TOWN OF FALMOUTH
SELECT BOARD
Open Meeting Minutes
MONDAY, JANUARY 6, 2025 – 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; 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

6:00 p.m. OPEN SESSION
Call to order: By Chair Nancy Taylor

Chair Taylor called for a motion to go into Executive Session to review and consider approval of proposed workers' compensation settlement for a School employee under M.G.L. c.30A s.21(a)(3)

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

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

Chair Taylor said the Board would return to open session at 6:30.

6:00 p.m. EXECUTIVE SESSION

1. M.G.L. c.30A s.21(a)(3) - Review and consider approval of proposed workers' compensation settlement for a School employee

6:30 p.m. OPEN SESSION

Call to Order: By Chair Taylor saying the Board was returning from Executive Session

Pledge of Allegiance: Led by Select Board

Recognition:
Chair Taylor recognized FHS Junior Silas Gartner for winning the MIAA Div. 2 State Championship in cross country, saying he is an incredible runner and offered congratulations from the Select Board.

Mr. Zylinski recognized the retirement of Lt. Sean Doyle form the police dept, thanking him for his 35 years of outstanding service. Mr. Brown and Chair Taylor both spoke warmly about Lt. Doyle and how well attended the event was.

Announcements:
Chair Taylor announced the beginning of the finance committee meetings regarding the FY26 budget on Jan. 8, urging Board members to attend if they have questions or need clarification on any items, and to bring any information or recommendations for consideration back to the Board.

Mr. Mascali announced the Cape Cod Foundation and No Place For Hate – sponsored MLK Day breakfast at the Coonamessett at 9:00.
Mr. Brown announced the Mass Municipal Assn. meeting on January 23, 24, and 25.

Public Comment: None

COMMITTEE INTERVIEWS
Interview and consider a vote to appoint committee member:

Golf Advisory Committee
Darcy Hunter – said he cares about Falmouth, golfing, the FCC – said he golfs a couple times a week – said he's an active member of a group called the Birdie Boys with 32 members – said his wife also golfs and works part time at FCC – said he has been following the unsuccessful RFP – said his wife has had a home in Falmouth for 60 years and they moved here in 2015 and full-time since 2018 – has volunteered with Habitat for Humanity and FHS in the mentoring program – said he's a Newcomer – said he's a successful businessman with management experience

Mr. Brown asked if Mr. Hunter noticed any areas that need improvement at the course. Mr. Hunter noted the replacement of the carts this year, and said off the fairways, the short rough gets "pretty gnarly pretty quick." He said the clubhouse isn't a place where you would stop to get a sandwich.

Ms. Goldstone asked what Mr. Hunter's top motivation is. Mr. Hunter said he and his golfing friends want to play at the best place they can. He said many people care about golfing and want to be engaged in that.

Edward W. Pride – said he plays a lot of golf here and around the Cape – said he notices the courses there are owned by their towns and doesn't think they have a company managing the course – asked if Falmouth should look at running the course ourselves or look at other alternatives to managing the clubhouse – asked about the shed that is never open – said he now lives here year round and wants to be involved in the town – said we have a gem over there – said there are a lot of things to do that no one is doing

Dave Hom – said he has been a resident for 25 years – started playing golf upon retirement – said he wants to make Falmouth a blue zone - said he has made friends through golf membership – said he wants to improve the golfing experience through small things such as a storm warning system at far-out holes to increase safety for golfers – said Falmouth has an opportunity to make this a unique assett – said he works to expand the blue zone concept to the airport in Hyannis.

Mr. Brown asked about additional areas to improve. Mr. Hom said suggested water at different holes and a staff person to move players along faster. He said it's all about improving the experience.

Robert C. Young – said he's a former member of the committee – said he could add input on a new RFP through the committee – said the 20-year operation of the course has been successful – he said there is another 10 years to pay off the bond and the outlook is promising – said he wants to help the Town develop a long-term financial operation – listed areas of success and what needs to be tended to, such as the water damage in the basement area of the clubhouse.

Mr. Mascali asked what might be included in a new RFP. Mr. Young offered specific financial information and action that he would recommend be included to satisfy the bond. Mr. Mascali asked what would happen if the rounds started dropping. Mr. Young did not think this would happen and gave examples of how he thought the numbers of players would increase.

