June 30, 2027 Second: Mr. Mascali Vote: Yes – 4 No – 1 (Chair Taylor)**

Freshwater Ponds Advisory Committee – Angela Tanner
Ms. Tanner said that she is willing to serve as a full member if the situation arose.

Motion by Ms. Goldstone: To appoint Angela Tanner as an alternate member for the term ending 6/30/2025 Second: Mr. Zylinski Vote: Yes – 5 No - 0

Water Quality Management Committee – Jonathan Kaufman
Mr. Kaufman said he has been attending the WQMC meetings for about a year and has a good understanding of the issues the committee faces.

Motion by Mr. Zylinski: To appoint Mr. Kaufman to a term ending June 30, 2027 Second: Mr. Brown Vote: Yes – 5 No - 0

Taskforce on Workforce Sustainability – Paul Speer, Paula Stone, Sandra Faiman-Silva, Hannah Vanderscheuren, Nelia Luviano Aparicio, Miranda Vogt, Benjamin Weiss, Max Jans

Mr. Mascali clarified that this is between 7 to 9 positions and there are 8 applicants. Ms. Goldstone noted that six listed applicants are affiliated with MBL, and said her inclination is to work on recruitment to assure a slate of applicants for the task force that represent a diversity of sectors and employers. Mr. Mascali suggested limiting the terms from 2-year to 1-year.

The Board briefly discussed how to proceed, raising issues such as the difficulty of getting this group going, the importance of getting it started, the possible problems of limiting terms to one year, and the suggestion that to increase diversity of input, the task force could conduct surveys and gather data from the community. Chair Taylor then said that the Board would conduct interviews and have relevant conversations as they go to vote.

Chair Taylor asked each applicant if he/she would like the Board to know anything not included in the application.

- Paul Speer – said he is happy to be a part of the group but is also willing to help out as needed to recruit new members
- Paula Stone – neither a scientist nor works at MBL and is retired
- Sandra Faiman-Silva – said she does not take “no” for an answer – said the diversity of the MBL community is very rich and gave examples of this richness – said some are from WHOI and not MBL – said she has a 30-yr. career as a researcher, scholar, professor, community activist – has published extensively and can bring research background to the task force
- Hannah Vanderscheuren – said she would do whatever she could to make the task force representative of the community and issues
- Nelia Luviano Aparicio – said she is a scientist at MBL and represents scientists that come from all over the world and knows their issues
- Benjamin Weiss – said in college he was involved in an organization supporting refugee and immigrant women in breaking out of cycles of poverty through job placement, training, and community building – said that experience is an example of how an organization can bring about a result – said he is a co-chair on the committee for diversity, equity, and inclusion and would bring that facet to the task force
- Miranda Vogt – said since applying she works as a server as well as working at MBL
- Max Jans – said it bears repeating that he is concerned about people from diverse backgrounds who cannot see a future for themselves in Falmouth – said he has a background in labor as well as a research and scientific background

Mr. Zylinski made an initial motion to move the list to the task force on workforce sustainability as described on the agenda.

Chair Taylor asked if the term would be for one or two years. Mr. Zylinski said he would hold off on his motion to see what the Board would like. Mr. Brown noted Mr. Speer’s willingness to incorporate new members. Chair Taylor said perhaps the Board could check in with the group in a year and gather feedback then. Ms. Goldstone asked if the group could be expanded in size. Mr. Renshaw said the Board could decide, say, in a year’s time to expand the group if it so chose. Mr. Mascali said he was impressed by the passionate and articulate comments made during the interviews but would still be comfortable with a one-year term.

Motion by Mr. Zylinski: To move the list to the task force on workforce sustainability as described on the agenda, with the caveat that we can amend it slightly to recognize the fact that the Select Board can increase the size of the board once it’s formed at any time, for a term of one-year Second: Mr. Mascali
Vote: Yes – 5 No - 0

Committee reappointments (uncontested seats)
Chair Taylor read out the list of reappointments to 7 uncontested positions and terms as they appeared in the Select Board packet.
Motion by Mr. Brown: To reappoint Second: Mr. Zylinski Vote: Yes – 5 No - 0

PUBLIC HEARINGS
Hearing to determine if there are violations of the Lodging House License issued to Frederick William House located at 594 Palmer Avenue, Falmouth, MA
Mr. Zylinski read out the hearing notice.

