

**TOWN OF FALMOUTH**  
**BOARD OF SELECTMEN**  
**Meeting Minutes**  
**Open Session**  
**MONDAY, SEPTEMBER 16, 2019**  
**HERMANN ROOM**  
**FALMOUTH PUBLIC LIBRARY**  
**300 MAIN STREET, FALMOUTH, MA 02540**

Present: Susan Moran, Chairperson; Megan English Braga, Chair; Doug Brown, Vice Chair; Doug Jones; Sam Patterson.

Others present: Julian Suso, Town Manager; Peter Johnson-Staub, Assistant Town Manager; Frank Duffy, Town Counsel; Ray Jack; Amy Lowell.

Water Quality Management Committee: Erick Turkington, Chair; Virginia Valiela, Vice Chair; John Waterbury; Stephen Leighton; Matt Charette; Tom Duncan; Ronald Zweig.

Planning Board, Board of Health, and Conservation Commission members present.

1. Chair English Braga called the meeting to order at 7 p.m.
2. Presentation – Water Quality Management Committee (WQMC)

Presentation by the WQMC, DPW, and GHD.

Update for the Little Pond, Great Pond, Bourne Pond, Eel River & Waquoit Bay; West Falmouth Harbor, and Oyster Pond Watershed.

Draft comprehensive wastewater management plans.

Eric Turkington introduced the WQMC members and made the presentation on behalf of the WQMC. Mr. Turkington made a PowerPoint presentation.

Falmouth has more coastal estuaries than any other Town in MA, 15 of the Town's estuaries were studied by UMass Dartmouth School of Marine Science and Technology's MA Estuaries project and were found to be impaired.

Doing these estuaries now is recommended because these are most impacted and worst off. The 2011 Town Meeting took this on and appropriated money, Oyster Pond was added to the list. The DEP added West Falmouth Harbor.

In 2011 the WQMC was created to study alternatives to sewerage and demonstration projects to see what is practical. Updating it now because the 2014 plan was to be updated within 5 years and submitted to the DEP. This draft is being presented, in the end it will go to the State level and will be the plan for the next 5 years. Looking at progress in the last 5 years and projected goals for the next 5 years and beyond.

The last 5 years included the eco-toilet demonstration project; 9 installations were made, 2 individuals subsequently replaced them. All in LPSSA were offered the option of installing an eco-toilet, no one took this option. It was clear to the WQMC that it was not ready for widespread application in Town.

Nitrogen Reduction from fertilizer bylaw initiative; passed fertilizer control law, including the 100 foot ban of an estuary. The Conservation Commission includes these restrictions as a standard part of their Order of Conditions. They also send a letter from the Division of Marine and Environmental Services to all property owners subject to this ban and is posted at all stores where fertilizer is sold.

Shellfish Aquaculture; grown over 3 million oysters from Little Pond and moved to other water bodies where they are harvested by the community. Demonstration projects in Bourne Pond and Waquoit Bay

removing nitrogen via shellfish. Moved from the experimental to the development stage. Minimum nitrogen reduction performance to be required from each grower.

Inlet widening, the flushing increases when this is done and can reduce nitrogen. In Bourne Pond 50% of the needed reduction can be done with flushing, it would be enough to not sewer the Menauhant peninsula. Project was voted 2014, all permits received, and they are ready to go. Mr. Jack trying to do this at that it time as the Menauhant Road project.

Developing innovative/alternative nitrogen reducing septic systems. 25 of these systems have been installed and are now being monitored by the Barnstable County Alternative test Systems Center. Falmouth is seeking to find systems that achieve a 75% reduction of nitrogen.

Nitrogen Reduction through sewerage the Little Pond Watershed; it was the worst estuary and had smallest zone of contribution. If every house was sewerage in that zone, test the idea that taking all the nitrogen out with sewerage would achieve the result you wanted. Betterment to the homeowner is about \$435 per year, the Town charged 0% interest and spread it over 30 years. The Growth Control Bylaw came along with that, it was okay to have up to 4 bedrooms and provided a way to add bedrooms by right. The Town also required low pressure gravity pumps, provided these for free, and they have worked out. People who have these are comfortable with them. Testing before and after the sewerage, which will show how much nitrogen has been removed.