Mr. Brown asked about how much revenue the RFP has asked for and if a 10-year lease might be better. Mr. Young said 10 years would be a nice number to get us through this bonding. He said he was also cognizant of the operator's need to get something, too when thinking about revenue share.

Ms. Goldstone asked about improvements. Mr. Young said cart paths for sure. He said the Town can be proud of its golf course where everything is in top shape. Maybe some bunker work could be used.

Motion by Mr. Zylinski: To appoint Mr. Young to the Golf Advisory Committee to a term ending June 30, 2026. Second: Mr. Mascali

Mr. Mascali thanked all the applicants for their interest and invited them to stay involved. Mr. Brown and Ms. Goldstone added their thanks and appreciation to the applicants.

Vote: Yes – 5 No – 0

Chair Taylor said she would take up the Consent Agenda out of order because it was not yet time to begin the scheduled hearings.

CONSENT AGENDA

1. Licenses
   a. Consider a vote to approve an application for three Special One-Day All Alcoholic Beverages Licenses – Falmouth Theatre Guild for performances of "Picasso at the Lapin Agile" at Highfield Theater, 58 Highfield Drive, Falmouth on January 24, 25 and 26, 2025; January 31, February 1 and 2; and February 7 and 8. Service on Fridays and Saturdays from 6:30 p.m. to 10:00 p.m. Service on Sundays from 1:00 p.m. to 4:30 p.m.

2. Administrative Orders
   a. Consider a vote to accept a donation of a street clock from the DiGiovanni family

   b. Consider a vote to accept a donation in the amount of $500.00 from the Roger & Kathy Marino Foundation to the Falmouth Fire Rescue Department

   c. Consider a vote to accept a donation in the amount of $1,000.00 from Marilyn and Harold March to the Falmouth Fire Rescue Department

   d. Consider a vote to approve a letter of support for the submittal of the Open Space and Recreation Plan to the Massachusetts Division of Conservation Services

   e. Consider a vote to approve the 2025 Seasonal Population Increase Estimation Form for submittal to the Alcoholic Beverages Control Commission

   f. Consider a vote to approve the 2025 Retail Liquor Licenses Renewal Certification for submittal to the Alcoholic Beverages Control Commission

   g. Consider a vote to approve the design and installation of a dedication plaque for former long-time Parks Division employee Harry Hill

Motion by Mr. Zylinski: To approve the Consent Agenda with the exception of Mr. Brown's hold (Administrative Orders 2a) Second: Mr. Mascali Vote: Yes – 5 No – 0

Mr. Brown said he would like clarification of how the clock donation process would roll out and how the options would be determined. Mr. Renshaw said a matte black finish to match existing lamp posts was has been recommended. He said he and staff have been working with the family's attorney regarding other requests. Regarding location, Mr. Renshaw said he is working with DPW; there is a current recommendation for Peg Noonan Park. Mr. Brown asked if the historical commission would weigh in at all. Mr. Renshaw said they would.

Mr. Mascali thanked the DiGiovanni family for their offer. He asked if the design allows for the clock to be repaired quickly. Mr. Renshaw said that talking with DPW, they feel confident that with routine maintenance and upkeep, the clock can be kept running if approved tonight.

Motion by Mr. Brown: To approve Administrative Order 2a - Consider a vote to accept a donation of a street clock from the DiGiovanni family, with thanks Second: Mr. Zylinski Vote: Yes – 5 No - 0

PUBLIC HEARINGS

<u>Fee Hearing – Discuss, consider and vote proposed fee changes for 2025</u>

Mr. Zylinski read out the hearing notice.

Jennifer Lincoln, Conservation administrator, outlined the details of and reasons for the proposed fee changes as contained in the Select Board packet. She said they accurately reflect the time it takes staff to do the necessary work connected with them.

Mr. Brown said the changes were well explained in the packet and were moderate increases.

Ms. Goldstone said the fees appear reasonable and that she appreciates the amount of work it took to review and justify the increases. She said in the future she would like a conversation about criteria used by other departments to determine their specific fee structures.

Mr. Mascali said he appreciated the explanation about the fees and increases and how they were set, as well as the explanations for the increases. He said he fully supports the increases.