Mr. Renshaw orally reviewed the item for the Board, referring to the *Agenda Item Summary Sheet*, Item number and Title: Public Hearings 1 - *Hearing to determine if there are violations of the Lodging House License issued to Frederick William House located at 594 Palmer Avenue, Falmouth, MA* in the Select Board packet. He also said Town Counsel had prepared a memo that the Board had at their chairs that goes over some of the standards of review, determinations, and outcomes.

Attorney Patrick Cook, representing the owner/operator Jeanette Robinson, was present. He said he was there to listen to what the concerns are, to assure there is a common understanding of what the allegations or concerns are, and to comply. He outlined the situation at the inn and said the word "cottage" could be causing some misunderstanding. It is not the former bicycle shack; the cottage is part of the main house dwelling. He said the owner sought a modification to the comprehensive permit in the past but withdrew it. He said there are more than 5 rooms in the inn, but she has never rented more than 5 rooms or exceeded the capacity of 18 people at a time. He said after receiving the letter from the Town on April 23, she put a note on the website page on May 1 that only 5 rooms are available at one time. She then removed excess rooms from the website to show only 5. To answer a question from Chair Taylor, he explained why the website could show 6 rooms available when the license is for 5, saying that the rooms show available options and features, but that only 5 of them are rented at one time depending upon what people want. Chair Taylor said that was confusing advertising. Atty. Cook said he is present tonight to listen to all concerns and comply.

Mr. Zylinski asked how long the issue has been going on. What followed was a detailed explanation from Atty. Cook of what constitutes a rental (unit vs. room, for example) and if the number of beds is relevant. He again said that the owner never rents more than 5 rooms at a time despite more rooms being advertised on the website. Mr. Zylinski then said that advertising more than the permit allows puts the owner in violation. Atty. Cook said that the owner now understands this and has changed the website to show only 5 rooms. Mr. Zylinski next asked when he first received a complaint from the Town about this issue. Atty. Cook said he first became aware of this issue in 2023 with the attempt to modify the special permit, which, he said, was not well received by the Town and was later withdrawn. He then mentioned that there is on-going litigation with abutters regarding property line disputes, which are not part of this hearing.

Mr. Mascali asked if the word "cottage" is part of the main house. After a lengthy explanation, Atty. Cook said it was physically connected to the main house. Mr. Brown asked where the residents of the property live. Atty. Cook said the residents live in the main house and depending upon space needs, they move where the guests aren't.

At this point, Town Counsel showed an aerial photo of the property. She reviewed the history of the structure(s) on the parcel of land. She said in 2016, the main house and the cottage were two separate buildings. She said the Board of Selectmen at the time did not license the 2 rooms in the cottage but allowed the 5 rooms in the main house. She said the license is only for the 5 rooms in the main house. She said it is not allowable to put guests in a room in the cottage. She said that is a violation of the license.

Mr. Zylinski sought and received clarification from Town Counsel that the two structures, the main house and cottage, are connected with a closed-in breezeway. Mr. Mascali asked when that connection was made; Town Counsel said she was not sure, but some time after 2004. She showed an aerial view of the main house construction around 2005. Atty. Cook then mentioned a site plan review from 2004 that refers to the "main structure and addition" as one building and counts the number of bedrooms and bathrooms in both structures as one.

There followed brief discussion about number of bedrooms available, where they are, how many bedrooms are required for the residents of the dwelling, and what the special permit says. Chair Taylor then said the license that was issued on April 22, 2024, was very clear for a maximum of 5 rooms only in the main house with a maximum of 18 lodgers – maximum 2 adults, 2 children under the age of 12 per room.

Ms. Goldstone asked about the history of the license. Town Counsel provided the minutes of the 2016 Board of Selectmen meeting when the license was approved. The minutes referred to the main house with 5 rooms and the cottage with 2 rooms, although the Board at that time noted that "no other documents talked about the cottage," so the cottage was not included in the application. The Board at the time said no [to the cottage], Town Counsel said, and it's been that way ever since.

Mr. Mascali asked what the owner was seeking in the application that she made and withdrew. Atty. Cook said she was seeking to add the small room in the back as a guest unit, but survey errors from years ago impacted both abutters and the application was withdrawn.

At this point, Mr. Renshaw said he asked the building commissioner how the 5-room determination was arrived at. He said it is defined by the size of the square footage of the parcel itself. Mr. Cook provided additional information about square footage and how many commercial accommodations are allowed at different sizes. He said now, due to different issues with it, the parcel is believed to be between 23,000+ and 24,000+ sq. ft.

Ms. Goldstone asked about the revoked application. There was confusion about how many rooms were being proposed in that application, but in the end, Atty. Cook said that one room was being proposed in that application.

Mr. Zylinski, addressing Town Counsel, returned to the 2016 Board of Selectmen meeting minutes and reiterated what she had read before, especially the words "the house will have 5 rooms, the cottage 2, but the Board of Selectmen noted no other documents talked about the cottage, so the cottage was not included in the application. They will be serving pre-packaged continental breakfast at this time." He asked if this substantiates what she had explained previously. Town Counsel said yes.

Mr. Mascali asked if a future application for 5 rooms could include room in the cottage, or if that would be a violation of the zoning code. Town Counsel said that would require a modification of the special permit, which has been stymied due to on-going boundary dispute litigation between the owner and abutters on both sides. Mr. Mascali again asked if a license limiting the units to 5 would bar any units from being in the cottage. She said that at some point that could be accomplished but would require amendments of the existing license and special permit. Atty. Cook said they are working on getting an application for a modification submitted, but the boundary issues pose complications for moving forward. He went on to speak about the owner's willingness to cooperate and comply with all requirements. Mr. Mascali clarified that compliance means that no rooms in the cottage are available for rent until some other action is taken. Atty. Cook said his client understands this. Chair Taylor said the current license for 5 rooms only in the main house (the building closest to the street) runs until April 30, 2025.

<u>Public comment:</u>
Jonathan Stronach (passed out printed materials to the Board), 600 Palmer Ave. – direct abutter – concerned about the lengthy history of this compliance issue – referred to a 2007 enforcement letter from the building commissioner making the owner aware of issues related to renting the cottage – said the response to the letter shows the owner is aware of non-compliance – referred to a 2014 email from the zoning administrator making the owner aware of issues regarding rooms for rent and for living – said despite these issues, the 2016 application includes 5 rooms in the main house and 2 in the cottage – referred to the 2016 license for 5 rooms in the main house only – referred to permission to sell pre-packaged ice cream – referred to a 2023 ZBZ hearing to convert the gift shop into an additional accommodation, making an 8th bedroom – said the applicant was asked to address the concerns raised regarding performance standards and compliance – said there was a cease and desist letter in August 2023, and action that was appealed and withdrawn – said there was a notice of violation regarding the site plan, an issue that remains unresolved – said advertising and renting of the rooms continued – said there is a difference between the mobile version and on-line version of rental process – said this has been very frustrating for him and his wife for the past two years – said he is looking for assurance that meaningful change will result from this action.

Gerald Boissonnault, 582 Palmer Ave. – still in litigation over the property lines – said they are trying to grab some of my land by adverse possession – said he is sick of picking trash up over there

Fiona Marques, Jeanette Robinson's (owner's) daughter – said suspending the license for 30 days, especially in the beginning of the summer season, is suspending the way the family, including her mother and 14-year-old brother, survives – said she has seen how the whole process including the litigation has affected her mother - said she hopes the Board will think about how their decision affects them – said the decision is extremely important.

Chair Taylor called for **a motion to close the hearing.**

Motion by Mr. Zylinski: So. Moved Second: Mr. Mascali Vote: Yes – 5 No – 0

Mr. Brown asked if the Board could add language that the main house means the front building to the street side of the breezeway. Town Counsel said yes but that would mean modifying the license and would require a hearing. Chair Taylor said the Board needed to think about whether the license holder violated the terms of the license by renting rooms outside the main house, and if there is credible evidence to support this. Mr. Zylinski acknowledged that this is a sensitive issue, but there is a track record of this happening and that it has happened repetitively. He said many businesses in town abide by the rules of the license. He said there have been abutters' concerns prior to this and it still continues. He said yes, he believes there is credible evidence of violation of the license. He said he feels for the applicant and the family but supports the Town Manager's recommendation. Mr. Zylinski recognized that there are still outstanding issues regarding the boundary dispute litigation. Mr. Mascali said he agreed that there is credible evidence starting in October of 2023 that the owner violated the terms of the license.

