

TOWN OF FALMOUTH
SELECT BOARD
MONDAY, MARCH 28, 2022 – 6:30 P.M.
SELECT BOARD MEETING ROOM TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

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

Present: Douglas C. Brown, Chair; Sam Patterson; Nancy Robbins Taylor; Onjalé Scott Price; Megan English Braga

Others present: Julian Suso, Town Manager; Peter Johnson-Staub, Assistant Town Manager; Maura O’Keefe, Town Counsel

6:30 p.m. - OPEN SESSION

EXECUTIVE SESSION:

1. M.G.L. Ch.30A s.21(a)(3) and s.21(a)(6) – To consider, with potential vote, the value of Mayflower Wind Electric Cable easements and to discuss strategy, with potential vote, regarding pending regulatory litigation before the Energy Facilities Siting Board for Mayflower Wind, EFSB 21-03/D.P.U. 21-142 & 21-143.
2. M.G.L. Ch. 30A s. 21(a)(3) – To discuss offer and settlement of disputed demolition lien on property at 630 Waquoit Highway and imminent litigation.
3. M.G.L. Ch. 30A s.21(a)(3) – Discuss and vote to authorize the Town Manager or Town Counsel to execute the Massachusetts State-Subdivision Agreement for Statewide Opioid Settlements with Attorney General.

Motion by Mr. Brown: To enter into Executive Session per M.G.L. Ch.30A s.21(a)(3) - To consider, with potential vote, the value of Mayflower Wind Electric Cable easements and to discuss strategy, with potential vote, regarding pending regulatory litigation before the Energy Facilities Siting Board for Mayflower Wind, EFSB 21-03/D.P.U. 21-142 & 21-143 and s.21(a)(6); and M.G.L. Ch.30A s.21(a)(3) and s.21(a)(6) - To discuss offer and settlement of disputed demolition lien on property at 630 Waquoit Highway and imminent litigation and Discuss and vote to authorize the Town Manager or Town Counsel to execute the Massachusetts State-Subdivision Agreement for Statewide Opioid Settlements with Attorney General. Second: Mr. Patterson.

Roll Call Vote: Brown – aye; Patterson – aye; Taylor – aye; English Braga – aye; Scott Price – aye; Yes – 5 No – 0

7:00 p.m. - OPEN SESSION

Call to Order: By Chair Brown at 7:00 p.m.

Pledge of Allegiance: Led by Select Board

Recognition: Ms. Scott Price recognized Diane Davidson and Phyllis Downey in the Town Manager's Office for their work. Mr. Brown recognized all of the volunteers gathering items to send to Ukraine.

Announcements: Mr. Brown noted that he resigned from the Assembly of Delegates this week.

Public Comment:

Barb Schneider noted that the Beach Committee serves in an advisory capacity to the Select Board and the Committee has heard concerns regarding beach staffing for the summer. The Committee is working in partnership to the Beach Department on this item. Also, on Saturday an Eagle Scout candidate placed an osprey pole. It is hoped that Eversource brings in deterrents to keep the birds away from their poles shortly.

Dave Moriarty asked for an opportunity to personally speak with Mayflower Wind and asked that the company come to Falmouth and present the project to citizens.

Dianna Mota stated that the Town needs to do something for the children. She suggested pairing students with people in recovery.

Marc Finneran stated that the invitation only process undertaken by the Fire Station Building Committee did not meet the original purpose of the group. This group has become more of an invitation only staff meeting to which he was not invited. While he supports a Fire Station in Hatchville, he cannot support the process or product, as they were manipulated by Town Manager Suso and staff. He resigned from the Committee.

Mr. Suso objected to the public attack that just occurred at a public meeting, most of which was based on false statements.

Affirm appointment of Beach Superintendent

Motion by Ms. Scott Price: To affirm the appointment of Maggie Clayton, Beach Superintendent.

Second: Mr. Patterson.

Vote: Yes – 5 No – 0

TOWN MANAGER'S PRELIMINARY REPORT

Mr. Suso reviewed the four public hearings that the Select Board will conduct this evening, along with a number of the Business agenda items.

PUBLIC HEARINGS

1. Vote to Establish and Adopt Rules and Regulations for Vessels (Watercraft) on Town Property **(15 minutes)**

Ms. English Braga read the public hearing notice.

