

Town Council Meeting

February 8, 2016

Minutes

The meeting was called to order at 7:00pm.

Roll Call

Councilor King, Hemphill, McBrady, Anderson and Goldberg were present and answering roll call.

Councilors Kitchel and Farber were absent.

Item 1 Public Hearing on an amendment to the Code of Ordinances, Article II-9-4, Section 9-94, in order to increase the number of moorings allowed for a marina.

Town Manager Nathan Poore explained that this amendment is to allow an increase of moorings at Handy Boat; they are currently at capacity. The intent is for these to be transit moorings, for people who are passing through Falmouth.

Public comment period opened; no public comment.

An order was scheduled for February 22.

Item 2 Public Forum and Order to accept the Route 100 Preliminary Plan Recommendations by the Route 100 Committee, authorize the Town Manager to prepare an amendment to the West Falmouth Crossing Tax Increment Financing District, prepare draft Referendum language, and schedule any required public hearings.

Public comment period opened; no public comment.

Councilor King moved the order; Councilor McBrady seconded.

Mr. Poore has received a letter from the DOT commissioner regarding their financial portion of the project, which might complicate the referendum question. Staff will continue working on this issue.

Motion carried 5-0.

Item 3 Order to authorize the Town Manager to sign a contract with Wright-Pierce for a Comprehensive Water System Study for Falmouth at a cost of \$23,000.

Mr. Poore said the Town received two bids for this project. Staff are recommending this bid, even though it was the higher of the two bids, since they felt the scope of work matched what they thought the study should be. He suggested an addition to the order to authorize a supplemental appropriation from the comprehensive plan special revenue account, which still has a balance, to pay for this project.

Councilor Hemphill moved to authorize a comprehensive water study, and the supplemental appropriation. Councilor Anderson seconded.

Public comment period opened; no public comment.

Motion carried 5-0.

Item 4 Resolution supporting a Market Based Approach to expanding opportunities for Municipal, Small Business, and Large Scale Solar Projects in Maine.

Mr. Poore said the Council has supported efforts to move to renewable energy sources for years. One option to continue that process was to look at solar. Current state law restricts the size of the plant you can build, as well as the number of meters you can support with one solar installation. Meetings have been held at the state level with the Office of the Public Advocate (OPA) and numerous stakeholders to draft recommended changes to those laws. This resolution to the legislature is to encourage the State to consider the proposed changes that came from the OPA's process; South Portland passed a resolution similar to this one and Rockland is considering the same resolution tonight.

Public comment period opened; no public comment.

Councilor Hemphill moved the resolution; Councilor King seconded. Motion carried 5-0.

Item 5 Order to approve a supplemental appropriation in the amount of \$5,900,000 from either (i) the sale of bonds to be authorized through a future bond order or (ii) from funds to be provided by the Portland Water District through a contractual agreement with the said District if the District finances the Mill Creek Project through the sale of its bonds, with revenues received through sewer rate payers to fund the borrowing in either scenario.

Mr. Poore explained that the bond approved by the Council at the last meeting was for a revenue bond for this project, but the bond bank decided that they did not want to issue a revenue bond for the Town; they would rather do a general obligation bond, which would have to go through referendum in June. The delay would cause an increase in the cost of the project; the deadline to award the bid has already been extended once. This order would authorize the Town Manager to enter into a contract with the contractor. The bond bank has said they would issue a revenue bond to the Portland Water District (PWD). The Town can enter an agreement with PWD, with the district funding the debt payment and the Town paying the district for 20 years for the borrowing, instead of the reverse. In turn, the district would take title to the pump station until the borrowing was paid, lease it back to the Town to manage, and the cost will be identical. The Town had a similar agreement with the district in 1984 for improvements to the Pleasant Hill neighborhood. The PWD's finance committee is considering this proposal this evening. Approval of this order tonight would allow the district to apply to the bond bank for their meeting in late March.

Councilor Anderson clarified that this would not cost the taxpayers anything; the payment of the infrastructure improvements will be funded through the sewer fees, no matter what type of bond is used. Mr. Poore confirmed that is correct and said that the increase would be about \$3/month per ratepayer.

Public comment period opened; no public comment.

Councilor King moved the order; Councilor Anderson seconded. Motion carried 5-0.

Item 6 Order to authorize the Town Manager to dispose of real estate through a real estate agent and typical real estate listing service, such real estate described as a 2 +/- acre parcel to be subdivided from Town owned open space known as Hadlock Community Forest.

Mr. Poore said this is a 2 acre parcel; while it is part of the Hadlock Community Forest, it is off to the side and would not be a loss to the open space. The idea is to make better use of the value of this property by selling it and using the cash from the purchase to buy open space somewhere else, lower the tax rate, or support another program. This could be deemed "surplus" open space and could be disposed of to free up money for something else.

Chair Goldberg spoke with Bob Shafto, who said there is no real conservation value to this two acre parcel. There is access to the forest nearby, and this lot is a perfect building lot. Councilor Hemphill agreed.

Chair Goldberg said the use of the proceeds from the sale would be discussed at a later date; today they are only approving the use of a real estate agent and agreeing to list the property.

Public comment period opened; no public comment.

Councilor Hemphill moved the order; Councilor King seconded. Motion carried 5-0.

Item 7 Discussion about the future use of property owned by the Town of Falmouth and located next to Underwood Park on Route 88.

Councilor King moved to table the item to a future meeting; Councilor Hemphill seconded. Motion carried 5-0.

Item 8 Discussion about a proposed Conflict of Interest Policy.

Councilor Anderson summarized the history of the item; the Council has been discussing it for about a year and at the last meeting asked the Town Attorney to draft proposed policy language. The Council's subcommittee on this issue reviewed the draft language and put together the current version. He summarized some of the changes that have been made since previous discussions. This version has a preamble that states why they want to do this. While this version retains the three categories of conflicts, the language says they are not absolutely conflicts but could lead to conflicts and urges councilors to use caution in these instances. This version also includes a definition of "immediate family" for the purposes of determining conflicts and references the avoidance of appearance of conflict. Councilors are required under the policy to disclose any potential conflicts, but it will be up to the individual councilor to decide whether to abstain from the decision or not. The final section discusses situations that do not qualify as a conflict even if a councilor might be affected by a decision, a town-wide zoning change for instance.

Councilor Hemphill felt this was a reasonable result. It isn't too heavy-handed and cannot be used in an adversarial way. He felt most councilors understand and use these as a matter of principle, but this policy articulates them well.

Councilor King felt the subcommittee and town counsel made a good effort, and this is a good way for councilors to reflect on their job as a councilor. There is a lot of gray in making the determination to abstain. She had some question about the first paragraph of the last section "Abstention not required". She wondered if it could relate to the second paragraph better. She wasn't satisfied with the language.

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Councilor Anderson said each paragraph is making a different point. The first paragraph is speaking about a bias a councilor might have; the second paragraph is about financial benefit.

Chair Goldberg felt it was fairly clear as it is.

Councilor Anderson explained that, in order to amend council rules, notice must be given at the meeting preceding the vote. The Council agreed to issue that notice, and hold another discussion about the policy, at their February 22, 2016, meeting. A vote would then be scheduled for the March 14, 2016 meeting.

Adjourn

Councilor King moved to adjourn; Councilor Hemphill seconded. Motion carried 5-0.

Meeting adjourned at 8:03 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary