

**TOWN OF FALMOUTH**  
**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**MONDAY, AUGUST 5, 2019**  
**SELECTMEN'S MEETING ROOM**  
**TOWN HALL**  
**59 TOWN HALL SQUARE, FALMOUTH, MA 02540**

Present: Megan English Braga, Chair; Mr. Brown, Vice Chair; Susan Moran; Doug Jones arrived at 7:45 p.m.  
Absent: Sam Patterson.

Others Present: Julian Suso, Town Manager; Peter Johnson-Staub, Assistant Town Manager.

1. **Call to Order by Chair English Braga at 6:30 p.m. and motioned to convene the executive session under M.G.L. c.30A s.21(a)(3) – Smyth v. Falmouth Conservation Commission – consider plaintiff's request for extension to file appeal because to not go into executive session could prejudice ongoing negotiations. Doug Jones seconded the motion. It was followed by a unanimous roll call vote in Open Session to go into Executive Session for the purpose of discussing the above listed item and return to Open Session after discussion. Roll call vote: Mr. Brown, aye; Chair English Braga, aye; Ms. Moran, aye; Mr. Jones, aye. Absent: Mr. Patterson.**

2. Chair English Braga reconvened the open session at 7 p.m.

3. Pledge of Allegiance

4. Proclamation: Katharine Lee Bates 160<sup>th</sup> Birthday  
Chair English Braga read the proclamation as a motion. Second Ms. Moran. Vote: Yes-3. No-0. Absent-2.

5. Recognition  
Mr. Brown acknowledged Kelly O'Neil, the lifeguard who was involved in a recent life saving incident.

Bruce Mogardo, Beach Superintendent, thanked the BOS and Town Manager for acknowledging what they do in the summer.

Amanda Clayton, staff guard, recognized Kelly and Owen and Robert involved in the rescue. Described the incident on July 7.

Kelly and Owen addressed the BOS, happy Mr. Congdon is okay.

Mr. Congdon addressed the BOS said that Kelly was paying attention, doing what she should do, responded quickly. Thanked all involved.

Bruce introduced the training staff for lifeguards.

Chair English Braga commented these young men and women are doing what they are supposed to do, paying attention to what is going on in the water. This is a life-changing event and they are out there every day being preventative.

6. Announcements  
Mr. Brown noted tomorrow night the Historical Commission will begin their presentation on proposed changes at the Civil Defense Room in Town hall, other meetings will occur throughout August and in September.

7. Public Comment

Bill Zammer, 220 Scranton Ave, owner Flying Bridge, this past Saturday band concert at bandshell and it was known that about 500 people would be attracted. No provisions for parking or shuttle service. Congestion unfair to businesses, residents, boaters, it was a mess. Why would the permit

application be granted? An event of this size had no business being permitted there. He had to hire people to defend their parking lots. They roped off the area and were charging \$20 to get in, how is this possible in a public park? He would like the BOS to look at future events.

Joe Strazula, 12 Old Dock Rd., informed the BOS there is still a line for waiting at Chappy Beach and not adequate parking. He has heard no resolution to the problem he brought up a month ago. Who will inform the public of the resolution and the timeframe. What is the plan to resolve the issues for those waiting to park to get into the beach.

8. Introduce Irie Mullin as Associate Town Counsel  
Mr. Suso introduced Atty. Mullin to the position, succeeding Pat Harris.

Atty. Mullin happy to accept the position here and thanked for the opportunity.

## **7:15 p.m. SUMMARY OF ACTIONS**

### 1. Licenses

- a. Application for Special One-Day Wine & Malt Liquor License – Woods Hole Historical Museum – Oyster Talk & Tasting, 579 Woods Hole Road – Friday, August 23, 2019  
Debby Stanley described the event. Chair English Braga noted area designated for the consumption.