Gregg Fraser, Harbor Master, explained that these regulations were based on review of similar nearby communities. This includes a provision allowing for mooring or a dock based on information submitted to his Office.

Don Silvia stated that he has had a mooring since the 1980s and has had his dinghy stolen many times. He stated that the screwing device mentioned in the regulations is not a good idea.

Joe Netto stated that almost 100% of the west side of Great Bay is Town property. The new regulations would be a requirement in this area.

Motion by Ms. English Braga: To close the hearing.

Second: Ms. Scott Price.

Vote: Yes – 5 No – 0

Motion by Mr. Patterson: To approve the update to the vessel on Town property, with minor edits.

Second: Ms. English Braga.

Vote: Yes – 5 No – 0

2. Wetlands/Dock Hearing – Adamo and Carol Rufo – to reconstruct a permitted pier, ramp and float in the waters of Eel Pond located at 139 Edgewater Drive West, East Falmouth **(15 minutes)**

Ms. English Braga read the public hearing notice.

Mike Borselli, Falmouth Engineering, stated that he previously received permission from the Board to apply to the Conservation Commission as the dock in question crosses a salt marsh under the ownership of the Town of Falmouth. At that time, the Board authorized him to apply to the Conservation Commission and the Commission issued an approval in the form of an Order of Conditions, allowing the dock to be reconstructed on the property. There is currently a dock on the property and has been one for decades. It has the benefits of permits through DEP. There is a mandate to convert the permit to a Chapter 91 license, leading to the opportunity to repair the dock. The existing dock is a low profile dock, just above the salt marsh. The new dock will be elevated such that shading will be eliminated. The elevated profile provides for public access under the dock and also provides for shading to be mitigated. The new dock will be fitted with decking that allows for sunlight penetration. The dock is designed to be within the same footprint and alignment as the existing dock.

Mr. Brown asked about projection of the dock into the waterway. Mr. Borselli stated that this will be a bit tight, with a projection over water of 12' and the distance to salt marsh edge of approximately 120'. The proposal was reviewed by the Harbor Master. There is some congestion in this area of the pond, but there will be access between the two docks for access to the channel.

There was no public comment at this time.

Motion by Ms. English Braga: To close the hearing.

Second: Ms. Taylor.

Vote: Yes – 5 No – 0

Motion by Mr. Patterson: To approve the application, with the Conservation Commission conditions.

Second: Ms. English Braga.

Vote: Yes – 5 No – 0

3. Wetlands/Dock Hearing – Jay Rao – to reconstruct a dock in the waters of Wing Pond located at 124 North Falmouth Highway, North Falmouth **(15 minutes)**

Ms. English Braga read the public hearing notice.

Mr. Borselli explained that the proposal is to rebuild an existing dock. The property has the benefit of a significant water frontage on Wing Pond and there is an existing small dock currently in place. The owner has applied for permission to rebuild the dock to make it more usable for passive recreational purposes. This will not be used for any type of motor craft. This application has been reviewed by Conservation Commission, and they issued a favorable Order of Conditions to allow this to proceed, if approved by the Select Board, with the State Chapter 91 licensing process.

There was no public comment at this time.

Motion by Ms. English Braga: To close the hearing.

Second: Ms. Scott Price.

Vote: Yes – 5 No – 0

Motion by Ms. Scott Price: To approve the application, with the Conservation Commission conditions.

Second: Mr. Patterson.

Vote: Yes – 5 No – 0

4. Application for a New All Alcoholic Beverages Common Victualler License – Tiger Ramen, Inc. d/b/a Tiger Ramen located at 587 Main Street, Falmouth **(10 minutes)**

Ms. English Braga read the public hearing notice.

Molly Wilson, owner of Water Street Kitchen, explained that she is making plans to open a new ramen restaurant on Main Street and is seeking to apply for a new liquor license.

Robert Dugan explained that he lives across the street from this property but never received notice about this hearing. He noted that the current parking for the site is extremely limited. There was signage required for the parking, but this was recently removed. He asked about hours

of operation for the outdoor seating area. Mr. Suso stated that he would review the notice issue for this item.

Motion by Ms. English Braga: To postpone the vote on this item to April 4, 2022.

Second: Ms. Scott Price.