Public comment: None

Motion by Mr. Brown: To close the hearing Second: Mr. Zylinski Vote: Yes – 5 No - 0

Motion by Mr. Brown: To approve the Conservation Commission's proposed 2025 fee schedule as presented Second: Mr. Zylinski Vote: Yes – 5 No - 0

<u>Consider a vote to approve an application for the Transfer of an All-Alcoholic Beverages Restaurant License – Kravings Pizza & Ice Cream, LLC d/b/a Simply Divine Pizza Co., 261 Main Street, Unit A</u>
Mr. Zylinski read out the hearing notice.

Leah Lombardi was present.

Mr. Brown said he had gotten his questions answered by the town manager's office earlier. He clarified that Ms. Lombardi would be in attendance full time. A minimum of 40 hours a week, Ms. Lombardi said.

Public comment: None

Motion by Mr. Brown: To close the hearing Second: Mr. Zylinski Vote: Yes – 5 No – 0

Motion by Mr. Brown: To approve the application for the transfer of an all-alcoholic beverages restaurant license – Kravings Pizza & Ice Cream, LLC d/b/a Simply Divine Pizza Co., 261 Main Street, Unit A as presented Second: Mr. Zylinski Vote: Yes – 5 No – 0

<u>Consider a vote to approve an application for two One-Day Entertainment Licenses – Main Street Gallery, 189 Main Street, open mic nights on Thursday, 1/9/25 and Thursday, 1/23/25 from 5:30 p.m. to 8:00 p.m.</u>
Mr. Zylinski read out the hearing notice.

Jim Fox from Main St. Gallery and Real Estate was present. He outlined the details of the application contained in the Select Board packet for open mic night. He said it was something the Town needs and can benefit from. He said it starts early and is over early.

Mr. Mascali thanked Mr. Fox for offering his nice location for events in the past. Chair Taylor said Mr. Fox has been creative in the use of the space. Mr. Fox said it's an old bank building and the acoustics are made for music.

Public comment: None

Motion by Mr. Mascali: To close the hearing Second: Ms. Goldstone Vote: Yes – 5 No – 0

Motion by Mr. Mascali: To approve the application for two one-day entertainment licenses – Main Street Gallery, 189 Main Street, open mic nights on Thursday, January 9, 2025, and Thursday, January 23, 2025, from 5:30 P.M. to 8:00 P.M. as presented Second: Ms. Goldstone Vote: Yes – 5 No - 0

<u>Conduct a public hearing pursuant to M.G.L. c. 138-64, M.G.L. c. 140-183A, Falmouth Alcoholic Beverages Regulation § 16 and Falmouth Entertainment Regulation § 13 to determine if there are violations of the Entertainment License and Licenses to Sell Alcohol issued to Bad Martha's Brewery, LLC located at 876 East Falmouth Highway, East Falmouth</u>
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 4 - Conduct a public hearing pursuant to M.G.L. c. 138-64, M.G.L. c. 140-183A, Falmouth Alcoholic Beverages Regulation § 16 and Falmouth Entertainment Regulation § 13 to determine if there are violations of the Entertainment License and Licenses to Sell Alcohol issued to Bad Martha's Brewery, LLC located at 876 East Falmouth Highway, East Falmouth* in the Select Board packet. Mr. Renshaw said that audio files were included in the complaints, and he wanted the Select Board to hear them.

Mr. Johnson-Staub played the first audio file dated Nov. 17. Mr. Johnson-Staub said the file is a video taken from across the street from the establishment. There is traffic noise and music can be heard in the background. (The. audio file was played twice.). Mr. Renshaw said it was taken from a residence across the street in the 800 block. Mr. Renshaw said the video appears to be from outside the home.

Mr. Johnson-Staub played the second audio file dated August 1. He said in this file you are hearing an individual's voice from the establishment. He played it twice. Mr. Renshaw said the background is a Trivia event.

Mr. Johnson-Staub said the third file is from July 28. The video shows a recording device just inside a screened open window. It was played twice. A decibel reading of the recording registered 50 to 65, Mr. Johnson-Staub said.

Mr. Mascali asked if the sound was coming from indoors or outdoors at Bad Martha's. Mr. Johnson-Staub said he didn't have knowledge of that.