Oyster Pond compared sewerage to installing I/A's. Ideal location to test both scenarios and what the pros and cons of each will be. In the next five years they will have an answer to that question.

West Falmouth Harbor to meet TMDL without sewerage. The largest nitrogen contributor to the harbor is the Town's wastewater treatment facility. Plant upgrades in 2005 and 2016, was about 23mg/l to approaching 3mg/L. Oyster reef, shellfish relays, and the shoreline septic remediation project all contribute to the increased nitrogen removal. Harbor wide ecosystem recover will begin once the residual plume flushes out. Some increased eelgrass area was observed in 2019. If this continues, it will be the first estuary on Cape Cod to meet its TMDL.

The Next Five Years:

Great Pond has the highest nitrogen concentrations and densest development is found in and around the upper reaches of the estuary. Alternative options to be implemented include: increased shellfish aquaculture, install a permeable reactive barrier, and continue cranberry bog restoration. Sewerage is still needed.

Proposing a 2 phase approach; Phase 1 Sub Area 1: primarily residential, upper Maravista, Teaticket Path, Perch Pond, and Falmouthport. Sub Area 2 Great Harbors, Shorewood Drive. Sub Area 3 will not be done and includes lower density, portion flushes directly to Vineyard Sound, within the 100 year flood zone; concerns about sea level rise.

If the Town goes with Phase 1, additional resources will be needed.

Volume of septage being developed in the existing sewer area is a lot and increasing. The Town is under an obligation, when we reach 80% of the capacity for additional flow we have to have a plan of what we are going to do. If all current projects in the pipeline at this time come to fruition, we will be at 78%.

A third sequencing batch reactor is necessary if the Town wants to go in this direction. New Tertiary treated effluent discharge site will be needed. Currently have a discharge site at the plant, next to the plant, but would need more discharge capacity if we go forward. Seven sites were identified with three they focused in on. Depends on cost, capacity, regulators at DEP, and community has to say about it.

Looked at the Augusta Parcel 20 acres adjacent to Falmouth Lumber. This site is not appropriate and Mr. Turkington provided the reasons why including a 4 mile pipe needed and a deed restriction to treat effluent from Teaticket/Acapesket areas.

Joint Base Cape Cod site is not recommended now; future use is not expected to be resolved during the planning time frame.

Falmouth Country Club is not appropriate, reasons include distance from the wastewater treatment facility; disrupt recreational use; and nearby Town owned site nearby that has less impact.

Favorable for further study:

Site formerly known as Site 7 adjacent to the wastewater treatment facility. They are testing to confirm adequate capacity for the Teaticket/Acapesket Sewer Area.

Allen Parcel near the Falmouth Country Club is Town owned, much set aside for conservation and some for municipal use, and has adequate capacity, with a buffer zone.

Joint initiative by the Town and Buzzards Bay Coalition resulted in State law revision to allow for discharge of tertiary treated effluent in MA coastal waters. Positive experience with Boston Harbor outfall demonstrated no negative environmental impacts. This is the most expensive option. Potential discharge sites include West Falmouth and Nobska.

How can the Town pay for it:

WQMC recommending funding by the Town when old debt was paid off. The Board of Selectmen 2024 capital plan set aside \$60 million for these purposes. Town Meeting and voters need to act on this the year before, can get at 0% financing, and the Cape & Islands Water Protection Fund will be in operation.

After the next five years:

Proposed sewerage of Great Pond Second of two phases, parcels are in Great Pond and Green Pond. Remove enough nitrogen in Green Pond so little to no sewerage will be needed in Davisville.

Waquoit Bay is the most complicated, it is a three town watershed. They agreed to pursue an intermunicipal agreement with Mashpee, Sandwich, and Falmouth. Falmouth's share of the costs of ascertaining how much each town's cost will be. This is coming, but likely not in the next ten years.

Planning for the next twenty years was reviewed and a chart was presented with dates and guidelines.

Ms. Moran asked if there is a place on the Town website a list the community can reference online.

