

TOWN OF FALMOUTH
BOARD OF SELECTMEN
Meeting Minutes
Open Session
MONDAY, MAY 18, 2020
SELECTMEN'S MEETING ROOM
TOWN HALL
59 TOWN HALL SQUARE, FALMOUTH, MA 02540

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 May 18, 2020 public meeting of the Falmouth Board of Selectmen shall be physically closed to the public to avoid group congregation.

Alternative public access to this meeting shall be provided in the following manner:

1. *The meeting will be televised via Falmouth Community Television.*
2. *Real-time public comment can be addressed to the Board of Selectmen utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting and send a comment or question to the Chair via the Chat function. Submitted text comments will be read into the record at the appropriate points in the meeting.*
 - a. *Zoom Login instructions:*
 - i. *Instructions and the meeting link for this specific meeting can be found at the following web address: <http://www.falmouthmass.us/BOS>.*
 - ii. *Please plan on 10-15 minutes of preparation time to log in though it may be less if you have previously used Zoom on the device you will use to access this meeting.*
3. *Additionally public comments may be sent in advance of the meeting to selectmen@falmouthma.gov at least 5 hours prior to the beginning of the meeting. Documents and audio or video files may also be submitted via email. Submitted email comments and documents will be made a part of the meeting record and may be read into the record, summarized or displayed during the meeting at the discretion of the chair.*
4. *Applicants, their representatives and individuals with enforcement matters before the Board may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Board may contact the Town Manager/Board of Selectmen's Office to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to the Town Manager's Office at townmanager@falmouthma.gov so they may be displayed for remote public access viewing.*

1. Call to Order at 7:00 p.m. by Chair English Braga.
2. Pledge of Allegiance
3. Proclamations:
 - a. Eagle Scout James R. Lea, Troop 40
Mr. Patterson read the proclamation in the packet as a motion. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Jones, aye; Ms. Moran, aye; Mr. Brown, aye.

Mr. Lea explained that he created and set up QR codes on Waquoit trails, you scan the code and it will redirect you to a link with information about the area. Using technology to teach people about the area.
 - b. Eagle Scout John W. Warner, Troop 40

Mr. Patterson read the proclamation in the packet as a motion. Second Mr. Jones. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Jones, aye; Ms. Moran, aye; Mr. Brown, aye.

Mr. Warner's project was in Waquoit, he designed a rain collection water barrel at the local children's camp and repurpose the water to wash your feet after going to the beach or rinsing off tools.

4. Recognition

Mr. Brown recognized this is Police Week and thanked the Falmouth Police Department for their service. Chief Dunne did a video in recognition of Police Week.

5. Announcements

Election Day is tomorrow, polls will be open with social distancing measures. Thanks to the poll workers. The lines may be longer outside, but once inside things will move quickly. Town Clerk Michael Palmer and his team have been doing a great job.

Mr. Brown said 45 human trials are in process for potential Coronavirus vaccines.

Mr. Suso confirmed Monday is Memorial Day, Town Hall and Administrative Offices will be closed.

Preparations for virtual Memorial Day have been done and will be available broadcast on FCTV.

Chair English Braga read the rules of the meeting into the record.

6. Public Comment

Chair English Braga read a letter the Board of Selectmen (BOS) received from Robert C. Young, Precinct 5, regarding opening of Town Beaches. All beaches are unique, adjacent parking areas present unique use. Rules for use should be similar in nature to what Gov. Baker's guidance regarding social distancing. Supervision of beach parking needs to be improved, in the past parking was out of control at Chappy Beach, Old Silver Beach, and should be staffed to 8 p.m. with police presence during the day when open.

SUMMARY OF ACTIONS

1. Administrative Orders

- a. Vote to permit New Silver Beach Improvement Association to remove seaweed from town parcel 04A 41 000 098 at New Silver Beach in accordance with an Order of Conditions issued by the Conservation Commission

Michael Borselli, Falmouth Engineering, represents the applicant and David O'Keefe present. Mr. Borselli shared a screen to show a drawing. Beach area was described by Mr. Borselli, In 2012 beach maintenance was performed; rake, clean, screen the beach similar to how the Town does Town owned beaches. They would like to do it again, they will go back to the Conservation Commission, they need the BOS permission. The work would be performed above the mean high water line, plan he showed was from 2012, this is a redo of a permit that has expired. This giving permission to participate would be the extent of the BOS involvement and the Conservation Commission can act on it without further input from the BOS. If the BOS prefers, they can come back to BOS after going to the Conservation Commission. Mr. Borselli has not talked with Town Counsel about insurance or in kind use but is willing to.