**Ms. Moran motion approval. Second Mr. Brown. Vote: Yes-3. No-0. Absent-2.**

- b. Application for Special One-Day Wine & Malt Liquor License – Historic Highfield, Inc. – Bluegrass on the Lawn – 56 Highfield Drive – Sunday, August 11, 2019  
**Ms. Moran motion approval. Second Mr. Brown. Vote: Yes-3. No-0. Absent-2.**
- c. Application for Special One-Day Wine & Malt Liquor License - Historic Highfield, Inc. – Holidays at Highfield-Members Preview – 56 Highfield Drive – Tuesday, November 26, 2019  
**Ms. Moran motion approval. Second Mr. Brown. Vote: Yes-3. No-0. Absent-2.**
- d. Application for New Second-Hand Dealer License – Kara McGrath, Located at Home Again Consignment Shop, 94 East Falmouth Highway, East Falmouth

Kara McGrath addressed the BOS will have assortment second hand and vintage items for sale.

**Ms. Moran motion approval. Second Mr. Brown. Vote: Yes-3. No-0. Absent-2.**

- e. Application for New Common Victualler License – Devour, located at 352 Main Street, Falmouth  
The applicant told the BOS they will be opening the end of this week.

**Ms. Moran motion approval. Second Mr. Brown. Vote: Yes-3. No-0. Absent-2.**

### 2. Administrative Orders

- a. Vote to Exercise the Right of First Refusal for 42 Mill Farm Way, Unit 7 and assign said property to the Falmouth Housing Trust

Carla Feroni, Falmouth Housing Coordinator, single family home and received notification that the home is going into foreclosure and required of affordable housing restriction that lender notify the Town to purchase or find an eligible purchaser. Letter of interest from Falmouth Housing Trust who want to purchase the property and selling it to an eligible purchaser. She asked the BOS to assign the right to purchase the property to the Falmouth Housing Trust.

Ms. Moran asked what happens with mortgage if it is in default. Ms. Feroni said the lender can only foreclose and accept a price at auction equal to the remaining balance of the mortgage. Under this proposal. Falmouth Housing Trust would place new deed restriction so it would remain affordable in perpetuity. Falmouth Housing Trust will pay the mortgage in full, unknown amount at this time.

**Mr. Brown motion approval. Second Ms. Moran. Vote: Yes-3. No-0. Absent-2.**

- b. Notice of Naming Request: Request for Plaque at Taft Playground, Woods Hole. Per Naming Policy, Board will consider action after August 5, 2020.

Barbara Morris, Woods Hole, asked permission to put small plaque on rock in the playground. Woods Hole built this 30 years ago and named after her son who was hit by a car.

Mr. Suso noted it may not have officially been named. Chair English Braga suggested starting tolling if needed now, take a look to see if it went through the official process yet.

- c. Vote to Accept Donation in the Amount of \$500.00 from the Teaticket Civic Association to the Veterans Donation Account

**Ms. Moran motion approval. Second Mr. Brown. Vote: Yes-3. No-0. Absent-2.**

- d. Vote to Approve Expenditure in the Amount of \$500.00 from the Beach Department Donation Account for Life Guard Awards Night

**Ms. Moran motion approval. Second Mr. Brown. Vote: Yes-3. No-0. Absent-2.**

- e. Approve Community Preservation Committee (CPC) Applications – Various Sources

- 1) Affirm Public Works Application for CPC Funding for design, North Falmouth Bikeway Extension

Ray Jack provided a PowerPoint presentation of the application to extend the last segment of the bikeway. 10-12' bike path County Road to the Town Line and includes the County Road parking lot. Will work with Bourne to coordinate their Phase IV section. Bourne is working on phase 1 of 4 phases. Designing and permitting those two sections. Full design for application \$694,000, construction 5.4 million by MA DOT. This will be ADA accessible. Future total of bike path from canal to Vineyard Sound is 18 miles and primary purpose is recreation and commuters.

Proposed to pave the parking lot, they may be able to enhance the parking lot.

**Mr. Brown motion to affirm. Second Ms. Moran. Vote: Yes-3. No-0. Absent-2.**

- 2) Approve Recreation Department Application for CPC Funding to Rehabilitate the North Falmouth Tennis Courts

Joe Olenick, Recreation Director, provided a PowerPoint presentation. Nye Park, in very poor condition. Daily complaints about use, some conflicts have become heated and physical. The repair 4 years ago did not work. Pictures were reviewed. Only issue with the project is the cost will be about \$429,000. This will separate tennis and pickle ball. They will not need to worry about the condition for many years if they do this project.