John Waterbury, Board of Health, said that the BOH has nursed people along when they knew they were going to sewer. They worked an arrangement between those entities and DEP and anticipate doing this again. If the Town begins the permitting process, the person at the counter would alert the person to being in a sensitive area. Mr. Waterbury said the project has to be identified and put a timeline on it so they can tell the person they are going to dig in Town at a certain date and can try to keep them going until that date.

Did the committee look at the bang for the buck of phase 1 and 2/. Why was phase 1 chosen to do first? Some of Phase 1 will go down Main Street, nitrogen density is higher in Phase 1. Cheaper to do Phase 1 than Phase 2. Oyster Pond threshold question is it desirable to pursue the I/A option or sewer needs to be determined first and when it will get in line. There is no plant that can take it, so it is not an immediate issue. These projects going forward are sewerage because no choice between I/A and sewerage these areas. There may be a long twenty year period and seems a shame dooming them to early exit by not sewerage that area.

Tom Duncan said that the southern tips of the peninsula are direct discharge areas into Nantucket Sound. They were dropped off the list because they do not solve the WQMC problem.

Marc Finneran feels these sewerage projects are more to do with revenue stream than cleaning up the stream. I/A systems do not meet thresholds we need, but he said simple way to do that would be to incorporate urine diversion in with these systems. It is unknown what urine adds to the nitrogen loading, to not include this into the surveys he believes they are dragging their feet and does not like the way it is being paid for. Widening inlet may reduce sewerage, but widening Little Pond to 20 feet could reduce the nitrogen by 30%. Shellfish were taken away from the WQMC, sewerage from West to East and testing the shellfish from East to West. All will realize we are sewerage too much and large amount of the burden is placed on a small percentage of the community. Between now and 2024/25, he hopes the Town will find a

different way to fund this across the Town. The betterment was doubled from the original sewer project, that was then the federal and state paid 90% of the project. When the Town purchased the golf course, they were told it would be used for sewer discharge and now being told it will not be done because it is 5 miles away.

The Board of Selectmen asked to talk about the process the WQMC is looking for and any other public hearings and ways for people to share information with their committee or get further information.

Mr. Turkington noted that this is the report, there is a ten page summary they can hand out to the community. They will vote it entirely to public comment at the WQMC and will incorporate comments received from others. They have three months, which is enough time to get input. The document was posted on the WQMC website, hardcopies are available for review in the Main Library and East Falmouth Library, and Town Hall.

Mr. Turkington noted infrastructure that does not link to a specific home, all taxpayers pay it. The individual homeowner pays 70% of the cost of running the pipe down the street.

Dick Hail, Treetops on Oyster Pond, by the end of this year there will be a finalized version of this document, after that it will be the Board of Selectmen and Town Meeting addressing this, eventually to the voters. They will need to propose how it will be paid for and what they plan to do. Oyster Pond piece is on a separate track. How that decision regarding which plan will be adopted; if they go to I/A systems, they are new and there is risk. Sewers are a known quantity to the Town.

Virginia Valiela noted the process on the draft for Oyster Pond is different than the draft update of the south coast. Oyster Pond CWMP is filed, there is a formal comment period, and then the State generates its own comments, and then issue a certificate that outlines areas that need for further work/data/administration. Ultimately there will be a final CWMP for Oyster Pond and that will be the decision document. The south coast CWMP estuaries have already gone through the draft and final, they are updating after 5 years what they have done and what they believe is the next piece. They will get comments back from the State and will recommend the Great Pond water shed recommendations.

Want to solve the problem of the septic system and not deal with excessive loading we have now. The working group will meet with Treetops Association and others on 10/5/19. Mr. Turkington said now there is no immediate focus on Oyster Pond.

Mr. Patterson asked who is responsible for looking for needs looking at the WQMC and Coastal Resiliency Action Committee. Trunk River sewer pipe should be addressed as well. Who is responsible for looking at both needs and making a solution. Mr. Turkington said the pipe is Mr. Jack's immediate problem.

John Waterbury noted we are proposing to the DEP to make that work on the watershed basis, will not know if that is a feasible option until reaction from DEP.