Vote: Yes – 5 No – 0

BUSINESS

1. Discuss and vote new Solid Waste Advisory Committee mission statement (10 minutes)

Alan Robinson, Chair of the Solid Waste Advisory Committee, presented the new mission statement to the Board.

Motion by Ms. Taylor: To approve the new Solid Waste Advisory Committee mission statement.

Second: Ms. English Braga.

Vote: Yes – 5 No – 0

2. Discussion on request for expansion of Emerald House Community Garden (10 minutes)

Joe Netto, Emerald House Committee, explained that some people seem confused by the use of this parcel. He asked that the Board protect this land and, with it, the Portuguese heritage of the Town.

Pam Wolfe-Schumacher, Emerald House Garden Committee, explained this expansion would allow adding approximately 18 new plots. There is a strong demand for gardening plots at this time. There has been a waiting list for plots in past years.

Motion by Ms. Scott Price: To approve conditional upon this being revokable if there is a change in usage.

Second: Mr. Patterson.

Vote: Yes – 5 No – 0

3. Report to Select Board on Embarkation Fund (10 minutes)

Mr. Suso explained that responses to three specific inquiries received from the Inspector General's Office were drafted and are available for review.

Ms. Taylor stated that she finds it unconscionable that this complaint was filed by one of the Town committee's chairpersons. She sees this as a mark not only against the Town Manager and the Director of Finance but also against the Board who oversees them. She is offended by this complaint.

Motion by Ms. Scott Price: To allow Mr. Suso to transmit the report as presented to the Inspector General's Office.

Second: Mr. Patterson.

Vote: Yes – 5 No – 0

4. Vote to affirm direction on historic horse trough water fountains **(10 minutes)**

The Board discussed the proposal.

Motion by Ms. Taylor: To approve the recommendation to have one historic horse fountain remain at the entrance of the Water Treatment Facility and have the second horse fountain relocated to another location in Town to be affirmed by the Board at a future date.

Second: Ms. Scott Price.

Vote: Yes – 5 No – 0

5. Follow up discussion on fire station staffing policy **(10 minutes)**

The Board reviewed the draft policy.

Ms. Taylor stated that she believes the policy should be broader. The Board should not direct the Chief as to how many people should be hired.

Motion by Ms. Taylor: To approve Ms. English Braga's policy, as presented.

Second: Mr. Patterson.

Vote: Yes – 5 No – 0

6. Vote questions for ballot for May municipal election relative to debt exclusions for Sandwich Road fire station and wastewater treatment plant projects **(15 minutes)**

The Board reviewed the language for the proposed debt exclusion question for the ballot.

Motion by Ms. Taylor: To place the language on the ballot as presented.

Second: Mr. Patterson.

Vote: Yes – 5 No – 0

7. Vote questions for ballot for May municipal election relative to five Falmouth Home Rule Charter amendments proposed by the November 15, 2021, Annual Town Meeting **(15 minutes)**

The Board reviewed the language for the proposed Home Rule Charter amendments question for the ballot.

Motion by Mr. Patterson: To place the language for the first item on the ballot.

Second: Ms. Taylor.

Vote: Yes – 5 No – 0

Motion by Ms. Taylor: To place the language for the second item on the ballot.

Second: Mr. Patterson.

Vote: Yes – 5 No – 0

Motion by Ms. Taylor: To place the language for the third item on the ballot.

Second: Mr. Patterson.

Vote: Yes – 5 No – 0

Motion by Ms. Taylor: To place the language for the fourth item on the ballot.

Second: Mr. Patterson.

Vote: Yes – 5 No – 0

Motion by Mr. Patterson: To place the language for the fifth item on the ballot.

Second: Ms. Taylor.

Vote: Yes – 5 No – 0

8. Respond to petition by Ivan Valiela and others for non-binding advisory question on ballot for May 2022 annual town election re: disposal of nuclear waste in Cape Cod Bay **(10 minutes)**

The Board reviewed the language for the proposed non-binding advisory question for the ballot. Mr. Brown noted that the agenda incorrectly named Ivan Valiela as the petitioner, but this was actually submitted by Diane Turco and Catherine Bumpus.

Motion by Ms. Taylor: To place the language on the ballot as presented.

Second: Mr. Patterson.