Reviewed the tennis courts around Town. FHS courts are in poor condition as well.

**Mr. Brown motion approval. Second Ms. Moran. Vote: Yes-4. No-0. Absent-1.**

- 3) Approve Conservation Department and The 300 Committee Application for CPC Funding for Invasive Species Management at the Little Pond Conservation Area

Jennifer McKay noted they are completing their master plan that was delayed when they found the oil tank present. Phase 1 would be invasive species mgt program, site is heavily infested, estimated to cost \$400,000. Seeking additional quotes.

The treatment is a 3 year treatment program. Spotted nap weed and Japanese knot weed, the money is to do the job and install roof barriers. They will look at outreach.

This is phase 1.

**Mr. Jones motion approval. Second Ms. Moran. Vote: Yes-4. No-0. Absent-1.**

- 4) Approve Edward Marks Building Advisory Committee Application for CPC Funding to issue a RFP requesting responses from professional preservationists to develop a "Historic Structures Report" for the building

Barbara Weyand, Chair Advisory Committee, she noted a draft RFP was provided to the BOS. She also provided a word document to give context for the RFP. They have been meeting since 7/10/19. This will help to provide foundation for future thinking, phasing, and provides the Town with a blue print for going forward over a longer period of time and leave behind a cohesive report. This is the oldest municipal building in Falmouth and owe it respect and a place in our local history. The RFP would issue after positive vote in Spring 2020 Town Meeting.

Mr. Suso explained that the Planning Department would be the sponsor that oversees the procurement. The Town is supportive of this proposal and will make sure department resources are planned so if granted, it can occur within a reasonable amount of time.

**Mr. Brown motion approval. Second Ms. Moran. Vote: Yes-4. No-0. Absent-1.**

- 5) Approve Commission on Disabilities Application for CPC Funding for Design Funding for an Inclusive Play Space and Park at 67 and 81 Davisville Road

Chair English Braga noted Chair Katherine Haynes is not going forward with this request at this time.

- 6) Approve Recreation Department Application for CPC Funding for the GUV Fuller Field Rehabilitation 2 Project

Joe Olenick is seeking approval for \$149,000 for this project. Issues need to be corrected, no one bid on the last part of the project.

**Mr. Brown motion approval. Second Ms. Moran. Vote: Yes-4. No-0. Absent-1.**

#### **7:45 p.m. PUBLIC HEARINGS**

1. Wetland Hearing – Robert Sperry – Construct a fixed pier that will extend approximately 92 feet beyond mean high water into Eel Pond, located at 134 Antlers Shore Drive, East Falmouth

Chair English Braga read the hearing notice.

Chair English Braga noted the BOS needs a fourth member of the BOS, Mr. Jones will be back by about 7:45 p.m.

**Mr. Brown motion to table this item until Mr. Jones returns. Second Chair English Braga. Vote: Yes-3. No-0. Absent-2.**

Michael Borselli, Falmouth Engineering, representing the applicant and requests to reconstruct an existing licensed dock at the property. His understanding is that all 4 votes are needed for this to move forward, he asked to reserve the right to withdraw without prejudice if it does not look like there will be an approval.

Mr. Borselli made a PowerPoint presentation and described the residential property with drawing. In 1995 the BOS granted a special permit for the existing pier when the owner was going through amnesty program. They also received a negative determination from the Conservation Commission in 1995. The current pier is substandard, difficult to tie at the end, water shallow, close to the common north boundary. Walkway low profile over the salt marsh, dilapidated and unsafe. Conversations were had with Conservation Commission staff and proceeded with application which included shellfish survey included in the BOS packet and no significant viable shellfish habitat in this area. Review by the Conservation Commission, proposed pier shifted to center of lot, has a T at the end so the boat will tie parallel to shore in deeper water than current pier. Other improvements, pier will be elevated 6 feet above the marsh, flow through decking, constructed using auguring method of pilings instead of excavated so less impact to the salt marsh. Public access provided. Vast improvement over what exists.