Joshua Flanders, manager on record, was present. Ralph Younger, GM of the Falmouth location was also present, along with Mia Benedetto, the COO of the company. Chair Taylor asked Mr. Flanders how he wanted to address the complaints regarding the noise. He said they were here to listen and to take responsibility if they are in the wrong, and if there are suggestions to move forward in a better way, they will listen to that, too. He said the vast majority of the 400 live events at the brewery have been without issue. He said there have been no issues with the police station. He said they have tried and been successful at operating a responsible business.

Mr. Renshaw outlined the one police incident report that was in the packet. Mr. Renshaw said the officer could hear the music coming from inside the establishment when he rolled his window down in the parking lot.

Ms. Goldstone asked if the events in the audio recordings were indoor or outdoor events. Mr. Flanders said, "I'd wager they were probably outdoor events" because that is where the customers like to sit.

Chair Taylor read aloud the portion of the license related to music, amplification, boundaries of sound, and hours. She asked if there were reported times of the audio music. Mr. Renshaw said that all recorded music times were prior to 6:00 p.m.

Mr. Mascali noted the police officer's report that stated that with windows up, the officer heard music when he was directly in front of the establishment. Mr. Mascali then asked the applicant what he could do to alleviate the problem. Mr. Flanders said they could not schedule a DJ to play because their equipment carries sound farther. He said they could eliminate a location that faces outward toward the road. He said they have already taken measures to address sound and take decibel readings regularly across the street. He noted the sound of the cars on the recordings and compared it to the sound of the music. He said it's hard to have music the customers can hear but the neighbors can't.

Mr. Zylinski asked COO Mia Benedetto if the company has documentation/records of the history of the issue with Falmouth. She said they do. She said she was here to acknowledge the situation and deeply apologize to the Town and to the neighbors for the disturbance they have caused, and to coarse-correct and a find a solution to move forward.

Chair Taylor cited a complaint that said speakers are placed outside the seating area and asked if that is correct. Mr. Flanders said most musicians bring their own speakers for outside performance. He said generally they are placed next to the firepit inside the seating area.

Mr. Brown noted that it was probably not the best plan to build the courtyard out on the street side. He said he thinks the sound bounces off the building when the speakers are directed inward. He said migrating toward the side might be the best long-term solution. For the short-term, he suggested angled partitions to deflect the music inward. Mr. Flanders said they could research sound barriers perhaps to the side and behind the musicians. Mr. Brown cited the example of measures the Cape Cod Winery took to mitigate noise and acknowledged the reality of the problem as documented in the complaints.

Ms. Goldstone noted the same language from the license as Chair Taylor had. She said the music and/or amplification does not seem to be background music, so there is a disconnect there, she said, and supported the idea of physical barriers to mitigate sound. She also contrasted multiple speakers at lower volume versus one highly amplified speaker as another physical mitigation to address the issue.

Mr. Zylinski said many people may have concerns who do not submit written complaint. Mr. Flanders said he understands that. He said, "on the other side of the coin," he interacts with neighbors who enjoy having the business there and even the live music, but he repeated that he understands the concerns. Mr. Zylinski reiterated that this discussion has been repeated a few times.

Mr. Brown asked for a commitment that the business would hold off on the DJs and loud productions and focus more on background music until a plan is in place to mitigate this. Mr. Flanders said they would look into sound barriers and see if they can come up with a good solution.

Public comment: None

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

Mr. Zylinski said he would make a motion that Bad Martha's design and install acoustic barriers both inside and outside the establishment to eliminate the excessive noise as a start, and open to amendments by other Board members.

Added to that, Chair Taylor said she would like to see the applicant come back with a real, concrete plan to address these concerns to keep the entertainment license going as is. She said the business needs to really show, not just say, that they hear the concerns and are doing something about it. She said she thinks the Board needs to "tune it up a little bit."

Mr. Mascali said that Mr. Zylinski's proposed motion might be too specific but agrees that the onus is on the applicant to develop a plan for what needs to be done to solve this issue. He asked what the best way to proceed would be.

Mr. Johnson-Staub, regarding process, said that if the Board wants action on the issue, it could find that there has been a violation of the license and direct the applicant to come back with solutions and continue the hearing to a date certain when the applicant can return with a proposal to mitigate the issue. Chair Taylor asked what happens to the license in the meantime. Mr. Johnson-Staub said because there is no specific solution you would not change the license, although the Board could consider a temporary suspension of the license.

Mr. Brown noted the verbal commitment of the applicant to eliminate the DJ. He said he thought it was a good suggestion to find there is a violation of the license. He said he would support a voluntary commitment from the applicant rather than take away the license. Chair Taylor noted that the Board has been here before and wondered if it was wise to take a verbal commitment of the applicant.

Ms. Goldstone asked Mr. Johnson-Staub and Mr. Renshaw if a deadline could be imposed on the applicant's proposing a mitigation plan following a finding of a violation. She said she is uncomfortable with a verbal commitment and no suspension and no deadline, especially if the license were to be left as is.

Mr. Mascali said he could agree with that. He was hesitant to suspend their license, he said.

Chair Taylor said her concern is that with no action, that it just prolongs it. She said there needs to be something that goes along with the deadline for the mitigation plan. She went on to say that the violation piece needs something beyond a mitigation plan by a date certain.

Mr. Johnson-Staub clarified that in finding a violation and continuing the hearing, implicit is, depending upon what you hear back at that continued hearing, you could then impose a form of discipline open to you.

Mr. Zylinski added that if there continue to be further violations in the interim, it will compound the situation when the applicant comes back.

Regarding the option of continuing the hearing, Town Counsel Maura O'Keefe advised that this hearing should keep this hearing closed and gain the accountability you are looking for by placing a condition on the license as a result of the violation. The condition would be for the applicant to come back periodically to update the Board, which stays attached to the license. She said she had a concern about continuing a hearing for the sole purpose of getting information about compliance.

Mr. Zylinski said he would agree except this is the 3rd or 4th time the Board has dealt with this. He said he understands what Town Counsel is advising process-wise, but said he is tired of having the same discussion with the same set of excuses. He said he does not want to make it punitive, but there should be a date certain where they come back with solutions, finally.

There was brief back-and-forth about whether to open the hearing back up. Consensus was to keep it closed and proceed with conditions on the license. Town Counsel said she thought the applicant has shown willingness to be collaborative and come up with ideas for solutions.

The Board continued to suggest conditions that would become part of the license, the details of which generated brief discussion among them. One of them was to whom the updates would be submitted – the Town Manager or the Select Board – and pros/cons of each method. Another was the length of the deadline – 30 days vs. 6 weeks - and reasons for each.

At this point, Mr. Zylinski proposed the following motion: That the Board require Bad Martha's to design and install acoustic walls, barriers both inside and outside, to eliminate excessive noise, come up with a plan, and report to us every 6 weeks.

There was brief comment following this proposed motion. Mr. Brown said he wasn't sure about instructing them what to build. Mr. Mascali said he agreed with the goal but wasn't sure about the specificity in the first part.

Mr. Renshaw sought clarification on to whom the updates would be submitted – him or the Select Board. Mr. Mascali said the Town Manager. Chair Taylor agreed. She also said she would like to see the license conditioned. One condition would be the removal of the DJ. Another would be to find a violation of the license. Mr. Mascali suggested two motions: one to take care of the violation, and the other to include all that the Board has spoken about.

Motion by Mr. Mascali: That the Board finds that there has been a violation of the entertainment license and licenses to sell alcohol issued to Bad Martha's Brewery, LLC

Town Counsel explained that it was part of the notice, that a violation of an entertainment license can also be a violation of the license to sell alcohol. She recommended that due to the applicant's willingness to work with the Board, that a violation of only the entertainment license should be considered.

Revised motion by Mr. Mascali: That the Select Board make a determination that there has been a violation of the entertainment license issued to Bad Martha's Brewery, LLC on the complaints presented to it

Second: Mr. Zylinski   Vote: Yes – 5   No - 0

Motion by Ms. Goldstone: To add a condition to Bad Martha's entertainment license that they develop a plan for physical sound mitigation and modify programming to eliminate noise violations and provide updates on said plan to the town manager's office every six weeks

Mr. Mascali added, "and to remove the DJ." Ms. Goldstone said that was the "modify programming." Mr. Brown asked if that was adequate language; Town Counsel replied, "That sounds great."

