<u>TOWN OF FALMOUTH</u>
<u>SELECT BOARD</u>
AGENDA
WEDNESDAY, FEBRUARY 25, 2026 – 6:30 P.M.
OLD SILVER/SURF DRIVE PROGRAM ROOM
SENIOR CENTER
780 MAIN STREET, 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: Robert P. Mascali, Chair; Heather M. H. Goldstone, Vice Chair; Douglas C. Brown; Colin W. Reed
Absent: Jack Richardson
Others present: Mike Renshaw, Town Manager; Peter Johnson-Staub, Assistant Town Manger; Maura O'Keefe, Town Counsel

1. OPEN SESSION

<u>Call to Order:</u> By Chair Robert P. Mascali at 6:30 p.m.

<u>Pledge of Allegiance</u>: Led by Select Board

<u>Recognition:</u> Mr. Mascali recognized Mr. Renshaw, Mr. Johnson-Staub, and others at the emergency operations center dealing with the effects of the recent storm. Also, those round-the-clock workers who worked tirelessly through the storm.

Dr. Goldstone recognized the School District staff and volunteers who have been helping with the warming center. Also, World Central Kitchen, Pink Door Catering, and Cape Cod Collaborative for the meals brought to the warming center. Recognition is due to all residents who have checked on neighbors, helped clear driveways, and other acts of kindness in response to the storm.

<u>Announcements:</u> Mr. Mascali announced that in considering whether to hold a Board meeting tonight and after consultation with the Town Manager and Assistant Town Manager, it was determined that a number of items were time sensitive and need to be addressed this evening. Various committee reports will be heard at a future date, and Business Items d., e., h., and i. will be heard at the March 9th meeting.

<u>Public Comment:</u> None at this time.

<u>Consider a vote to affirm the appointment of the Fire Chief</u>

Mr. Renshaw explained that a total of 35 applications were received and screened, and four candidates ultimately were selected to move to the final resident panel interview and assessment phase conducted on January 9 and January 10, respectively. Following the very thorough recruitment and evaluation process, staff is extremely pleased to bring forward Mr. Jeff Lewis for affirmation as Fire Chief. Chief Lewis brings more than 31 years of progressive full-time fire service experience, including extensive leadership in firefighting and emergency medical services, fire suppression and inspections, emergency management, technical rescue, and large-scale disaster response. He currently serves as a Battalion Chief with the Fairfax County Fire and Rescue Department, a 39-station department with approximately 1500 total personnel that is one of the largest and most highly regarded combination fire-rescue systems in the country. As Mr. Lewis currently resides out of state, the request is that the Board waive the Department Head residency requirement for his appointment, as stated in Article V, Section 4 of the Town Charter. Mr. Lewis will seek to relocate to Falmouth, contingent upon the Board's approval of his appointment.

Motion by Mr. Brown: To approve and affirm the appointment of Jeffrey Lewis as the Town's Fire Chief. Second: Dr. Goldstone.
Vote: Yes – 4 No – 0

Motion by Mr. Brown: To waive the residency requirement for Jeffrey Lewis, understanding this is temporary in nature. Second: Dr. Goldstone.
Vote: Yes – 4 No – 0

2. CONSENT AGENDA

a. Licenses

1) Consider a vote to approve an application from Historic Highfield, Inc. located at 56 Highfield Drive, Falmouth for two, Special One-Day Wine and Malt Liquor Licenses for Falmouth Jazz Concerts on Sunday, March 1, 2026 and Sunday, May 3, 2026

b. Administrative Orders

1) Consider a vote to approve the petition of NSTAR Electric Company d/b/a Eversource Energy and Verizon New England, Inc. for permission to install 1 (one) new JO pole to be labeled 108/73 approximately 135' (feet) from 108/72. This work is necessary to provide electric service to 481 Quaker Rd in North Falmouth.

2) Consider a vote to approve a request from the Police Department to expend funds from the D.A.R.E. grant donations account (28-210-5210-5780) in the amount of $3005.05 for the purpose of purchasing items to collaborate with the children of the Town of Falmouth and Falmouth Public Schools

3) ~~Consider a request from the 250th Anniversary Task Force for a variance to Sign Code §184-7: Placement and §184-32: Off-Premises Signs to hang banners containing quotes related to the American Revolution and with information on the Falmouth Historical Society's exhibition on the American Revolution on poles on Main Street~~

This item was held for further discussion at a future meeting.

~~4) Consider a vote to approve a request from Falmouth Commodores Baseball Club for a variance to Sign Code §184-7: Placement and §184-~~

~~32: Off-Premises Signs to hang Falmouth Commodores flags on the light poles on Main Street~~

This item was held for further discussion at a future meeting.