Ms. Goldstone asked about the distinction between offering a number of rooms and renting a certain number of rooms, and which one the license allows. Town Counsel said the license allows for 5 rooms to be rented at any one time with a maximum occupancy, and also a limitation on where those rooms are. She said this last point is the biggest bone of contention. She said the licensed premises is clearly defined, and anything being rented that is not defined is not subject to the license and is not allowed to be rented. Mr. Mascali said the Board does not have credible evidence that at any one time the owner rented more than 5 rooms. He said the issue is more where those rooms are located, and there is credible evidence to support that. Mr. Brown made the point that despite the documents indicating a history, this is the first time the issue has come before the Select Board. Town Counsel said that is because a resolution was attempted through zoning, the first line of attack. Coming before the Select Board is a last resort, she said. Chair Taylor added that the Town, then, has tried everything else, and the Select Board is the last governmental body of the Town to do something.

Ms. Goldstone asked if there had been a point in the timeline where it was made explicitly clear to the owner that the main house means the section forward of the breezeway. Town Counsel said, "Repeatedly, " and that she didn't find it credible that that was not clear.

The Board then discussed if there was consensus among them that there was credible evidence of violation of the license. After some brief discussion, Chair Taylor returned to the wording of the license, which she said is clear. The license does not allow rooms in the cottage to be rented. It says 5 rooms only in the main house. She said she agrees with Atty. O'Keefe that it's been made clear what the main house is. Mr. Mascali said the word "only" is emphatic. Other Board members offered support for the clarity of the license language.

Motion by Mr. Mascali: That the Board finds that the owners of 594 Palmer Ave. have violated the terms of the license effective May 1, 2024 Second: Mr. Zylinski Vote: Yes – 5 No - 0

Mr. Mascali asked Town Counsel if there were other options besides what was listed in the Select Board packet under the Town Manager's Recommendation and Options. Atty. O'Keefe said there was the option of a fine of $500.00 under Chapter 140. She went on to outline the details of the various actions, such as revoking the license, suspending the license, or issuing a conditional warning. Mr. Zylinski said his first inclination is to support the Town Manager's recommendation. (The Town Manager's recommendation as presented in the packet materials is to suspend the license for 30 days.)

Mr. Mascali said he would like the Board to consider a monetary fine and a suspension of less than 30 days. Mr. Zylinski said he thinks that approach would send a bad message to other licensed businesses. Chair Taylor said she was troubled by the history of trying to get compliance at a lower level and that the issue made its way to the Select Board, the last resort. Mr. Mascali asked if the Board believed that the owner hasn't heard how seriously the Board is taking this issue and would take further action if there was unlicensed renting going forward. Chair Taylor said that is exactly her concern and that the history of the issue suggests otherwise. She said she would hope so but it hasn't come across with other boards. Ms. Goldstone asked if any of the previous infractions with other boards involved punitive measures. Town Counsel said the zoning enforcement was curtailed due to extensive litigation. She said the goal is always compliance, but that hasn't been forthcoming, she said. She then outlined various actions available to the Board, including court action and injunctive relief.

Mr. Brown said this is the first lodging house violation he is aware of. He said when there is a liquor license violation, the Board has issued a warning. The Board then engaged in discussing the details of the license violations and what penalty would be appropriate and sufficient to send the right message to the licensee and the community. Mr. Mascali advocated for a monetary fine and a 2-week suspension. Chair Taylor said she did not think 2 weeks was enough.

Motion by Mr. Mascali: Based upon the Board's finding of a violation, the decision of the Select Board is to impose a suspension of 14 days of the current license and a monetary fine of $500 with a statement that any violation of the terms of the license going forward would empower Town Counsel to seek immediate injunctive relief Second: Mr. Brown

Ms. Goldstone asked how the compliance would be determined. Town Counsel said that evidence has been complaint driven, which will continue. She said that the Town has also been keeping an eye on advertising, part of the warning issued in April. She said advertising will serve as evidence.

Chair Taylor called for a **roll call vote**.

Mascali: **Aye**
Brown: **Aye**
Taylor: **No**
Zylinski: **No**
Goldstone: **Aye**

Chair Taylor reiterated that the decision is a 2-week suspension with a $500 fine.

BUSINESS

Discuss and vote on a site recommendation for the future All-Inclusive Playground

Mr. Renshaw introduced the item for the Board, referring to the *Agenda Item Summary Sheet*, Item number and Title: *Business 1 - Discuss and vote on a site recommendation for the future All-Inclusive Playground* in the Select Board packet.