Public Comment:

David O'Keefe represents the Silver Beach Improvement Association; they are trying to continue the maintenance of this wonderful asset for the community. There is a Grounds Committee Chairperson who will monitor the project.

Mr. Jones asked if the Town would be liable for the cleaning. Atty. Duffy would want to make sure the work down in accordance with the condition and have the Town Engineer inspect the work. Can also ask the applicant to sign an indemnification agreement.

Mr. Borselli's role is to prepare the plan, file the application, and obtain approval from the Conservation Commission. He would not do supervision of the work.

Mr. Patterson motion approval and condition of indemnification statement to the Town. Second Mr. Brown. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Jones, aye; Ms. Moran, aye; Mr. Brown, aye.

- b. Vote to authorize and accept Massachusetts Department of Conservation and Recreation (DCR) Challenge Grant in the amount of \$10,000 for Falmouth Tree Health/Risk, Planning and Planting Project

Jeremiah Pearson, Park Superintendent, explained a consultant will come in and complete a tree analysis and assist in identification of tree improvement/removal over 400 miles and a replant plan. They will need to bid the project. The list may be published and can be used for community efforts, it will help get community planting efforts underway. There are matching funds of \$10,000 that has been appropriated already.

Public Comment: none.

Mr. Patterson motion approval and condition of indemnification statement to the Town. Second Ms. Moran. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Jones, aye; Ms. Moran, aye; Mr. Brown, aye.

- c. Vote to accept offer to buy and authorize Town Manager to execute a Purchase and Sale Agreement for the sale of the Lt. Pafford lot in Palm Coast, Florida to benefit the Lt. James M. Pafford Essay Fund of Falmouth High School in accordance with the authority of Art. 52 of the October 1989 Town Meeting

Atty. Duffy explained the Town has ownership interest in this land, Mr. Pafford was a realtor and developer in Falmouth. He retired and moved to FL, where he eventually passed away. He established a fund at the FHS and left an interest in this property with the Town with instruction to use proceeds to fund the Essay Fund. In 1989 Town Meeting authorized sale, it has been listed several times, but did not sell. The property currently assessed for \$13,500. Atty. Duffy reached out to a firm in FL and reports the property worth \$15-18,000 last year. They got an offer of \$18,000 cash; total expenses would be \$750 plus Title cost. No broker's commission involved. It makes sense to take this offer, authorize Mr. Suso to close and fund the Essay Fund.

Mr. Patterson motion to accept the offer and authorize Mr. Suso to execute the Purchase and Sales Agreement. Second Ms. Moran. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Jones, aye; Ms. Moran, aye; Mr. Brown, aye.

BUSINESS

- 1. Interview, Vote and Appoint Committee Member:

- Conservation Commission (Alternate Member) – Pat Harris
Position ending 6/30/22.

Ms. Harris has worked at Associate Town Counsel in the past, she is interested in conservation, believes our most valuable resources are our wetland resources, and holds an undergraduate degree in Botany.

Mr. Patterson motion to appoint Ms. Harris to a term ending 6/30/22. Second Ms. Moran. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Jones, aye; Ms. Moran, aye; Mr. Brown, aye.

2. Discussion/Update on COVID-19 Issues

Mr. McGann noted that there are little infections in the community, though are getting it in the long term care facilities. Did more testing there on Sunday and results are expected by tomorrow. National Guard did testing a couple weekends ago, protocol is set by a State epidemiologist. Sometimes the tests come back negative, but on second test it comes back as positive. No solution yet for long term care facilities. Employees are wearing masks, not N95, in general they may have been caught off guard with the number of N95 they need to wear even during a normal flu season. May be better to have employees wearing N95 masks, but this is licensed by the State. No new cases in Town over the last ten days. In Town we are doing a good job on social distancing. The last of the phases would include visitors to long term care facilities. Mr. McGann said a more rapid test and know more about antibody testing would be a positive, but he does not see it happening soon.

Chair English Braga noted the population of the long term facilities is dynamic with residents changing, so the risk is consistently there. Most places doing the best they can, using technology to maintain contact with family members, updating them on the status of COVID-19.

Ms. Moran asked what we are doing to get ready for folks coming in for Memorial Day Weekend and reminding folks about social distancing, rules about masks.

Mr. McGann said they are trying to figure out the best way to do the beaches and will follow the guidance they get from the State. The Governor is not allowing short term rentals yet; all motels/hotels. There will likely be an increase in COVID-19 cases with the increase in activity.

Mr. Johnson-Staub said that the beach details will be discussed Wednesday and they are trying to mitigate opportunities for misunderstanding and conflict.

Chair English Braga, the DPW, FPD, Beach Department, Mr. Suso, Mr. McGann, and Mr. Brown talked about how to have the beaches open for the holiday weekend in a way that is safe and manageable. Staffing is always a challenge at this time of year, this year they have many college students prepared now than in past years. They will have more specific information at Wednesday's meeting.

Mr. Patterson suggested an electrical sideboard on main roads into Falmouth to remind people to wear a mask if you cannot social distance.

Chair English Braga noted the opportunity as people purchase beach stickers to communicate this to those using the facilities.

Mr. Jones likes the idea of getting the message out and using a correct way to do this, he would like parking lots to be opened this weekend.

Mr. Suso explained that traditionally Old Silver Beach opened on Memorial Day weekend, they are preparing to open the parking lot, though no lifeguards will be on duty. They anticipate cutback in capacity of the parking lot consistent with Governor's directive in managing the use of the beaches. At least 50% cut in capacity is expected so they can observe social distancing and wearing of masks. Anticipating potential opening with staff members monitoring the parking areas at six other beaches. Trying to be cautious as Governor has requested. Beach stickers will be sold at the Beach House starting this weekend.

Mr. Brown asked about testing on local level. Mr. McGann said antibody testing will flood the market, but wide range testing is currently being done in areas with high infection rates, which does not include Falmouth at this time.

According to Chair English Braga, Quest is doing antibody tests, they do not need to go through your doctor for this; you can go directly to Quest via an app.

Mr. Suso noted the BOH meeting was completed and asked Mr. McGann for any information. Mr. McGann noted that all events cancelled, but the household hazardous waste collection will be had. You do not get out of your car; it will be Saturday 6/13/20 at Falmouth High School. Latex paint should be dried out with kitty litter or sand. This is for oil based paint, pesticides, gas, etc. Information is on the website.

3. Preliminary Discussion of Governor Baker's Supplemental Order and Report of Governor's Reopening Advisory Board

Governor and Lt. Governor outlined Phase 1 of the four phase plan. The website under reopening provides a lot of information about what may be opened now and into the future.

Rep. Dylan Fernandes said Phase 1 reopening allowed to open immediately today and beginning May 25. They are continuing to go through the guidance. MA is one of the hardest hit states in the country, this is a preliminary phase and distancing measures will be put back in place if we see an uptick in cases. Most important thing we can do for our economy and businesses is to stop the spread of the virus, even if you opened today many people will not patronize businesses because of fear of virus. MA testing 15,000 people per day, goal is to get to 45,000 tests per day by July and by end of the year get to 75,000 tests per day. We lead the nation in testing. Controlling the spread also includes contact tracing so both are given guidance and make sure they are staying home and quarantining. This will allow us to have a data driven and methodical opening. Each phase is around three weeks, posted a user friendly infographic, manufacturing and construction being allowed with all businesses already deemed essential. Business needs to comply with the workplace checklist before being able to open and comply with their business/industry specific compliance. Within next week a number of other businesses are able to open, including lab space, general office space, and some personal services; all retail open for curbside pickup. Phase 2, restaurants and lodging with caveat that the working group within the task force to look at restaurants and lodging and possibility that announcements could be made regarding those industries before Phase 2 has begun. There is extensive beach guidance, fishing guidance, and many other parks and recreation guidance. Healthcare relaxes the standards for folks who need healthcare and have been putting off important procedures and allows for some preventative care. All under current orders to be personally responsible such as wearing a mask, social distancing, and stay at home advisory still in effect and gatherings of more than 10 people are not allowed, those coming into the state have to quarantine for 14 days. As concerns come up, refer to him, David Vieira; the MA Municipal Association will have a strong voice in this so reaching out to your representatives there so that Falmouth's wants/needs will be heard. The Cape is well represented on the Advisory Board. Letting the Cape and Islands reopening working group know the issues is helpful for him to relay to the Board Members on Governor's Task Force and office. Also, to the MA Municipal Association. A lot of businesses have twelve months to stay solvent, the Cape has three, sometimes two months.