5) Consider a vote to approve a request from St. Barnabas Church for a variance to Sign Code §184-30C: Special Events for the display of temporary promotional signs in excess of the number of days permitted, and in excess of 32 square feet on the property at 91 Main Street
6) Consider a request from Falmouth Farmers Market for a variance to Sign Code §184-32: Off-Premises Signs for 13 yard signs and Sign Code §184-30C: Special Events for a banner at Mullen-Hall School for the Falmouth Farmers' Winter Market on Sundays until March 29, 2026
7) Consider a request from the Falmouth Fireworks Committee for a variance to Sign Code §184-30C: Special Events to hang a temporary banner at the South end of Falmouth Heights ball field for the 4th of July Fireworks
8) Consider a request from the Coastal Resilience Specialist to apply for a grant under the FY27 Municipal Preparedness Vulnerability Program (MVP) Action Grant for Water Main Resilience
9) Consider a request from the Falmouth Fire Rescue Department to apply for the FY2026 Firefighter Safety Equipment Grant
10) Consider a request from the Falmouth Fire Rescue Department to apply for the FY2026 Student Awareness of Fire Education (S.A.F.E.) and Senior S.A.F.E. grant

Motion by Dr. Goldstone: To approve the Consent Agenda, aside from Administrative Order Items #3 and #4, as presented. Second: Mr. Brown.
Vote: Yes – 4 No – 0

3. PUBLIC HEARINGS - 6:45 PM

a. Discuss and consider a vote to approve a request from Aanjes and Hollis Hershfield of Devour Artisan Eatery for a variance to the Flow Neutral Bylaw for a proposed increase in seating of the restaurant at 352 Main Street, Unit 3 (parcel ID 38A 09 004 000A)

The Board opened the public hearing at 6:55 p.m.

Mr. Renshaw explained that a building permit application has been submitted to renovate Devour Artisan Eatery at 352 Main Street, requiring review under the Flow Neutral Bylaw. The property is within an existing sewer service area, and the existing building on the property is connected to the municipal sewer system. The applicants propose to increase the seating of their restaurant from 12 seats to 45 seats in order to enhance the economic viability of the business. The Wastewater Superintendent and the Health Agent on behalf of the Board of Health have reviewed this request and submitted memos. The proposed increase in seating requires a flow neutral bylaw variance because it would increase peak wastewater from the parcel by more than 10%. The proposed redevelopment would increase peak (Title 5) wastewater flow from the parcel by 1155 gallons per day (gpd). Sufficient capacity currently exists for this redevelopment. There is 80,230 gpd of (average annual) permitted discharge capacity remaining for flow increases from by-right development and from flow neutral bylaw variances, until additional discharge capacity becomes available. The outfall discharge is projected to be available by 2032.

Mr. Mascali asked if there is a certain number of seats that would be a break even number for the restaurant, in case the Board does not approve the full request. Aanjes Hershfield, Devour Artisan Eatery, stated that she would be open to a consideration of a lower number. She noted that she plans to expand the evening hours, but the occupancy during the day will remain the same.

Mr. Reed noted that, without any forecasting, the Board should support small businesses looking to expand to diversify sources of income. Dr. Goldstone agreed. This will be an additional option for dinner hours on Main Street.

There was no public comment at this time.

Motion by Mr. Reed: To close the public hearing. Second: Mr. Brown.
Vote: Yes – 4 No – 0

Motion by Mr. Reed: To grant a Flow Neutral Bylaw variance for a peak (Title 5) flow increase from the property of 1,155 gpd. Second: Dr. Goldstone.
Vote: Yes – 4 No – 0

6. TOWN MANAGER'S SUPPLEMENTAL REPORT: *(The Board addressed this item at this time)*

- Mr. Renshaw provided an update on the past 72 hours of the winter storm. The high winds stretched the Town's response resources thinly. DPW crews began plowing immediately but there was a point on Monday where visibility conditions dropped so significantly that it was difficult to maneuver the plow trucks. Eversource's response was good. More advanced staging would be helpful in the future. The Town dealt with many downed power lines through Monday night which slowed the response phase. There were issues with facility generators, especially the one at the Gifford Street water treatment plant. Eversource brought a large generator to help with this. Requests have been made to the State for additional plow crews. He thanked the Barnstable County Sheriff for additional resources sent. The Town's initial response phase includes opening and clearing of the main arterial roadways, then focusing on the secondary collector roads, and then the residential streets. As of 5:00 PM, the Town had approximately 68% of its 400 miles of road plowed for a first pass. Eversource is working diligently on their end to repair power to the Town. He recommended that residents subscribe to the RAVE alert system to receive real time updates via text.