Peter McConarty, Director of Public Works, narrated approximately 14 screens, included in the Select Board packet, detailing the process and criteria for the choice of location for the all-inclusive playground. Possible locations were 67 Davisville Rd., Trotting Park, and Goodwill Park. Mr. Renshaw also contributed to the oral presentation. Mr. McConarty said the plan is conceptual at this point. He said the working group unanimously selected Goodwill Park as the best overall site based upon evaluation of the criteria.

Questions from Mr. Brown and Mr. Mascali concerned the life of the 2016 existing playground and how it would factor into the plan for the all-inclusive playground, and the sight lines from the proposed entrance into the park from Palmer Ave. Mr. McConarty provided specific information answering each question. Mr. Brown also asked about parking plans, which Mr. McConarty said would be addressed moving forward in the design phase.

Motion by Mr. Brown: To approve the selection of Goodwill Park as the future sight for the design and construction of an all-inclusive playground facility as presented Second: Mr. Zylinski
Vote: Yes – 5 No - 0

Report – Commission on Disabilities (to be rescheduled)

Report – Affirmative Action Committee

Dale Kapp, chair of the committee, outlined the report that the committee had submitted to the Town. The digital presentation included information on resources, collaborations, programs, services, and policies providing equitable access for all Town residents, including website accessibility and navigation.

Chair Taylor asked if the committee had contacted the schools regarding serving students with special needs. Ms. Kapp said that Henry St. Julien along with two teachers came to the Resource Center with them and had great interest in it at that time. She said she believes their idea now is for setting up a resource center at what was an old library at the high school. She said she hasn't heard anything about their thoughts on that idea going forward. Mr. Mascali complimented the tables on meeting attendance included in the report.

Discuss and vote to adopt revisions to the LIP Application and Process Guidelines

Mr. Renshaw introduced the item for the Board, referring to the *Agenda Item Summary Sheet*, Item number and Title: *Business 4 - Discuss and vote to adopt revisions to the LIP Application and Process Guidelines* in the Select Board packet.

Kim Fish, Housing Coordinator, reviewed actions previously taken by the Board on the process regarding the LIP application and guidelines. She went on to explain the situation of having 3 Town Hall staff members on the subcommittee and the potential for inadvertent violation of the Open Meeting Law. She explained the red-line edits of the document and how these edits eliminate the potential for violation.

Mr. Mascali noted that the change involves doing away with a committee and forming a working group. He asked if changing the make-up of the subcommittee from 3 to 2 staff members, which would avoid the quorum issue, was considered. He said he supports keeping the committee and changing its composition.

Town Counsel apologized for having missed the Open Meeting Law component of the guidelines in her earlier review. She said the problem is first to fix the Open Meeting Law problem, and second, to address the situation of the Select Board appointing staff to be on a working group. She said the powers of the Select Board and town manager are separate, and for the Select Board to appoint members of a working group is "a bleeding between the two powers" of policy and administration. She said this amendment as proposed does what the original form was intended to do. She said the working group would be as transparent and open without the constraints of the Open Meeting Law.

Mr. Brown asked how employee participation could violate the Open Meeting Law. Atty. O'Keefe explained how 3 staff members on a subcommittee could never talk about housing without its being considered a meeting requiring a posted notice. Mr. Mascali asked about the composition of the committee when it was originally set up. Ms. Fish said back in 2007, it was the same composition except there was a second Select Board member as part of the committee. There were no Open Meeting Law issues at that time.

Mr. Johnson-Staub then said that the issue isn't so much about the composition of the group as who appoints it and to whom that group submits a recommendation. A group appointed by the Select Board is subject to the Open Meeting Law; a group appointed by the Town Manager is not.

Mr. Brown said that the group would have to be nimble, and not to have to be held to the Open Meeting Law would be advantageous. Ms. Goldstone said she was concerned over the possibility that "staff review" could mean the Town Manager *only* who would be making a recommendation to the Select Board. Atty. O'Keefe said that if you specify the Town Manager and a group, that's a subcommittee. She said you have to designate it to one person and then independently let the Town Manager form the group.