Mr. Jones noted 3 feet standard for depth of water for a new dock. For the applicant to hit the 3 feet mark, they would have to go farther out and impact the navigation and violate the Army Corps of Engineer's

mandate of 25% coverage. Boat will be typical of smaller recreational boats with outboard engines that can trim up, likely about 20-26'. Mr. Jones is more comfortable to limit to size with tip up engine because it will be in 1.5 feet water at low tide. The existing dock is 7' off the property line at this time.

Public comment: none.

**Mr. Jones motion close hearing. Second Ms. Moran. Vote: Yes-4. No-0. Absent-1.**

The BOS made the following findings: 1. It is an improvement because it is on the property line, deeper water, and current pier dangerous, light penetrating decking is an improvement. 2. Shellfish warden and harbor master found no negative affect of navigation/shellfish. 3. The boat size will be limited to a 26' with tilt engine to minimize damage to the bottom.

**Mr. Jones motion approval with findings and conditions. Second Mr. Brown. Vote: Yes-4. No-0. Absent-1.**

## 7:45 p.m. BUSINESS

### 1. Report – Historical Commission

Ed Haddad, Chair, updated the BOS what they are doing. Reviewed membership.

Documented design guidelines initiated in 2012, continue to update as new things come up. There are changes in materials and what people need for their homes. Historic and non-historic homes allows flexibly, different window types, solar panes, fiberglass doors, extruded PVC deck rails, fencing, synthetic decking, and non-traditional new construction. This shows the commission's flexibility and adaptability.

Streamlined the approval process, 92 applications received in 2018, 66 approved administratively and 26 public hearings conducted.

Demolition Delay Bylaw Change: successful in changing the delay period from 6 to 12 months.

List of Significant Buildings, buildings outside the historic district. Current list includes about 650 properties, required for the demolition delay bylaw, almost 300 potential new additions as a result of the historic inventory survey.

If there is a demolition delay of a property because on the list, people can ask for demo to be waived.

Historic Inventory Survey completed in 2018, total # of pre 1965 buildings is 3,800.

There is a proposal to adjust Existing Historic District Boundaries, bylaw boundaries are arbitrary setbacks of 100, 150, 200'. Their proposal does not add any properties to the historic district, 126 properties will be removed.

Advertised Public Outreach meetings: 3 Town Hall, 1 West Falmouth, 1 Woods Hole, and 1 Library. Brochures will be mailed to all addresses in historic districts.

Ms. Moran noted no properties will be added, where there is a line, a property could be part of a house or part of a barn that is going to be added. Will properties be grandfathered? No, once bylaw changes, it becomes effective June 2020. This will more likely reflect what the national register of historic property looks like.

This could affect the accessory bylaw.

Woods Hole Historic District reviewed, outreach will be conducted.

Historic District Markers, designate each of the 7 historic districts, road signs, coordinated with DPW. Asked Mr. Jack the status of this job and the Historical Commission will bring it forward if the DPW does not.

2. Presentation by Consultant on Updated, Final Report on Upper Cape Towns' Collaborative Wastewater Analysis with Joint Base Cape Cod

Ed Leonard, Wright Pearce, conducted consulting studies, this is the final update on the original study presented 18 months ago. Following this presentation, shortly after place report on the Town website.

Ed Leonard, Project Manager, Wright Pierce, presentation on outcome of the project. Regional contact was reviewed, many costal estuaries had problems with nutrients. Shared Wastewater management study participants include 4 upper cape towns, the base, and MA Development. They looked at what a regional solution would look like. The conclusion is that it made sense to pursue it further. The second grant addressed key issues, including F1 Disposal project. Conclusion from the effort is that if the Towns need what they say they need, need a much more significant system. There is plenty of land to build a treatment plant, but if they cannot get the F1 disposal, not viable for more than one town.

Key conclusions were reviewed including: limited land for conventional land based disposal, four effluent disposal options were found to be technically feasible and allowed under MGL, continue to plan for rapid infiltration, wicks and/or Cape Cod Canal discharge. Consider effluent reuse where proactive, defer consideration of DEP well injection into the future, workshop held in May 2019, which was attended by regulators. DEP indicated their support in a letter issued in May 2019.

Alternatives Analysis completed and reviewed the plan. Estimated costs were reviewed along with the cost effectiveness.