Chair English Braga wants to make sure the Cape's voice is heard and think about the ways we can advocate for safety and balance it with reality of businesses and what happens if they miss a full season. Lodging looks different in Falmouth, includes smaller places where it would be easier to conform to specific guidelines and allow them to open up before losing a large part of the season.

Mr. Brown asked Mr. Fernandes to stick around for the next item. Representative Fernandes said anything specific they would like him to share, it would be helpful to have that in writing. He has been in touch with Michael Kasparian about that issue. There are a couple pieces of legislation around liquor licenses and outdoor seating that he is signing onto, he hopes it will take place through the Executive Branch. Chair English Braga noted one thing was around regulatory requirements and hope that loosening of those will allow streamlining of the process.

How is Mr. McGann foreseeing the requirements and enforcement of the regulations, attestation that each business needs to do with a plan. Mr. McGann said most things fall on the Health Department. Representative Fernandes said a lot of these orders falling to local Boards of Health, the State wants to play a role in enforcement and looking to provide resources. The Department of Professional Licensure will play a regulatory enforcement role, too.

Mr. McGann is hoping the testing is done in a coordinated effort. Pharmacists are allowed to do all kinds of tests, but not COVID. Looking at testing at pharmacies, too. Difficulty of contact tracing, it is the Town where you reside in and municipalities have different tracking systems, so it is difficult. They are reported as a case from home, it does not affect the other communities' numbers.

4. Status/Update on Potential for Modified Restaurant Seating Plans

Mr. McGann said when 40 seats of 100 capacity, does the outdoor seating allow them to go beyond the 40%.

According to Atty. Mullin, beyond 40% depends on Governor's order, until they have that information it will not be clear whether the restriction will be a certain percentage of occupancy all together or just outside. Many permit issues are implicated by moving seating outdoors, the shape/size depends on each property. The Alcohol Beverages Control Commission (ABCC) does licensing, if changed it would speed things up. At this time, each premise that serves alcohol is tied to the location, if it includes the property's lawn, it would have to be modified to a change of license that would go in front of the BOS, if approved, sent to the ABCC who has said they can expedite applications with 5-7 day turnaround at this time. There is also Common Victualler licenses for establishments prepping and serving food, the floor plan is part of license, they need to go to the BOS to file an amendment and be approved; unless their floor plan already includes an outdoor area already in the Victualler's license. Beyond that it can get into alteration of any special permit from Planning or Zoning Boards, that will be fact specific. If a special permit is needed to be issued, that could need a special permit and would have to go through a hearing process, notice, and a hearing scheduled, matter heard, and then issues a decision. There may be several of these petitions. If they wanted to use parking spaces for seating/tent, if there was a change in parking, it could implicate parking for the number of seats in the restaurant and could affect capacity.

According to Chair English Braga, the BOS discussed this last week and is hoping for relaxation of regulatory requirements so more discretion at the municipal level could take place, which would help. This may be coming from Executive or Legislative Branch, there are significant hurdles and that is why looking for change in the statutory law. At this point, the level of flexibility is quite limited. Every municipality is facing the same challenge which is great incentive for relief from the State House. Every business is different, depends on their permit, nature of property layout, and business layout. Those interested should start to assess the particularities about their business. If a business is interested in looking at options, they need to look at their permit and which department is implicated. There is no quick fix from the Town perspective, but the legislature is looking at it.

Mr. Brown noted the need to put it on paper what the objective would be and who would sign off if they got relief. Chair English Braga said it depends on what the relief looks like when it comes down.

This conversation would take place at the State level about Liquor Licenses, Mr. Johnson-Staub's impression was that, as of last week, no discussion had taken place that would enable businesses to eliminate local zoning requirements. Atty. Mullin said they have not heard that there is any proposed legislation regarding zoning, nor any information from the Reopening Task Force.

Atty. Duffy said he and Atty. Mullin had call with the ABCC Executive Director looking at how they could give relief to municipalities and may hear back this week.