Mr. Brown asked about why the Town Manager couldn't make a recommendation to the Select Board without deliberation with any group. Mr. Mascali said because there are other interested parties in Town, such as the affordable housing committee, to include. He said he understands the situation as explained by Town Counsel but disagrees with how to address it. He said he supports reducing staff to two members but keep the committee.

Ms. Goldstone clarified that the pre-application is reviewed by the Town Manager; the formal application phase is also reviewed by the affordable housing committee.

Motion by Mr. Brown: To approve as is　　　Second: Mr. Zylinski
Vote: Yes – 4　No – 1 (Mr. Mascali)

<u>Update on Hatchville Fire Station construction and Fire Rescue Department staffing</u>
Mr. Renshaw said that Chief Timothy Smith would be narrating an informational 10-11 screen presentation to the Board, which was included in the Select Board packet. Opportunities for questions would follow. Chief Smith said that there have been some delays and still work to be done, but a September-October completion is the goal. Mr. Renshaw added that it currently appears that the project will be delivered under budget.

Peggy Nickerson and George Rogers, members of the building committee, also added comments during the presentation. Their comments included praise for Town staff during the whole construction process. When the presentation focused on personnel/staffing issues, Mr. Renshaw commented that they are looking for creative ways to deal with needed leaves for medical injuries and how to improve the injured-on-duty situation.

Chair Taylor asked the Town Manager a question related to the 6th bullet on the last slide, focusing on the word *may* in this phrase: "….***may*** be able to staff 6 stations…" She asked, "If you are not able to staff 6 stations fully by the end of the calendar year 2024, what is the plan?" Mr. Renshaw said he has no intention at this stage to open the Hatchville station "until we're able to man and completely reach that 80 threshold." He said he has no desire or intention to open the station until we can operate all 6 without any negative impact on any other one.

Chair Taylor noted that the station construction is under budget and that they have exceed the timeline for hiring, two pieces of good news. Mr. Brown thanked the chief for moving the hiring along. Mr. Renshaw said again that manning all the stations is a continuous challenge and that they are addressing that, as he earlier explained. Chair Taylor noted the improvements in that area. Mr. Brown suggested the possibility of breaking the station in slowly using overtime, which Mr. Renshaw said had been considered. He went on to say he favors having the required staffing in place for all 6 stations before opening Hatchville. Mr. Mascali asked Mr. Renshaw to keep the Board apprised of the staffing situation, and thanked Chief Smith for his transparency in providing accurate information.

Approve application for a Change of Hours of an All-Alcoholic Beverages Innholder License – Wagner Hospitality & Management, LLC d/b/a Holiday Inn Falmouth located at 291 Jones Road, Falmouth

Mr. Renshaw introduced the item for the Board, referring to the *Agenda Item Summary Sheet*, Item number and Title: *Business 6 - Approve application for a Change of Hours of an All-Alcoholic Beverages Innholder License – Wagner Hospitality & Management, LLC d/b/a Holiday Inn Falmouth located at 291 Jones Road, Falmouth* in the Select Board packet.

Motion by Mr. Brown: To approve the application for a Change of Hours Second: Mr. Mascali
Vote: Yes – 5 No - 0

Request for variance to Sign Code §184-18, C. Measurement of Sign Area, and §184-25, B.3. Freestanding Signs: Aldi, 39 Davis Straits, Falmouth

Mr. Renshaw introduced the item for the Board, referring to the *Agenda Item Summary Sheet*, Item number and Title: *Business 7 - Request for variance to Sign Code §184-18, C. Measurement of Sign Area, and §184-25, B.3. Freestanding Signs: Aldi, 39 Davis Straits, Falmouth* in the Select Board packet.

Russ Hassmann presented the Board with the modifications he made to the signs based upon the Select Board’s input from the June 3 meeting. He provided information about the illumination of the signs, how much light they emit per color, and that the illumination can be dimmed if necessary. He described the modifications to the signs that sit atop posts in terms of size, the size of the base, and where they are located related to the road and driveway. Internal illumination can be dimmed on these also. There was brief comment about sight lines regarding the placement of these signs and size of the letters necessary for visibility.

Mr. Mascali asked if the building department has reviewed the submitted modifications. Mr. Renshaw said that he did not ask the building department to review the new information. He said the department’s recommendation from June 3 stands on Signs 1 and 2. He said the building department prefers compliance with existing regulations and expressed concerns about possible precedent that this sets.