Second: Mr. Zylinski Vote: Yes – 5 No - 0

BUSINESS

Update on lead pipe assessment and discussion on timeline for next steps

Water Superintendent Matt Lanen orally updated the Board on the progress made thus far in the requirement to record the material of each water service line. He used a model of a connection to help illustrate his explanation. He outlined the challenges involved to gather the necessary information, such as 30% of the population not at home year-round and a low return on surveys to gather information. There were some Board questions during the update regarding specifics of the information presented. Mr. Lanen also used screens with maps and graphics during his update. He said Tata and Howard is working with the Town on this project, which encompasses all the villages, with completion expected within 8 years, even though there is a 10-year deadline. He noted the complexity of the project but said they were making great progress.

Mr. Brown said the informational letters can cause confusion. Mr. Lanen agreed but said forms from DEP cannot be altered, only added to.

Ms. Goldstone asked about the low response rate. Mr. Lanen said the instructions are clear but the QR codes do not work with everyone. He outlined other problems connected with getting responses from residents. Ms. Goldstone suggested using young people familiar with QR codes, such as high school students, in the summertime to help with this project. Mr. Lanen said it might work but would require further planning and coordination.

Consider a vote to sign a Statement of Interest (SOI) to the Massachusetts School Building Authority regarding renovations to the Lawrence School authorizing the School Superintendent to submit the SOI

Chair Taylor explained the item, using information from the *Agenda Item Summary Sheet, Business 2* prepared by Mr. Renshaw included in the Select Board packet. She clarified that the vote is only about the Statement of Interest with no discussion about other factors the schools are considering. She said she would limit conversation to what is on the agenda only. It was further clarified that this vote is required by the MSBA.

Lori Duerr, Superintendent of Schools, and Paul Dart, Director of Finance and Operations, both said this vote supports the submission of an application. Mr. Dart said that down the road, the Select Board would again be asked to vote on a proposed project.

Ms. Goldstone asked how many years from this SOI are we from having more specifics of design. Mr. Dart provided a general timeline that included application submission through architectural design, vote on project cost, final architectural design, and construction, all of which would take until 2032. The two votes would be in 2026 and 2028.

Mr. Mascali asked what the next step is after the SOI is signed. Mr. Dart said the SOI questionnaire will be completed, a thorough building assessment will be done, classroom components will be assessed, and the firm conducting those assessments will make the case to the MSBA why the building needs renovation.

Chair Taylor then clarified that what the MSBA is doing with the Lawrence School is not the same type of assessment that the Town will be conducting on all municipal buildings. Mr. Dart said that the MSBA looks for community support, which the SOI addresses.

Mr. Mascali wondered if this vote is something that is best taken tonight or if consideration of or reflection on input/communication from residents should be considered before the Board decides to go forward.

Chair Taylor said the vote gets the Town into the queue, and delaying two more weeks could interrupt the timeline for the district. Ms. Goldstone asked if, in terms of timeline, there is a deadline for submitting the SOI. Mr. Dart said the hard deadline is April 12, and the internal deadline is March 31.

Mr. Mascali asked how much time is needed to gather the information to submit by March 31. Mr. Dart said the application itself is very extensive. Superintendent Duerr said it would take 2 months to get the information together. She added that there is no guarantee of getting accepted in the first round, and it might take several years to get accepted. This just puts us in the queue earlier, she said, and would signal that Falmouth is interested.

Mr. Brown asked about the process working with the MSBA. It was made clear that the Town pays out of pocket for the building assessment. The $2M funding, part MSBA and part Town, would come once the Town was accepted into the project – that's where they come in to help, Mr. Dart said. Mr. Brown further asked if the Town would be committing to a project without knowing the ultimate cost. Mr. Dart said during the time of the schematic design of the building, the costs become clearer, but those costs are not known now. Mr. Brown asked if the Town is committing to a process that locks us in. Dr. Duerr said renovation costs will be known after the assessment stage, and that there are many points at which the Town can say it's too much and we can't do it.

Public comment:
Paul Kirk – said he understands that the letter does not lock us into anything – stated his apprehension with the current leadership of the project and the leadership of the school system going into this – said he needed to express his concern moving forward based on how everything else has gone.

Raquel Russell – asked who is paying for the assessment that will be conducted and how the funds, $132,000, were procured.

Mr. Dart said that last April the Town voted half a million dollars for the assessment of all municipal buildings, and $132K of that fund will be used for this. Mr. Renshaw said that the school buildings were always going to be part of the comprehensive general evaluation. He said the Lawrence School was not specifically considered when seeking the $500K in the article but restated that the schools in general were always to be included in the Comprehensive Building Condition Index Study. Mr. Johnson-Staub added that after the $500K estimate was arrived at, we refined the quotes received and found we could do everything we planned to do, as well as the $132K for the Lawrence School, within the $500K. He said nothing in the planned scope was eliminated to accommodate this.

