

**TOWN OF FALMOUTH
BOARD OF SELECTMEN
MONDAY, MARCH 23, 2020
SELECTMEN'S MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540**

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

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

In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the March 23, 2020 public meeting of the Falmouth Board of Selectmen was physically closed to the public to avoid group congregation.

Alternative public access to this meeting was provided via Falmouth Community Television and utilizing Zoom virtual meeting software. Applicants, their representatives, and individuals required to appear before the Board of Selectmen may appear remotely and were not required to be physically present.

1. Call to Order by Chair English Braga at 7 p.m.
2. Pledge of Allegiance
3. Proclamations:
 - a. Falmouth Chamber of Commerce's 2020 Falmouth Citizen of the Year – Brenda Swain
Chair English Braga read the proclamation in the packet as a motion. Second Mr. Brown. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.
 - b. Arbor Day, April 28, 2020
Chair English Braga read the proclamation in the packet as a motion. Second Ms. Moran. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.
 - c. National Public Safety Telecommunicators Week, April 12-18, 2020
Chair English Braga read the proclamation in the packet as a motion. Second Mr. Brown. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.
4. Recognition
Mr. Patterson recognized with gratitude those on the front lines responding to this crisis including: Fire and Rescue Dept. staff, FPD staff, DPW, Town Administration, teachers, School Dept. staff, VIPS, Falmouth Service Center staff and volunteers, senior and assisted living workers, nursing home workers, hospital staff, clinic staff, physicians serving their patients, home health care aides, pharmacy personnel, grocery store staff, delivery drivers, mail, along with State and Federal Government employees. News media, gas, telecommunications, and others in the private sector. Neighbors assisting those who cannot get out of their home.

The Board of Selectmen (BOS) recognized that some people are congregating at the beaches and asked them not to continue congregating in large groups.
5. Announcements

Mr. Suso noted Gov. Baker issued a supplementary emergency order today and listed essential workers.

Scott McGann, Health Agent, reported on information regarding COVID-19. Social distancing is important, we will not know the effect of this for a couple weeks. The hospital is busy but okay, have fair amount of PPE and is seeking more equipment. VNA and Dept. of Public Health working on tracking the

caseload. Press releases were posted on the website. If you do not fit on the list, there is a website that will help assess what is considered essential. Closed schools done after consulting with school physician. Community spread is occurring throughout Town, social distancing has to continue. People need to spread out. Signs will be posted at hotspots throughout the Town. He attends regularly scheduled calls with the State. Dedicated page on the Town website for COVID-19. Instructions to get tested is posted on the website, it is updated daily.

Community spread can be from surfaces that may have had a wet sneeze. Majority is close contact with droplets and may not need to be as big and might breathe it in in the area.

Ms. English Braga received emails regarding 1. Anecdotal information from hospital workers and healthcare providers re: concern of availability of PPE. The hospital is accepting PPE at the Faxon entrance from those working in businesses that have extra PPE. The Town is making sure Town Personnel have the PPE they need. 2. People hear the number of positive cases; those are the official numbers that have been tested. The Town will only share the official numbers.

Mr. Suso noted there is a draft on the signs, they will be posted this week by DPW.

Mr. Patterson noted that we are responsible to others and when we are sick, we must stay home.

Mr. McGann noted that construction workers are considered essential.

Ms. Moran emphasized the need to be six feet apart.

Call the Health Department with any questions.

6. Affirm Appointment of Public Works Director

Mr. Suso recommended Peter McConarty and requests the BOS affirm his appointment.

Mr. Jones motion to affirm the appointment of Peter McConarty as DPW Director. Second Mr. Patterson. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.

The Queens Byway project contractor will begin construction in about a week and take about 4-6 weeks.

SUMMARY OF ACTIONS

1. Licenses

- a. Approve Application for a Change of Manager of a Seasonal All Alcoholic Common Victualler License – The Landfall Restaurant, 9 Luscombe Avenue, Woods Hole

Donald Estes current manager and his daughter Kathleen Estes proposed manager. The business has been in the family for many years.

Mr. Jones explained liquor manager will be responsible for any liquor violations on the premises.

Mr. Patterson motion approval. Second Mr. Jones. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.

- b. Application for Special One-Day Wine and Malt Liquor License – Barnstable County Agricultural Society – Barnstable County Fair, 1220 Nathan Ellis Highway – 7/20/20 – 7/26/20

Mr. Patterson motion approval. Second Ms. Moran. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.

- c. Approve Applications for One-Day Wine and Malt Liquor Licenses – Fresh Pond Holy Ghost Society - Portuguese Festivals to be located at 408 Carriage Shop Road, East Falmouth – Sunday, 5/31/20; Saturday and Sunday, 7/27/20 and 7/28/20; and Saturday, 8/15/20

Mr. Jones motion approval. Second Mr. Patterson. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.

- d. Approve Application for a Fortune Teller's License for Special Events – Lance Norris
Mr. Jones motion approval. Second Ms. Moran. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.
2. Administrative Orders
- a. Vote to Accept FY20 Wellness Grant from the Cape Cod Municipal Health Group in the amount of \$600.00 to the Personnel Department Grant Account
- Mr. Jones motion approval. Second Mr. Brown. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.**
- b. Vote to Accept Donation from the Falmouth Road Race, Inc. in the amount of \$45,000 for the Fuller Field Playground
- Mr. Jones motion approval. Second Mr. Patterson. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.**
- c. Authorize Project Eligibility Letter regarding 40B Comprehensive Permit Application for Rosewood Place located on Percival Road near Teaticket Road intersection. Application proposes construction of 16 single-family, 3-bedroom houses of which 4 are proposed to be affordable.

Mr. Johnson-Staub explained it is a 40B application, the Town is not funding and can proceed with or without support of the BOS. 5.5 acres, does not align with Town's housing priorities, have a need for smaller units. Letter drafted with input from staff asking MA Housing and Developer to incorporate 1 and 2 bedroom units and change access to the property. The property is within the water protection resource district, in a zone that does not prohibit residential housing, but within the Long Pond Water Protection District.

Tom Bott noted that this is the first step. Described Percival Rd. location. If a subdivision, it would require Percival Rd be connected to Harness Drive. It won't cost lots or units, shifts the lots over. Better access for emergency services. Individual septic systems.

The draft letter is in the packet.

Mr. Patterson motion approval. Second Mr. Jones. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.

7:30 p.m. PUBLIC HEARINGS

1. Flow Neutral Bylaw – Evaluation of Request for Variance – Ament Klauer LLP, representing Paul and Anne Rolincik – 51 Worcester Court, Falmouth (Parcel 46 00H 000 019)

Kevin Klauer, Ament & Klauer, representing the applicants. Increasing bedrooms at their residence. The structure is a 4 bedroom house, not a 3 bedroom. This is a 17,000 sq. ft. lot in Little Pond Sewer District and seeking 5 bedrooms. 1. Capacity exists and 2. System can be sited, submitted a 5 bedroom plan that does so. Recommendation referral from Ms. Lowell noted it is a 4 bedroom to 5 bedroom, site large enough to accommodate, each application is viewed uniquely. GIS map has comparison tool, of the 87 homes within 500 ft of this home, 7 homes are larger than this structure. Modest increase for this large and unique lot; could have had a larger system if prior to Little Pond Sewer District. Square footage 17,166 feet. He is not aware of any specific conversation with abutters or neighbors regarding this project application bedroom count.

Mr. Patterson noted limitation on discharge permit and asked Ms. Lowell if they got option to increase discharge from WW Treatment Plant.

Ms. Lowell said the current limit will not be increased until they get additional discharge capacity designed and improved. The Town submitted a plan to the State in December 2019 with plans for the next stage, but there is more to do. She hopes to get additional capacity within the 2024-2025 timeframe.

Mr. Brown noted only 7 other houses in that sewer area, but we should be thinking about the whole town, not just that area.

Ms. Lowell said that within a specific subarea he looked at there were 7 properties about the same size.

Ms. Lowell said that for this property looking at an additional bedroom, which the wastewater plant can accommodate the flow from the 1 additional bedroom. Flow Neutral Bylaw drafted to help the Town live within planning thresholds for this area, designed for a certain flow and there is some flexibility within that number, but the flow basis assumes flow will be limited within the constraints of the bylaw. There are approximately 1200 properties in this service area that could request the same variance for going beyond the 4 bedrooms by right allowance, once you say yes to one it becomes more difficult to say no to others. The bylaw applies to any sewer service area in Town. The bylaw allows for expansion on existing lots up to 4 bedrooms, for existing single family properties it caps the number of bedrooms at 4 unless the lot is 50,000 sq. ft.

Attorney Klauer noted a mechanism by which the BOS may grant a variance. This matter is unique enough that the BOS could grant it without fear of setting a precedent moving forward. It is a discretionary variance.

Ms. English Braga asked if any public comments, asking them to enter into the Zoom chat and share any comments in favor or against this request. The BOS did not receive an email about this issue.

Attorney Klauer asked if the BOS would have a discussion, if leaning towards a negative vote, he would withdraw it.

Mr. Jones motion to close the hearing. Then withdrew the motion.

Mr. Jones and Mr. Patterson that if it is a 25% increase, they won't support it. Mr. Brown leaning towards negative, in future with negative flow, then he may consider it. Ms. Moran will not support it at this time.

Attorney Klauer asked that given the BOS current leaning allow the applicant to withdraw without prejudice.

Mr. Jones motion to allow the withdrawal without prejudice. Second Ms. Moran. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.

7:45 p.m. BUSINESS

1. Request for Sign Variance – Off-Premise Promotional Signs – Falmouth Commodores Baseball Clinics – mid-April to July 31, 2020

Mr. Brown motion approval. Second Mr. Patterson. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.

2. Report/Update on Palmer Avenue Reconstruction (Queen's Buyway Area – 1,250 feet in distance)

Peter McConarty, Director DPW, Lawrence Lynch Corp. will begin the construction next Monday. Starting at the intersection of Palmer Avenue working down to easterly side of the Town Green to mill the asphalt out and put new asphalt down, install granite curb, add/redo crosswalks, and new light on the blinking light. ADA ramps with tactile strips will be installed from the First Congregational Church to the green. Pull out and reset curbing. Adding drainage, repaving, restriping. In the future on the south side looking to prepare the area for future addition of a sidewalk in the future, likely when they do the Main Street project. The project needs to be done; the roadway is failing. Intend to complete by Memorial Day. Mr. McConarty expects the road to be paved in the fall.

3. Vote to Place Override on May Municipal Election Ballot

Joe Netto provided correspondence on this issue. Chair English Braga read the letter into the record. Mr. Netto urged them not to put this on the ballot given the economic downturn going on in the world at this time. Many stores are closed, employees out of work, and it can be revisited later.

Mr. Suso noted Finance Director Jennifer Mullen is available and will be added into the meeting.

Finance Director Mullen saw Mr. Netto's email, the Town has done a great job with their reserves. Revenues will decline and there will be certain options moving forward. The override tax bills will not be paid until January 1. If the community feels it is too expensive at that time, they could vote no. We have a good reserve and areas we could go. If we use reserves it would be for the short term, not the long term. There are many options right now.

Chair English Braga said this Town has been conservative with budgeting and sometimes people feel it has been too conservative. If the question goes on the ballot, the voters will decide.

Mr. Patterson noted the Town has the option of how to budget in the future, just because an override is approved, they can manage the expenditures of the Town if they see the revenues are not coming in.

Ms. Mullen said the first year the override passes, use that money for the first year and then after they do not.

Mr. Brown noted the FFD Chief did a lot of thought about what he needed to staff the fire department. They made an agreement with the union to operate safely, so he would like to bring it to the voters.

Chair English Braga said the BOS goes to the voters to decide on many important issues; sometimes voters of Town Meeting and sometimes to the election for voters. Fiscal responsibility and public safety are what are being addressed here, appropriate to go to the voters.

Mr. Palmer did a mark up of the questions and shared with Mr. Suso. There is enough room on the ballot for the override, charter review on two pages. He suggested placing this on the ballot soon and vote to place all questions on the ballot so he can start that process. The BOS has authority to place questions on the ballot, Town Meeting votes the appropriation of the money. The Town could pass the override even if the spending of it has not been voted on.

Mr. Jones motion to place the override on the May municipal ballot at this time. Second Ms. Moran. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.

Mr. Suso will look to confirm whether charter review questions were voted to be placed on the ballot during a previous BOS meeting.

4. Discuss/Consider Petition for Board of Selectmen to Sponsor a Non-Binding Ballot Question

There is room on the ballot for two-page ballot and include this question. Mr. Palmer requested going with the shorter version of the question.

Since we do not know if the May elections will take place, Mr. Jones would like to send the letter and supports putting this on the ballot.

Ms. Moran motion to put the non-binding ballot question on the ballot. Second Mr. Patterson. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.

The issue of sending the letter will be placed on a future BOS meeting agenda.

5. Discussion of Upcoming Town Meeting and Elections

Chair English Braga read the letter from David Vieira, in which he notes the Annual Town Meeting recessed 4/13/20 and continued to the third Monday following the termination of the existing public safety emergency, nature of which is the outbreak of COVID-19.

Mr. Palmer explained that the Senate voted to postpone the Special State Election for the State Senator seat vacated by Vinny DeMacedo; the 3/31/20 election has been changed to 5/19/20, the date of the annual Town election.