Mr. Brown said he appreciated the understated size of the wall on the building façade so the Board had given them a little extra in the size of the sign. Mr. Zylinski said his thoughts are still the same about the size of the base of the sign. He said it is a solid piece and presents issues for vehicular and pedestrian traffic right there. He said even though it’s shorter, you still have to see over 4 feet. At this point, Richard Derbes said that MADOT is requiring that the curb cut be narrowed at this location, so the distance from the sign to the curb is supposed to increase. Mr. Hassmann said that line-of-sight is important, and he did not feel that the placement of the signs here would create an issue.

Motion by Mr. Brown: To approve with the caveat that if we get complaints we can revisit and request potential dimming of the lights Second: Mr. Zylinski Vote: Yes – 5 No - 0

Discuss and vote to sign a Home Rule Petition regarding a Real Estate Transfer Fee

Mr. Renshaw introduced the item for the Board, referring to the *Agenda Item Summary Sheet*, Item number and Title: *Business 8 - Discuss and vote to sign a Home Rule Petition regarding a Real Estate Transfer Fee* in the Select Board packet.

Chair Taylor allowed Mr. Garrison to speak. He said he had reviewed the draft and cited 5 items that had been present in other petitions that are not in this one. He then read them aloud from his notes:

1. Distribution by trustees of a trust to beneficiaries of such a trust
2. Transfers to the trustees of a trust in exchange for beneficial interest received by the seller of such a trust

3. Transfers made in partition of land and improvements thereto pursuant to Chapter 241
4. Transfers to a mortgage and foreclosure… (long paragraph, he said.)
5. Transfers consisting of the division of marital assets under the provision of Section 34 of Chapter 208 and other provisions of law

Mr. Garrison said the most important of these exclusions is No. 5 regarding the division of marital assets. He also pointed out a typo in Sec. 5, letter e.

Town Counsel said she had received a copy of these edits. She said she had already consolidated some into one of the exceptions on the proposed draft. She said the phrase "pursuant to a court order" encompasses division of assets in a divorce settlement. She also said she purposely deleted the exception for conveyances among trustees because that exception is a clear loophole to paying the fee. She said she simplified the language, and then said that if the petition draft is accepted, additions can be made later, but none can be deleted. Mr. Mascali agreed that with respect to trusts, there can be loopholes to the transfer fees.

Ms. Goldstone asked how transfers between/among family members differ from transfers to trusts. Town Counsel said that it is one of the accepted exemptions found across communities and was in every example of the many petitions submitted.

Motion by Mr. Mascali: To authorize Town Counsel to take the appropriate action to submit the Home Rule Petition as drafted Second: Chair Taylor Vote: Yes – 5 No - 0

<u>Review of Select Board liaison assignments</u>
Mr. Brown said he had asked Ms. Goldstone if she could take the Beach Committee due to the committee's changing the meeting date. Mr. Brown said he would in turn take the Agricultural Commission. Mr. Mascali has expressed an interest in the Golf Advisory Committee, she said, and she would take on Conservation Commission.

Chair Taylor asked that the Town Manager get a draft out to the Board with the recorded changes.

CONSENT AGENDA

1. Licenses
   a. Approve application for two Special One-Day All Alcoholic Beverages License – Silver Beach Improvement Association to be executed at the tennis courts located at 6 West Avenue, North Falmouth

2. Administrative Orders

   a. Approve Grant of License to Bank of America for the installation of two freestanding signs on town property at 871 Main Street, Falmouth

   b. Accept donation from Cape Cod Baptist Church in the amount of $500.00 to the Police Department donation account

   c. Approve water main easement that will service the Municipal Police Training facility at 71 Tech Park Drive

Motion by Mr. Zylinski: To move the Consent Agenda Second: Mr. Brown Vote: Yes – 5 No - 0

TOWN MANAGER'S SUPPLEMENTAL REPORT
No report this evening.

SELECT BOARD REPORTS
Mr. Brown reported on the following:
- Attended the Traffic Advisory Meeting today

Chair Taylor reported on the following:

- Will be requesting two workshops for the Board this summer – 1) training around relationships and responsibilities with the Town Manager, and 2) schedule a strategic planning this summer. She said a new calendar reflecting these additions will be sent out once the dates are confirmed.

ADJOURN

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

Respectfully submitted
Carole Sutherland, Recording Secretary