

**Town Council Meeting
Minutes
April 28, 2014**

The meeting was called to order at 7:03 pm.

Roll Call

Councilors Anderson, King, Mahoney, Orestis, Farber and Pierce were present and answering roll call.

Councilor Goldberg was absent

Pledge of Allegiance

Chair Pierce led those present in the Pledge of Allegiance.

Item 1 Public Forum

Mike Doyle of Applegate Lane didn't think Councilor Farber should have endorsed Cathy Breen for State Senate in a letter to the Forecaster.

Clifford Gilpin of Heron Point Road, president of Tidewater Homeowners Association, spoke about the proposed garden center district for Walmart, and the history of the current garden center. The landscaping at the garden center is minimal and was not maintained. He felt Walmart's current request provides the Council with the opportunity to require more robust landscaping.

Susan Gilpin of Heron Point Road presented photos of the area to the Council. She requested that the Council require Walmart to install adequate landscaping for noise reduction and screening. She also asked that a sidewalk be installed along the north side of Clearwater.

David Gagnon of Field Road asked the Council to reconsider the decision to install a 6 foot bridge to the River Point Conservation area. He didn't want to lose vehicular access to the property. He pointed out that the difference between a pedestrian bridge and a vehicle bridge was only \$50,000; converting a pedestrian bridge to accommodate vehicular access later wouldn't be practical and would cost more than \$50,000. This bridge will last 75 years.

**Item 2 (a) Order to approve the minutes of the March 10, 2014, Town Council Meeting.
(Consent Agenda)**

**Item 2 (b) Order to approve the minutes of the March 24, 2014, Town Council Meeting.
(Consent Agenda)**

**Item 2 (c) Order to appoint election workers for upcoming elections.
(Consent Agenda)**

**Item 2 (d) Order to set FY15 real and personal property tax due dates.
(Consent Agenda)**

Councilor Farber moved the order; Councilor King seconded.

Councilor Farber made an amendment to the minutes of March 24.

Motion carried 6-0.

Item 3 Report from Council Committees and liaisons regarding updates on assignments.

Chair Pierce announced that the Veterans Memorial Committee has raised \$15,845 for the Memorial and they are still collecting donations. The Fuel fund has raised \$7,200 to date. Nominations are being accepted for Citizen of the Year until May 19; the winner will be announced at the annual dinner on June 25.

Councilor Farber said the Library Board will be giving an update on the fundraising feasibility study on May 28. The Appointments Committee will meet on May 5.

Councilor Orestis said the Conservation Commission met; they will be focusing on the invasive species education campaign, monitoring coastal erosion/stormwater runoff, and revisiting mapping vernal pools.

Councilor Anderson said FEIC is almost done with their work on a proposal for drafting an economic development plan. They should be before the Council next month.

Item 4 Report from the Appointments Committee and order relative to filling various vacancies on Boards and Committees.

Councilor Farber said the committee recommends Paul Berlin to Conservation Commission.

Councilor Farber moved the order; Councilor Mahoney seconded. Motion carried 6-0.

Councilor King and Nathan Poore will attend the GPCOG meeting on June 18.

Item 5 Introduction by Councilor Pierce of an amendment to the Zoning and Site Plan Review Ordinance to relax zoning provisions for the replacement of utility infrastructure.

Town Manager Nathan Poore explained that the Mill Creek pump station needs to be replaced. There are some provisions in the ordinance that would prevent it from being replaced the way it needs to be. Staff are reviewing the ordinance to allow for this replacement, as well as others in the future. The pump station will be replaced in its current location, but there is a setback issue from the creek.

Councilor Farber asked if section 4.8 would require a pump station to meet the setbacks if it could.

Community Development Director Amanda Stearns said that was correct; if they can meet the setbacks they should and if not, they will meet them to the greatest extent practicable. Anything installed underground (culverts, pipes, etc.) will only require a permit from the CEO, but all structures, such as pump stations, will require Planning Board approval.

A public hearing was scheduled for May 28.

Item 6 Order to approve a supplemental appropriation from Unassigned Fund Balance for maintenance related renovations at the Town Hall.

Mr. Poore gave a brief history of the process of this project. The project base bid was estimated to come in at \$250,000; the lowest bid received came in at \$182,000. After drafting the base bid, they added three bid alternates: dealing with air handling systems, mechanical systems, and adding a mud slab under the entire building. They are recommending a bid from Hardypond Construction for \$309,000; the project estimate was originally \$415,000. They are also recommending 10% contingency and construction management at \$8,300 for a total of \$348,600; staff recommends rounding it to \$350,000.

Glenn Harmon of Oak Point pointed out that this bid represents Phase 1 of a three-phase project. They are right where they estimated they would be, price-wise.

Public comment period opened; no public comment.

Councilor Farber moved the order, Councilor Mahoney seconded.