Vote: Yes – 5 No – 0

9. Licenses

- a. Approve application for a Change of Manager of an all Alcoholic Beverages Common Victualler License – Water Street Kitchen, located at 56 Water Street, Woods Hole **(5 minutes)**

The Board reviewed the application.

Motion by Ms. English Braga: To approve the application.

Second: Mr. Patterson.

Vote: Yes – 5 No – 0

- b. Approve application for a Change of Manager of an all Alcoholic Beverages Common Victualler License – Quicks Hole Tavern, located at 29 Railroad Avenue, Woods Hole **(5 minutes)**

The Board reviewed the application.

Motion by Mr. Patterson: To approve the application.

Second: Ms. English Braga.

Vote: Yes – 5 No – 0

CONSENT AGENDA

1. Licenses

- a. Approve application to amend the Entertainment License and Sunday Entertainment License – Shipwrecked, LLC dba Shipwrecked, 263 Grand Avenue, Falmouth

There was discussion regarding the proposed Entertainment License and concerns expressed by the public.

The Board agreed to table discussion on this topic until later in the meeting.

2. SEASONAL ALL ALCOHOL COMMON VICTUALLER LICENSE

Falmouth Pier 37 Boathouse, 88 Scranton Avenue
Falmouth Raw Bar, 56 Scranton Avenue
Landfall Restaurant, 9 Luscombe Avenue
Quicks Hole Taqueria, 28 Water Street, Unit C
Shuckers, 91A Water Street
The Woods Hole Wharf, 71 Water Street

SEASONAL ALL ALCOHOL CLUB LICENSE

Seacoast Shore Association, 7 Farview Lane

LODGING HOUSE LICENSE

Frederick William House, 594 Palmer Avenue
Inn on the Square, 40 North Main Street
Woods Hole Inn, 28 Water Street, Unit D

SECOND-HAND DEALER LICENSE

Cash Point, 348 East Falmouth Highway
Home Again, 93 East Falmouth Highway
Hope Restored, 75 County Road
St. Vincent DePaul Thrift Shop, 18A Davisville Road
Trendy Tots, 426 Main Street

SEASONAL COMMON VICTUALLER LICENSE

Eulinda's, 634 West Falmouth Highway
Falmouth Pier 37 Boathouse, 88 Scranton Avenue
Falmouth Raw Bar, 56 Scranton Avenue
Jim's Clam Shack, 227 Clinton Avenue
Landfall Restaurant, 9 Luscombe Avenue
Quicks Hole Taqueria, 28 Water Street, Unit C
Seacoast Shore Association, 7 Farview Lane
Shuckers, 91A Water Street
The Village Café of West Falmouth, 634 West Falmouth Highway
The Woods Hole Wharf, 71 Water Street

ENTERTAINMENT LICENSE

Falmouth Raw Bar, 56 Scranton Avenue
Landfall Restaurant, 9 Luscombe Avenue
Quicks Hole Taqueria, 28 Water Street, Unit C
Shuckers, 91A Water Street
Seacoast Shore Association, 7 Farview Lane
The Woods Hole Wharf, 71 Water Street

SUNDAY ENTERTAINMENT LICENSE

Falmouth Raw Bar, 56 Scranton Avenue
Landfall Restaurant, 9 Luscombe Avenue
Quicks Hole Taqueria, 28 Water Street, Unit C
Seacoast Shore Association, 7 Farview Lane
Shuckers, 91A Water Street
The Woods Hole Wharf, 71 Water Street

Motion by Ms. English Braga: To approve the licenses.

Second: Mr. Patterson.

Vote: Yes – 5 No – 0

3. Review and Vote to Approve Minutes of Meetings:

- a. Public Session – March 9, 2022
- b. Executive Session – February 28, 2022 (1, 2 and 3); March 9, 2022, and March 14, 2022

Motion by Mr. Patterson: To approve the meeting minutes of March 9, 2022, as presented.

Second: Ms. English Braga.

Vote: Yes – 5 No – 0

The Board agreed to table discussion on the Executive Session minutes to a future meeting.

TOWN MANAGER’S SUPPLEMENTAL REPORT

- The Board's next meeting will be a traditional brief meeting convening just before the onset of Town Meeting Monday April 4th.
- There are 38 Town Meeting articles to be acted upon, including the \$146.7M annual operating budget for FY23.
- He has been attending Town Precinct meetings and will continue to do so in the coming week.
- He welcomed the new IT Director Dawn Lewis.