Mr. Suso said conversation with Chief Dunne, Michael Kasparian, and staff one thing that has come up with suggestion that Main Street be turned into a pedestrian mall and may facilitate restaurants' speedy return to a better place. What was heard in the meeting was significant amount of downtown businesses are opposed to a close of Main Street. Other possibilities included in lieu of closure of Main Street, do a time of day or certain day closure of Main Street.

Chief Dunne said it takes about an hour and half to close down Main Street, still end up towing 4-8 cars depending the length of the closure. Usually when they close the full length of Main Street, it takes 7 officers and a supervisor to do so and they need to use barriers.

Su Moran asked if the Town Engineer has reviewed ideas to compromise to expand sidewalk use that some restaurants are looking at. Megan English Braga said that came up as a possible suggestion, from the communication from Chamber and members/business owners, the divide tends to be restaurants and retail shops. Retail shops cannot open at all; restaurants have had takeout option. BOS received correspondence re: retail that are concerned about closure and they depend on those driving by seeing it and shopping. Most is reliant on state level from regulatory requirements, ideas of using green space for temporary usage. There was no specific review of turning Main Street into one lane one way. That should be done in coordination with Chief Dunne and Chief Small, there was significant stress on maintaining parking spaces in front of each business and maintaining two way flow was significant.

The Library Board is meeting tomorrow to discuss placing picnic tables on the lawn near Main Street. The one challenge they have is that the tables should be cleaned between each use, hopefully the Chamber and restaurants can contribute staff to the maintenance.

The biggest challenge is the relief from the time sensitive issue is if your business is interested in this, it is time to investigate which permitting path your business would take.

Jennifer Mullen, Finance Director, present if there are questions about financing.

Mr. Suso summarized listening to Gov. Baker's conference and reviewing plan, restaurants time does not arrive until Phase 2 and unless he changes his approach, made it clear it would not become effective until a minimum of 3 weeks from today and indicated it may be postponed further pending the data. It also placed recreation and camps in Phase 2.

Parents are concerned about options for camps. A separate subcommittee is looking at what protocols may be used for some camps. The Town is hoping for some guidance that may allow the camp to operate in some form.

Mr. Brown would like the BOS to send a letter to the Governor asking for the relief we are thinking of and asking question of his plans. Chair English Braga said that it is within the BOS purview to ask the Town Manager to send a letter to the Cape Committee.

Regulatory relief to address some of these issues, a letter can be sent by Julian Suso on behalf of the BOS.

Mr. Brown motion to ask the Town Manager and Chair English Braga to draft and send a letter to the Governor and other interested authorities to offer zoning and liquor license relief. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Jones, aye; Ms. Moran, aye; Mr. Brown, aye.

5. Minutes of Meetings:

- Public Session
May 4, 2020

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

May 11, 2020

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

6. Individual Selectmen's Reports

Mr. Patterson:

Received a memorandum from the Committee Preservation Coordinator Carol Sutherland regarding how to handle all the articles submitted for that Town Meeting and postponing to November. They are expecting a decrease in revenue.

Reached out on behalf of Falmouth Rotary Club to talk with Jill Bishop to help with manpower instead of money. He is impressed with how much effort the Senior Center staff is giving the seniors. They are doing shopping runs, meals on wheels. School Dept. delivering breakfast and lunch to many students, asked to include in future agenda report from Dept. of Human Services re: an overview of the services we are providing to our citizens. Nongovernment organizations including the Service Center and churches in the Town.

Mr. Brown:

Will attend the Staff Meeting Wednesday with Beach Opening planning.

Ms. Moran:

She has always relished the fact there are so many people on the Cape that hold Falmouth up as the most effective and caring BOS and thanked the BOS for being her colleagues.

Chair English Braga:

This BOS is a group of people who have shown dedication and do their homework on issues, Ms. Moran has made a significant mark on the BOS. Thanked for all Ms. Moran for her work on the BOS.

7. Town Manager's Report

Thanked Michael Palmer for his and his staff's work in preparing for tomorrow's election under the most difficult circumstances.

Next regular meeting is June 1, 2020.

Thanked Ms. Moran for her service, it was his pleasure and privilege to work with her as Selectwoman and as Chair.

Mr. Jones motion to adjourn at 9:42 p.m. Second Mr. Patterson. Roll Call Vote: Chair English Braga, aye; Mr. Patterson, aye; Mr. Jones, aye; Ms. Moran, aye; Mr. Brown, aye.

Respectfully Submitted,

Jennifer Chaves
Recording Secretary