Motion by Mr. Zylinski: To approve the Statement of Interest as presented
Second: Mr. Brown   Vote: Yes – 5   No – 0

Update and discussion concerning the establishment of a Licensing Commission
Town Counsel Maura O'Keefe updated the Board on the process of establishing a licensing commission. She referred to two documents in the Select Board packet – a draft home rule petition, saying she still needed more information from the Board, and a chart with examples from other towns that have created such commissions. She also used a map of the commonwealth showing total licenses per municipality. She provided information on criteria for licensing in general and some variations between criteria for cities vs towns. She said Falmouth has a special act that allows it to issue as many licenses as it deems fit for the public good, resulting in a disproportionate number of licenses it issues compared to other towns. She outlined what is being proposed in the home rule petition, including which licenses the commission might cover and which might be retained by the Select Board.

Atty. O'Keefe asked for feedback on two points: 1) Does the Select Board want to pursue this? 2) What licenses does it want to retain and what does it want to move to the commission?

Questions from the Board:
Mr. Brown: Would roadways and public lands remain under the Select Board? Atty. O'Keefe said that is a different kind of license because it involves the use of Town property by someone else for private use.

Chair Taylor: Do any of the cities have just the liquor licenses under their licensing commissions? Atty. O'Keefe said that in her experience in Newton, its licensing commission just did alcohol and CVs and entertainment. She said that is something Falmouth could do. Special acts are malleable.

Mr. Mascali: If we went with the act, would there be a way for the Select Board to handle appeals rather than the applicant having to go to the superior court? This prompted a brief discussion about what would be allowed to any license holder for appealing a decision. Atty. O'Keefe said there could be a middle tier where any decision by the local licensing commission gets appealed to the Select Board, then the ABCC, and then to the superior court. Mr. Mascali was questioning whether the Select Board could retain some ability to reverse what the licensing commission had done before the applicant went to the superior court. Atty. O'Keefe said she thought it could, but inserting the Select Board back into the process dampens the authority of the quasi-judicial board that the commission would be and almost negates the purpose of doing this in the first place.

Mr. Mascali: Would the commission make and adopt its own rules and regulations, or would the Select Board have some control over that? Atty. O'Keefe said that if there is a desire for the Board to remain involved in licensing, that they be subject to approval by the Board. She also said that if you're going to create a licensing board, you should give them the power to regulate themselves. She said appointees could be those with a deeper level of understanding about the industry.

Ms. Goldstone: What is Hawker Peddler, and why is that one of the two licenses recommended to be retained by the Select Board? Atty. O'Keefe said it is an incredibly arcane license with "moving parts" that she is still doing research on.

Ms. Goldstone to fellow Board members: Why delegate alcohol and common victualler and keep things like entertainment, innholder, and car dealerships? She said some businesses are affected by zoning considerations. One she would consider keeping is special events where we think of ways to use space not covered by zoning. Mr. Zylinski said this is all amendable as we go, so we could do a partial rollout and amend as needed. Atty. O'Keefe said a partial rollout could be alcohol, entertainment, and CVs and add things later, but the state could say no. She said the more concrete at the outset, the better. She said she was also considering adding a provision that includes language such as "any other licenses established by bylaw."

Mr. Brown: Will additional staff be required to handle this new entity we are creating? Atty. O'Keefe said the admin work won't increase. There won't be more licenses. The change would be it won't be on your agenda. The real work, she said, would be some ramp-up training and her attendance at their meetings for a period of time. Other comment mentioned that it would necessitate another meeting to be managed and a set of minutes, although it would be streamlined because that is all the commission would do.

Mr. Mascali asked what the time frame is for this item moving forward because of all the questions that exist. Mr. Renshaw said Jan. 27 is the target to vote, but no action tonight. Atty. O'Keefe said she was not asking that the. petition be approved on Jan. 27. Whatever would go on the warrant would be to authorize the Select Board to submit the petition. In the meantime, it could be worked on and submitted whenever the Board wished, whether a year or 6 months from now. Or the Board could decide not to submit it at all. Chair Taylor said that the Charter Review Committee has recommended this twice and the Board owes them the respect to look at it and consider it carefully.