1. Licenses

- a. Approve application to amend the Entertainment License and Sunday Entertainment License – Shipwrecked, LLC dba Shipwrecked, 263 Grand Avenue, Falmouth

The Board retook this item at this time.

Mr. Brown stated that someone expressed concern that there is already loud amplified music going on at the venue.

Ms. Scott Price stated that the Board has received many concerns, and she suggested a trial period or temporary license to attempt the amplified music and see how nearby residents feel.

Rob Loewen, General Manager – Shipwrecked, stated that there have been solo and duet acts from 3pm-6pm Saturday and Sunday afternoons. Sometimes these acts have had speakers. Mr. Brown stated that he believes the Board previously placed an acoustic-only restriction on the venue. Mr. Loewen stated that he has had some acts that will not come play without amplification.

Dave Buzanoski, 32 Lucerne Avenue, stated that amplification itself does not necessarily mean a loud volume. There are many variables. The general manager previously suggested inward facing speakers to help with the noise. There needs to be a policy set that people can adhere to.

Ms. English Braga agreed that there needs to be a set of standards dealing with the level of noise and not with the amplification itself.

Mr. Patterson stated that the issue is how to enforce any regulations on this item. It is incumbent upon management to control complaints from neighbors.

Lorraine Luchner, 15 Pennsylvania Avenue, stated that her house is two properties away from Shipwrecked. The amplification outdoors for the Road Race was so loud that she had to leave her house. She has called to complain, but this depends on who one reaches each time. It is unclear why the amplified music cannot only be inside.

John Hackett stated that he is an abutter to the Shipwrecked property. He is concerned with the volume of the noise. The outside acoustic performances can be heard from his house. He should be able to have quiet at his property. This business becomes similar to a nightclub some evenings. He asked the Board to continue the same restrictions on the license as currently exists. He has complained to the owner, but the noise issue has not been resolved.

Ms. Scott Price asked how the Board is defining ‘amplification.’ Mr. Brown stated that he believed the Board previously only allowed for acoustic music, which he thought was without any amplification.

Paula Lichter stated that she does not believe a trial period would work. She expressed concerns with the Town Manager’s memo on this topic. Music should be background noise and easily spoken over.

Marc Finneran stated that he did not understand why the Board originally placed the restrictions on this property, as it seemed unprecedented.

Kevin Klauer, representing the applicant, explained that this property is zoned Business, and a business is occurring on the property, with residences nearby. This type of use has occurred on

the property for the past 45-60 years. There needs to be a give and take on both sides. Amplification, in and of itself, is not the issue. The issue is volume, and the owner can address this by limiting and monitoring the volume. The owner is trying to provide beachfront dining with some amplified acoustical music in the background. The owner wants to be a good neighbor while also running a successful business.

Mr. Johnson-Staub suggested that the Board consider some limitations, while noting that hearings can be held at any time throughout the period of the license due to complaints.

The Board discussed potential parameters, including no music noise past the property line, entertainment for no longer than three hours, entertainment allowed for Friday-Monday each week, and the other parameters which were previously in the license.

Motion by Mr. Patterson: To approve the application with the proposed parameters.

Second: Ms. Scott Price.

Vote: Yes – 5 No – 0

SELECT BOARD REPORTS

- Ms. Scott Price stated that there will be a community narcotics training for community members to be educated on the opioid crisis and overdoses.
- Ms. Scott Price stated that she and Ms. English Braga participated in the Students for Social and Environmental Justice group at Falmouth Academy.
- Ms. Scott Price stated that she would like to have a joint Select Board and Affordable Housing Committee meeting, preferably before June 1st.
- Mr. Patterson stated that he attended the Cape and Islands Municipal Leaders Association Board meeting on Friday which was a brainstorming session for future agenda items.
- Ms. Scott Price stated that she would like to hear from someone regarding how to obtain more engagement from the community in local elections.

DISCUSSION OF FUTURE AGENDA ITEMS

As discussed during the meeting.

ADJOURN

Motion by Ms. English Braga: To adjourn at 11:46pm. Second: Mr. Patterson

Vote: Yes – 5 No – 0

Respectfully submitted,
Kristan Patenaude, Recording Secretary