Charlie McCaffrey, said that with sea level rise, some barriers that create these ponds may not exist which would change the nitrogen situation. There may be breaches we choose not to fill.

Chair English Braga asked Mr. Turkington to explain the process in terms of the proposal and resources available. Mr. Turkington said that there is enough capacity for the next few years before it hits the 80% mark. Before doing any new sewerage, need to answer to the State that the plant can take that much extra and where will the discharge go? Money will not be available until 2024, have time to put the package together and practically addressed.

Amy Lowell, Wastewater Superintendent, in the 10 year capital plan there is line item for wastewater treatment plant upgrades 10-19 million capital item that is ahead of the 60 million capital item. That will be presented in the next couple years.

Mr. Brown asked since it is a \$60 million capital plan, it is in the Board of Selectmen plan and it would have to go to Town Meeting and the voters before it happens. It would be within the window of opportunity and would not raise the tax rate

Chair English Braga noted it may be helpful to give a quicker reference point to look at the numbers so people can understand what they are talking about. As the public looks at this, have a sense of the timeline and funds associated so there is more of a holistic view and perhaps the Town Manager's Office could put that information on the website.

The Board of Selectmen will put on another meeting agenda for the Board of Selectmen to provide their comments.

Chair English Braga adjourned the meeting at 8:30 p.m.

Chair English Braga reconvened the meeting at 8:35 p.m.

3. Vote Articles and Execute Warrant for November 2019 Town Meeting

**Mr. Jones motion to place Articles 1 through 6 on the warrant. Second Mr. Patterson. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Article 7 on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Article 8 on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Patterson motion to place Article 9 on the warrant. Second Mr. Jones. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Article 10 on the warrant. Second Mr. Patterson. Vote: Yes-5. No-0.**

**Mr. Patterson motion to place Article 11 on the warrant. Second Mr. Brown. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Article 12 on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Article 13 on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Article 14 on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Article 15 on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Articles 16, 17, and 18 on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Articles 19 and 20 on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Article 21 on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Article 22 on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Article 23 on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

Attorney Duffy explained that once the Charter Review Committee recommendations are turned over to the Board of Selectmen, the Board of Selectmen can decide what to do with the recommendations. The articles the Board of Selectmen put on the warrant will be sent to the AGO, if they go through that process with affirmative approval, they would be on the May ballot. Charter Review Committee articles should be considered at a November Town Meeting.

Chair English Braga noted if concerned about the length, the Board of Selectmen could defer some recommendations. Each article becomes its own question on the ballot in addition to anything else on the ballot.

Charter Review Committee Chair Dr. Clark noted they have preferences with recommendations that they feel are less urgent.

Dan Shearer asked why because if you take out 6 it will matter, if you take out a few it does not matter. He would like the Board of Selectmen to let it go as it is.

Chair English Braga asked if the Board of Selectmen has preference of numbers. Mr. Patterson questions how much people can digest on the ballot. Mr. Jones noted 23 ballot questions plus whatever else; some are straight forward, but may not be as important as the more substantive ones. The Board of Selectmen talked about their being limited to what they can do in the official articles. Mr. Brown noted the explanations will be at Town Meeting and he hopes voters will know if they do not understand, leave it blank. Chair English Braga noted the goal is to engage voter turnout and make sure they understand and engage in the process of making their voice heard. She is concerned about the length, the Board of Selectmen has the option to defer. Mr. Patterson asked if they could recommend some and hold off on the other. Mr. Jones would like to choose the 12 most important and defer 11. Mr. Patterson would like to give the option to Town Meeting. Chair English Braga noted it is the Board of Selectmen responsibility to take the recommendations, make it workable, and can make it part of Town Meeting that they understand why they are deferring. Mr. Jones noted if 23 go to Town Meeting, maybe only 16 would make it to the ballot. The practicality of Town Meeting deliberating on all 49 articles, if they are able to give that time. Town Meeting cannot vote to put an article on a subsequent meeting warrant, the Board of Selectmen does.

Ms. Moran noted that when looking at one article, you can anticipate spending an evening on that discussion.