This is a complicated project, it will require a concerted and multi-track effort from federal, state, and local government officials focused on implementation action items; likely an 8-10 year project. Towns need to decide whether they want to be involved and foster the project.

Ms. Moran noted it sounds like the base has not said they will allow their land to be used, but spent a lot of money and time assuming they would. Mr. Leonard said they are interested in divesting themselves of the existing infrastructure. That is the key issue, how to get rid of the highly treated effluent.

The outflow will be highly treated effluent is the kind not put in the water before, it makes the water not quite drinkable but close. Water similar to what is treated at the Blacksmith Shop Road at this time.

The report will be on the website by the end of this week.

3. Review/Discuss William Hollow Road abandoned house

Mr. Suso said the BOS has summary memo by Mr. Johnson Staub that summarizes the concepts. A recent Town Meeting approved funds to demolish a long vacant property on this town water supply reserve of 88 acres. Mike Duffany inquired about an alternative for this vacant single family home.

Mr. Johnson Staub made a PowerPoint presentation. This property acquired in 1987 for municipal purposes/water, it is known as Baker House, less than 1,000 sq. feet. Interior gutted and needs rehab. This is not a great location for affordable housing, single unit on unpaved private road, and not convenient to services. The priority in Housing Needs assessment is when target new construction of new housing it's 85% rental and 15% single family. Trying to put high priority on rental housing. For those reasons it was staff recommendation to stick with the original plan to demolish the structure. Not opposed to relocating the structure to someone's property.

Ray Jack addressed the water resource issues, noted the Crooked Pond water treatment building is near this location. His concern is not this house, there are few places to meet the future with. Only other areas are Long Pond Area, this location, additional sites will be needed in the future. Our water resources are limited as to where we will go and difficult to meet the continual demands in the future. Existing wells may need to be replaced.

Mike Duffany, Pattee Rd., E Falmouth, provided pictures to the BOS. The foundation stonework, garage, patio, are all in good condition. The house is a nuisance, kids have gutted the house, broken the windows, when he went in the house was dry in the rain. It is a two bedroom house with a fireplace. It is a

preexisting house, 12 houses approved on 2 acres of land, this is not a big impact to the area. He contacted Falmouth Housing Trust and would probably want to speak to it. He is asking to take a pause and see what can be done. It may cost about \$250,000 to put this into service. Would need disposition of the house to be done. It is a private road, the Town plows that road. His interest is seeing the preservation of this house and being involved with the Falmouth Housing Trust.

Mr. Brown noted emails have been received from neighbors that this has been a nuisance.

Tom Weaver, lives on the road and provided pictures of the house to the BOS. Built early 1900's. the house is far from amenities, subject to power outages, and the access road is poor. Environmental issues because of proximity to Crooked Pond. It's ¼ mile from Sam Turner Rd., 8 houses total on this road. Neighborhood maintains its roads and divide cost equally. School Bus stops at end of Pond View Drive. No public transportation, nearest convenience store 3 miles away. Abandoned since 1986. He thinks it is a bad location for affordable housing.

Chair English Braga noted that down the road is affordable housing development that has been there for a long time. The bigger challenge to her is the price point, what the Town will get for a shell and given the small size concerns her more than other issues mentioned.

Mr. Brown noted the bigger concern is the zone 2 designation and municipal well.

Patti Drolet, Board of Falmouth Housing Trust, reminded people that 15% of what we're trying to do is home ownership. Most recent home on Deer Pond is indication of what can be done, it is workforce homeownership housing. They would like to get another home built for someone else, cost is not prohibitive to them, and confident they can get this done.

Joanne O'Sullivan, President Falmouth Housing Trust, if this parcel was in remote part of town and family wanted to restore it, would they be refused a building permit because of its location. Demolishing is easy, but suggesting and willing to undertake a project that would take time and resources.

Mr. Brown asked if you could build a house on a zone 2 watershed, he does not think a permit would issue.

Ray Jack noted you could get a building permit, likely special conditions would be required.

Mr. Weaver noted not objecting to family living there, what he is concerned about is who will pay for road and power? Will the Town maintain road, power, and trees along the road?