Megan English Braga read the Declaration of Recess and Continuance from Town Moderator David Vieira with regard to Town Meeting scheduled for April 13 recessed and continued until the third Monday following the expiration of a gubernatorial declared state of emergency relative to the 2019 novel coronavirus (COVID-19).

All precinct meetings are cancelled because they cannot occur during this time.

Mr. Jones asked about the budget if Town Meeting does not occur until after July 1.

Julian Suso confirmed per the DOR, if the Town Meeting does not occur until after July 1, there are appropriate remedies in place in order to accommodate our needs should this occur.

Mr. Palmer said they are accepting absentee ballot applications for the election. Absentee ballots can be used for three reasons: not in town, religious belief, disability does not allow you to go to the polling place. Prefer ballots be mailed in rather than the box outside Town Hall. If you vote via absentee ballot, it will be counted when the election takes place.

The BOS noted that the US Census is requesting you do it online for those who are present in your household as of 4/1/20.

6. Discussion of Conduct of Future Board of Selectmen Meetings

Zoom has worked well, need to work on more ability for public comment and hopefully that can be done. Could folks tape a comment for submission. The Town will look into improving and provide an easier way for public to comment in future meetings.

Mr. Johnson-Staub is monitoring what other communities are doing, continuing to learn from them.

Mr. Jones said that letters may be sent to the BOS.

Mr. Suso exploring how to use PowerPoint for presentations, they are working on this.

Chair English Braga received message from David Vieira, bill on the Governor's desk that will address responding to the COVID-19 staying home and this will be accommodated via absentee ballot.

Mr. Suso noted the Town asked for regulatory relief from the legislature for boards and commissions with strict deadlines per statutes to act upon proposals coming before them; will provide statutory relief.

7. Approve 2020 Annual/Seasonal License Renewals:

All Alcohol Restaurant License

Falmouth Raw Bar, 56 Scranton Avenue, Falmouth
Landfall Restaurant, 9 Luscombe Avenue, Woods Hole
Pier 37 Boathouse, 88 Scranton Avenue, Falmouth
Quicks Hole Taqueria, 6 Luscombe Avenue, Woods Hole
Shuckers, 91 A Water Street, Woods Hole
**Chair English Braga motion approval. Second Mr. Brown.
Roll Call Vote: Brown, aye; Chair English Braga, aye;
Moran aye; Patterson, aye; Jones, aye.**

All Alcohol Club License

Seacoast Shores Association, 7 Fairview Lane, East Falmouth

**Chair English Braga motion approval. Second Mr. Brown.
Roll Call Vote: Brown, aye; Chair English Braga, aye;
Moran aye; Patterson, aye; Jones, aye.**

Common Victualler License

The Tea Room, 196 Crystal Springs Avenue, North Falmouth
Smitty's, 326 East Falmouth Highway, East Falmouth
Clam Shack, 227 Clinton Avenue, Falmouth
**Chair English Braga motion approval. Second Mr. Brown.
Roll Call Vote: Brown, aye; Chair English Braga, aye;
Moran aye; Patterson, aye; Jones, aye.**

Lodging House License

Frederick William House, 594 Palmer Avenue, Falmouth
Captain's Manor Inn, 27 W. Main Street, Falmouth

**Chair English Braga motion approval. Second Mr. Brown.
Roll Call Vote: Brown, aye; Chair English Braga, aye;
Moran aye; Patterson, aye; Jones, aye.**

Second Hand Dealer

Fay's Gallery, 566 Main Street, Falmouth

Chair English Braga motion approval. Second Mr. Brown.

**Roll Call Vote: Brown, aye; Chair English Braga, aye;
Moran aye; Patterson, aye; Jones, aye.**

Bowling Alley/Pool Table

Ryan Family Amusements, 23 Town Hall Square, Falmouth
Trade Center Bowl, 89 Spring Bars Road, Falmouth

**Chair English Braga motion approval. Second Mr. Brown.
Roll Call Vote: Brown, aye; Chair English Braga, aye;
Moran aye; Patterson, aye; Jones, aye.**

8. Minutes of Meetings: Public Session – March 9, 2020
These minutes are still being prepared.

9. Individual Selectmen's Reports
None.

10. Town Manager's Report

Mr. Suso working with public safety command staff and Health Agent, other municipal, state, and national resources to address the issues related to COVID-19 pandemic.

Mr. Jones motion to adjourn. Second Mr. Patterson. Chair English Braga motion approval. Second Mr. Brown. Roll Call Vote: Brown, aye; Chair English Braga, aye; Moran aye; Patterson, aye; Jones, aye.

Respectfully Submitted,

Jennifer Chaves
Recording Secretary