Dr. Clark feels all have merit, they were guided by the last Charter Review Committee had 16 articles, what is passed can be abbreviated on the ballot, it does not need to be all the language on the warrant. They felt they could defer 7 articles and would not change the way the Town operates. If the Board of Selectmen is seeking to cut it in half, the Charter Review Committee would like a chance to deliberate. Of the 15 brought to Town Meeting by the last Charter Review Committee, 12 passed, 2 amended, 1 eventually passed.

Mr. Jones felt a 16/7 split would be acceptable to take those suggestions.

Mr. Patterson noted some articles could be clustered according to Dr. Clark and he would like to see them arranged that way.

Charlie McCaffrey suggested that each is separate vote, they can be grouped to make it more understandable to the voter.

Mr. Jones asked if all the wordsmithing changes be written as 1 article? Attorney Duffy said it could probably be done and the length of the ballot is unknown now, but language you see on the warrant is more detailed, the ballot will just be a summary.

Mr. Clark noted clarifying alignment of decision making and 5 different articles regarding effort for consistency for planning; 7 recommendations regarding committee functioning; this was symbolic one. Article 25 puts committees into the form of government; issues of working with the Board of Selectmen and Town Meeting moved the Finance Committee. Definition of Article 30 and organized that information. An article on gender neutrality; clarity of terminology in Article 24; accuracy of information on town meeting size by state law not bylaw that might be grouped as providing more accurate statement on how things are done. Falmouth Housing Authority membership based on State law rather than appointment by state secretary.

Ms. Moran asked if the Board of Selectmen should ask staff to organize in that manner so the Board of Selectmen can review whether to narrow the articles. Chair English Braga noted articles are published by 9/20/19 and suggested going through articles regarding substantive approval and if they will defer any.

**Mr. Jones motion Articles 24, 25, 26, 29, and 31 consolidated and placed on the warrant as Article 23. Second Mr. Patterson. Vote: Yes-5. No-0.**

**Mr. Jones motion to make Article 27 Article 25 and place on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Patterson motion to defer Article 28. Second Ms. Moran. Held for now.**

**Mr. Jones motion to make Article 30 Article 26 and place on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion that Article 32 becomes Article 27 and strike before each calendar, publish, and a and of. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to make Article 33 Article 28. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to make Article 34 Article 28. Second Mr. Patterson. Vote: Yes-5. No-0.**

**Mr. Patterson motion to defer Article 35. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to defer Article 36. Second Mr. Brown. Vote: Yes-4. No-1. (Ms. Moran)**

**Ms. Moran motion to make Article 37 Article 29. Second Mr. Patterson. Vote: Yes-5. No-0.**

**Ms. Moran motion to defer Article 38. Second Mr. Brown. Vote: Yes-5. No-0.**

**Mr. Jones motion to put Article 39 on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

The Board of Selectmen discussed making Articles 40 and 45 one article.

**Mr. Jones motion to add Article 40 and 45 as Article 31. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to hold on Article 41 and defer Article 42 to 2020. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to defer Article 42 to 2020. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Article 43 as Article 33. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Article 44 as Article 32 on the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to hold Article 46. Second Ms. Moran. Vote: Yes-5. No-0.**

Mr. Suso note that he currently brings the Board of Selectmen a ten year Capital Plan, things do not relate at all to this article, however he is concerned of whether someone is deemed significant or not can cause conflict. He believes it establishes potential traps that could result in alleged charter violations.

**Mr. Jones motion to place Article 47 as Article 34 on the warrant. Second Mr. Patterson. Vote: Yes-5. No-0.**

**Mr. Jones motion to place Articles 48 and 49 as Articles 35 and 36 as Articles 35 and 36. Second Ms. Moran. Vote: Yes-5. No-0.**

**Mr. Jones motion to execute the warrant. Second Ms. Moran. Vote: Yes-5. No-0.**

4. Other Business

**Mr. Jones motion to adjourn at 10:30 p.m. Second Ms. Moran. Vote: Yes-5. No-0.**

Respectfully Submitted,

Jennifer Chaves  
Recording Secretary