Mr. Johnson Staub said the Falmouth Housing Trust does not pay the maintenance costs.

Mr. Jones asked Mr. Weaver the cost of each resident for road maintenance and power. Bill Buchanan has been taking care of the road through his own finances have paid in past 5 years about \$30,000 divided by 7 families on that road.

Mr. Suso noted on Mr. Johnson-Staub's memo, reminded of limitations the BOS has over Falmouth Affordable Housing Fund for affordable housing.

Patti Drolet noted they have some resources, but would ask the CPC for assistance. She is asking to put an RFP out and see the response. Her experience with St. Marks, from the time on warrant to Town Meeting and RFP awarded, it was 4 years before breaking ground. The units were sold before getting money from CPC. Process is likely 4-5 years out.

Mr. Johnson-Staub noted there is affordable housing proposal the BOS voted to fund with balance of what was in the Falmouth Affordable Housing Fund and included an additional \$325,000 in funding. Fund is negative at this time. There is another affordable housing rental that Galasso received a grant for, Town has not received an application yet and in the pipe line. There is another in early exploration stages in the downtown area for senior housing within the year.

Ms. Moran likes the preservation, the neighborhood has come together, and one concern is the maintenance cost of the road. If suggestion to create an association to formalize the maintenance. If not some assurance

there would be guarantee to neighborhood that this home would be able to pitch in for expenses the same way as others.

A Town Meeting vote would be needed to authorize the BOS to sell a part of the property.

Ms. Moran suggested putting decision off for a couple weeks for more information gathering.

**Ms. Moran motion for two weeks for more information, put the matter over to 8/19/19. Second Mr. Brown. Vote: Yes-4. No-0. Absent-1.**

4. Request for Sign Variance – Off-Premise Promotional Signs – Falmouth Rotary Club Craft Fair

**Ms. Moran motion approval. Second Mr. Jones. Vote: Yes-4. No-0. Absent-1.**

5. Annual Committee Reappointments

- a. Veterans' Council Committee

**Mr. Jones motion to appoint Jim Sawyer to a term ending 6/30/20. Second Ms. Moran. Vote: Yes-4. No-0. Absent-1.**

- b. Correct term date for Building Code Board of Appeals

**Mr. Jones motion the correct date is 6/30/24. Second Ms. Moran. Vote: Yes-4. No-0. Absent-1.**

6. Minutes of Meetings:

- a. Public Session

July 8, 2019

**Mr. Jones motion approval. Second Ms. Moran. Vote: Yes-4. No-0. Absent-1.**

- b. Executive Session

July 8, 2019

**Mr. Jones motion approval and not release. Second Ms. Moran. Vote: Yes-4. No-0. Absent-1.**

7. Individual Selectmen's Reports

Ms. Moran:

The Assembly of Delegates charter review for the county coming up and, the community may send any concerns/suggestions to her.

Chair English Braga:

Announced Congressman Keating will be at Waquoit Church 8/7 at 6-730 p.m. American Mosaic to share their family stories of immigration and travel to Cape Cod/this country.

8. Town Manager's Report

Mr. Suso is continuing to work with architect and heating/cooling for internal office layout to proceed to procurement. He will advise the BOS when a plan is in place.

Affirmed to Ed Haddad the final proposal to him as courtesy as well. This concept does not include removal of anything historic significance or walls.

Little Pond Place discussion with State Lt. Governor Polito and the new housing secretary at 704 Main Street, reminded them that they anticipate coming forward with more state funding.

Attended the annual Maravista/Falmouth Heights Association meeting.

Staff beginning with consultant on new NorthWest Fire station, public meeting will be forthcoming this fall, after a finalized plan presented to the BOS.

Ms. Moran noted many summer people will miss the outreach, can the consultant be asked to televise or send a mailing to look for that date in the fall. Let them know this is happening. Let the associations know the consultant has started. Formally put it on the BOS agenda to announce the beginning of the process and collect public input via email.

9. Review and/or Discuss Correspondence Received

**Ms. Moran motion to adjourn at 10:17 p.m. Second Mr. Brown. Vote: Yes-4. No-0. Absent-1.**

Respectfully Submitted,

Jennifer Chaves  
Recording Secretary