4. BUSINESS

f. 8:15 PM - Vote article recommendations for the April 2026 Town Meeting (25 minutes) *(The Board addressed this item at this time)*

Mr. Mascali explained that he requested amendments to the Short-Term Rental Bylaw Article 17 as the language in the packet was slightly at odds to what he had previously suggested. He read the proposed, revised language from Section 13, "The Board of Health or designee is authorized to implement this bylaw including adopting policies and procedures for the administration and enforcement of the short-term rental licenses and to effectuate the purpose of this bylaw . The Board of Health is authorized to promulgate written rules and regulations, subject to approval by the Select Board."

Mr. Brown stated that he received an e-mail from one of the Short-Term Rental Bylaw Committee members after the last Board meeting. He stated that he may have been in error when he voted in support of adding the revised language about the authorization of the Select Board, as the Committee voted to support the suggested language as long as Town Counsel was okay with it. Their vote was contingent on that approval. Mr. Mascali noted that, which the Committee suggested that the language was contingent upon Counsel's approval, it is a decision of the Select Board and not a decision of Counsel as to whether or not the Board wants to adopt the language for Article 17. Mr. Brown stated that it is important to respect the vote of the Committee, and the Board seems to be overruling that.

The Board reviewed Articles 4, 15, and 16, with no questions or revisions proposed.

The Board reviewed Article 17. Mr. Reed asked for information regarding the intent behind the most recently received revision. Mr. Mascali stated that, from the beginning, he asked that the Select Board retain some authority with respect to the rules and regulations, which is consistent with what the town of Nantucket included in its bylaw. It appears that the language he suggested caused some concern that the Select Board was trying to have concurrent authority with or administrative oversight over the Board of Health, which it is not. With respect to the rules and regulations for this bylaw, the Select Board needs to have authority. The intent of this change is to further the understanding that the Select Board has nothing to do with the administration, the oversight, or the concurrent authority of the Board of Health. The Select Board is retaining the right to approve written rules and regulations which it would like to adopt. This is different than policies and procedures.

Mr. Reed asked the differences between rules and regulations and policies and procedures. Mr. Mascali stated that policies and procedures are used to administer the bylaw, whereas rules and regulations are more substantive and impactful. Allowing the Board of Health to have an unfettered ability to adopt rules and regulations without the Select Board's input and approval is a ceding of the Select Board's authority that he is not comfortable with.

Mr. Brown stated that he does not believe the Select Board does not have the authority to intervene. The Select Board could have a hand in reviewing the bylaw but not managing it. The proposed language seems to be in conflict with the reality of the process. It seems unfair to use the Short-Term Rental Bylaw Committee's work over the years to test a theory regarding ceding of the Select Board's authority.

Dr. Goldstone stated that she does not support the proposed change in language. There are other provisions in the draft bylaw which she expressed personal disagreement with. She stated that this is a new draft of the bylaw, but the Board has already voted the Warrant. The Board's job this evening is to vote a recommendation with the amended language, or as originally printed, or to recommend indefinite postponement. Mr. Mascali stated that he and Mr. Johnson-Staub stated that they believed this would be the best way to deal with a possible amendment.

Mr. Brown asked how this amended language will improve the proposed bylaw. Mr. Mascali stated that the first draft seemed to give the Select Board authority to approve policies and procedures. There was concern that this would lead to the Select Board improperly trying to have concurrent authority with, and administrative oversight of, the Board of Health. The amended language looks to dispel that and explain that the Select Board should have the ability to approve rules and regulations that the Board of Health would then adopt. The Attorney General's Office approved Nantucket's bylaw which includes that regulations shall be adopted by the Board of Health, subject to the Select Board approval. This is what Falmouth should pursue as well. The options for this Article are to indefinitely postpone it, approve it as printed, or approve the amended version.

Dr. Goldstone stated that this is not the first time the Board has been well down the path of putting something in front of Town Meeting while being misaligned on it. When the Committee first drafted this bylaw, it was with a preface that their research found the problem was not as urgent as originally thought. Mr. Brown stated that other towns did not find the bylaw to have as much of an impact on affordable housing as may have been hoped. People are also seeking management of short-term rentals in Town. Dr. Goldstone stated that this bylaw would not have any impact on affordable housing. It is intended to regulate the behavior and safety of short-term rentals and ensure they are not a nuisance. These items are within the purview of the Board of Health. It is unclear why the Select Board needs to be involved in that. There does not need to be Select Board oversight of the process.

Mr. Mascali stated that this language has nothing to do with oversight. This provides that the Select Board will have the authority to approve any rules and regulations promulgated by the Board of Health in this matter. There is no intent for oversight.

Mr. Reed stated that any kind of approval is an oversight. He asked how the Select Board has historically provided input to commissions and/or bodies that create rules and regulations. Mr. Mascali stated that there is not a current standard operating procedure for this.

Mr. Johnson-Staub noted that an approval of the language as printed would include Select Board approval for everything. The amendment suggested by Mr. Mascali has narrowed the role of the Select Board for approval within the bylaw.