Mr. Brown said he would be okay with the liquor, entertainment, and common victualler, and retain the rest. Chair Taylor said she would as well. She said they could move this to the 27th to decide if we want to create a warrant article, to authorize the submission of a petition, and go from there. Mr. Mascali said the details of the actual petition need more discussion, but there is time to do that because the vote doesn't go stale.

<u>Consider a vote to approve an application for a Class II Used Car Dealer License – Hickey Autos, Inc. d/b/a Executive Auto, 118 East Falmouth Highway, East Falmouth</u>

Mr. Renshaw orally reviewed the item for the Board, referring to the *Agenda Item Summary Sheet*, Item number and Title: *Business 4 - Consider a vote to approve an application for a Class II Used Car Dealer License – Hickey Autos, Inc. d/b/a Executive Auto, 118 East Falmouth Highway, East Falmouth* in the Select Board packet. He recommended approval. He said the reason the item is on the agenda tonight is that the applicant missed the renewal deadline.

Mr. Zylinski said the applicant is under a special permit issued in 1996, amended in 2001, granting a license to display 16 vehicles with some other findings and conditions. He said he visited the site and saw more than 60 vehicles on the property, at least 50 unregistered. He said he would ask the Board to continue this item. Mr. Mascali noted that the applicant is not present to explain the situation. Mr. Zylinski urged the Town Manager to "instruct his code enforcement, someone who can do research on it, to make sure he is in compliance." He said there are issues that need to be addressed before we can make a decision.

Chair Taylor agreed that the item should be tabled and brought back another time.

Consider a vote to approve sending a letter to the Massachusetts Department of Transportation requesting that the Department relocate and make ADA-Compliant the existing pedestrian crosswalk across Route 28A at Old Dock Road as recommended in the 2023 Road Safety Audit

Mr. Renshaw orally reviewed the item for the Board, referring to the *Agenda Item Summary Sheet*, Item number and Title: *Business 5 - Consider a vote to approve sending a letter to the Massachusetts Department of Transportation requesting that the Department relocate and make ADA-Compliant the existing pedestrian crosswalk across Route 28A at Old Dock Road as recommended in the 2023 Road Safety Audit* in the Select Board packet. He recommended approval.

Motion by Chair Taylor: To direct the Town Manager's office to work with the town engineer and DPW to draft and submit a letter to MassDOT's District 5 Office stating that immediate action should be taken to install an ADA-compliant crosswalk in a location north of the West Falmouth Market driveway, and that the crosswalk be accompanied by a pedestrian-operated blinking light making it abundantly clear to drivers when pedestrians are crossing the road Second: Mr. Brown

Mr. Mascali asked for clarification about where the crosswalk would exist once relocated. Mr. Renshaw said it would be relocated to an area where engineers determined there was greater visibility and fewer accessibility and vehicle encroachment concerns.

Vote: Yes – 5 No - 0

MINUTES

Review and Vote to Approve Minutes of Meetings

a. Public Session – July 29, 2024; August 26, 2024; September 23, 2024; December 2, 2024

Ms. Goldstone said she would abstain from voting on the Dec. 2, 2024, minutes.

Motion by Chair Taylor: To approve minutes from July 29, August 26, Sept. 23, 2024
Second: Mr. Zylinski Vote: Yes – 5 No – 0

Motion by Mr. Brown: To approve minutes from Dec. 2, 2024
Second: Mr. Zylinski Vote: Yes – 4 No – 0 Abstain – 1 (Ms. Goldstone)

TOWN MANAGER'S SUPPLEMENTAL REPORT

Mr. Renshaw provided an update to the Board on communication with MassDOT regarding reduction of speed limits on sections of Locust Street and Woods Hole Road. Board members referred to written information provided to them by Mr. Renshaw. He said he did receive a response from the state traffic engineer that they denied the petition. Town Counsel said there is no recourse.

SELECT BOARD REPORTS

Chair Taylor reported on the following:

- That she will be stepping off the Board as of May and will notify the town clerk in writing prior to Feb. 10.

Mr. Brown reported on the following:

- Attended the Surf Drive nourishment study

ADJOURN

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

Respectfully submitted,
Carole Sutherland, Recording Secretary