Ms. Lowell suggested that the Board of Health alert the Select Board when there are any proposed changes to the rules and regulations, allowing for potential comment.

Elizabeth Klein, Precinct 6 Town Meeting Member and member of the Short-Term Rental Bylaw Committee, suggested that the Board recommend a variation of the amended language, by striking the language, "…subject to approval by the Select Board." This part of Section 13 would then read, "The Board of Health or designee is authorized to implement this bylaw. The Board of

Health is authorized to promulgate written rules, regulations, policies, and procedures for the administration and enforcement of short-term rental licenses and to effectuate the purpose of this bylaw."

Mr. Brown agreed with the amended language.

Motion by Dr. Goldstone: That the Select Board vote a recommendation that the Town vote Article 17, amended to strike the phrase, "…subject to approval by the Select Board," from Section 13. Second: Mr. Brown.
Vote: Yes – 3 No - 1

The Board reviewed Articles 18, 19, 20, 21, 22, with no questions or revisions proposed.

Mr. Brown addressed Article 23 and suggested looking into land that could be used for a swap. This could be the loss of an opportunity. Dr. Goldstone stated that it appears this land is already protected and this request is to codify that. Mr. Reed stated that he believes time is of the essence in this matter.

Motion by Dr. Goldstone: To approve the April 2026 Annual Town Meeting article recommendations, as submitted, for Articles 4, 15, 16, 18, 19, 20, 21, 22, 23, 24, and 25, with the exception of Article 17. Second: Mr. Reed.

Discussion:
The Board discussed the proposed Indefinite Postponement recommendation for Article 25.

Vote: Yes – 4 No – 0

g. 8:40 PM - Discuss and consider an appointment to the Cape Cod & Islands Water Protection Fund (10 minutes) *(The Board addressed this item at this time)*

Mr. Renshaw explained that Assistant Town Manager Peter Johnson-Staub has served as the Falmouth representative to the management board since its inception in 2018 and serves on the Bylaws and Regulations subcommittee of the management board. He noted that Mr. Johnson-Staub would be pleased to continue to serve if that is the pleasure of the Select Board. The Board could also consider a Board member as a representative.

Motion by Mr. Reed: To appoint Assistant Town Manager Peter Johnson-Staub as the Falmouth representative to the Cape Cod and Islands Water Protection Fund management board for a term ending October 24, 2028. Second: Mr. Brown.
Vote: Yes – 4 No - 0

The remaining Business agenda items were deferred to the next meeting.

a. 7:00 PM - Update report from the Falmouth Municipal Light Board (15 minutes)
b. 7:15 PM - Report - Conservation Commission (15 minutes)

c. 7:30 PM - Update and annual report from the Taskforce on Workers and Families (15 minutes)
d. 7:45 PM - Consider the request from Lillian Kazanis of New England Festivals for a waiver of the special event permit fee for the Harbor Light Illumination Concert Series & Artisan Market being held at Marina Park on Saturdays, 7/4, 7/11, 7/18, 8/8, 8/15 and 8/22/26 (5 minutes)
e. 7:50 PM - Residential Tax Exemption follow-up discussion (25 minutes)
h. 8:50 PM - Discuss MA Department of Environmental Protection (DEP) wastewater discharge permit for the Easterly project at 375 Sandwich Road (10 minutes)
i. 9:00 PM - Discuss the revisions to the Select Board FY23-FY27 Strategic Plan (15 minutes)

5. MINUTES - 9:15 PM

a. Review and consider a vote to approve minutes of meetings: January 28, 2026

The Board agreed to table review of the minutes to a future meeting.

7. SELECT BOARD REPORTS: None at this time.

8. FUTURE AGENDA ITEMS

- Discuss correspondence and media inquiry policies
- LGBTQ+ Sanctuary Town
- Discuss walkability improvements
- Hear an update and discuss the Joint Base Cape Cod Master Planning Process
- Discuss current Town website functionality and potential redesign
- Discuss 10-year spending on consultant fees
- Debt forecast discussion with Finance Committee
- Discuss petitioning the State Legislature for changes to Chapter 40B law
- Discuss the need for a municipal building inventory and review of current/planned uses
- Discuss the adoption of an Artificial Intelligence (AI) Use Policy
- Update on Eversource Falmouth Tap Expansion Project on Sam Turner Road
- Discuss adding a third monthly Select Board workshop meeting targeting specific topics
- Meeting with new Steamship Authority General Manager Alex Kryska

9. ADJOURN

Motion by Mr. Reed: To adjourn at 8:13pm. Second: Mr. Brown.
Vote: Yes – 4 No - 0

Respectfully submitted,
Kristan Patenaude, Recording Secretary