Councilor Farber moved to amend the order to \$350,000; Councilor Mahoney seconded. Motion carried 6-0.

Councilor Mahoney asked if the bid includes a contingency. Mr. Poore said it does, but that would be the construction company's internal contingency if they run into something they didn't anticipate. He wanted to see the Town hold a full 10% contingency in this project, in case they run into unexpected problems.

Councilor Anderson asked if this included replacing the whole HVAC system.

Mr. Harmon said the base bid included the ventilation units in the Town Clerk area. The alternate includes replacing all the existing units, which are at the end of their lifespan and work on a coolant that is being phased out.

Councilor Anderson asked if this phase will correct all the air quality issues at Town Hall; Mr. Harmon said yes. Mr. Poore said the control system will also be replaced.

Councilor King asked if the crawl space will be isolated from the rest of the building; Mr. Harmon said yes. There will be a perimeter trench and ventilation system to address the moisture issue rather than try to keep the moisture out. This way this humidity will not build to the 60% level and there won't be mold growth.

Amended motion carried 6-0.

Item 7 Update on proposed railroad crossing upgrades along the Pan Am Railways line to maintain/create a so-called "Quiet Zone" and order to authorize a supplemental appropriation in the amount of \$100,000 to complete the project.

Theo Holtwijk, Director of Long-range Planning, gave an update on the Woodville Road location where there is an access point to a private property that is close to the railroad. They tried to address this access with design. The channelization that was proposed is a pre-approved type of safety improvement by the Federal Rail Authority (FRA). Councilors have asked if doing the channelization at only Field Road and not Woodville would still qualify them for the quiet zone. He reviewed the numbers and discovered that they could qualify, but the numbers would have to be recalculated once a year. While this would meet the rules, it would not improve safety at Woodville Road. The current recommendation is to do a non-standard improvement in the public right-of-way at Woodville to provide additional safety at that crossing. This would prevent doing work on private property and also save the Town some money. Since this came to light late in the process, they haven't discussed it with FRA nor do they have a final design for the Council to review, but they feel it is a viable option.

Councilor Anderson asked for clarification that they would do the channelization on Blackstrap, Falmouth and Field as previously planned. They would do full channelization on the eastern side of the tracks at Woodville, but on the other side they would have a gap in the channelization that would allow access to the private property. The gap would not allow them to get any credit from the FRA toward the quiet zone on that intersection, even though it would be safer.

Mr. Holtwijk agreed, but clarified that the channelization at Blackstrap and Falmouth is also partial, due to the proximity of the public roads to the railroad.

Councilor King asked about the cost savings in the partial channelization of Woodville Road.

Director of Public Works Jay Reynolds said he could have better numbers once he reviewed the design. He thought they could save \$10,000-20,000.

Councilor Farber pointed out that channelization does improve safety, and they can do it for that reason, but this investment does not guarantee the quiet zone down the road. The FRA could decide that they no longer qualify.

Councilor Mahoney asked about the extent of the quiet zone. Mr. Holtwijk said the zone is half mile past the crossings at Field and Woodville. It only affects the public crossings.

Councilor Mahoney asked if the proposed \$230,000 was for all 4 crossings. Mr. Poore said that would be for all 4 and the alteration of the private access. The original estimate for all 4 crossings was \$130,000 but when bids for the Woodville and Field road crossings came in, they were at \$100,000-150,000 for those two alone. On average, the cost is \$50,000/crossing.

Councilor Orestis asked what they could do if they did the recalculation and didn't meet the standard for the quiet zone one year, if they accepted this change to Woodville.

Mr. Holtwijk said they could either accept the loss of the quiet zone, or they could make additional improvements; they would have three years to do those. One of the options for those improvements would be installation of a quadrant gate system which would cost approximately \$500,000/crossing.

Chair Pierce opened a public comment period.

David Gagnon of Field Road asked what happens at the agricultural crossings. If the train still blows the whistles at those crossings, they aren't going to get a lot of quiet.

Margaret Thompson of Woodville Road said this makes a huge difference to them; hers is the private property with the access on Woodville Road. She had concerns on the partial channelization; the FRA is the law here, and there is no guarantee that they will agree to the quiet zone regardless of what they install. Her property is a tree farm; they have a maintenance plan and they are required by that plan to do certain things, including thinning the forest. They would be agreeable to the partial channelization because it will allow them access. She pointed out that channelization markers deteriorate quickly and are ugly. She would rather have the quadrant gate system. She thanked the Council for their consideration.

Jessica Brookman of Field Road didn't want to see the channelization on Field Road; it is unsightly. She wondered why they weren't notified as abutters. She was opposed to the channelization; while she would love a quiet zone, she didn't think this was a good use of town funds.

Jim Halpin of Woodville Road pointed out that if someone wants to go through the gates there is no way to stop them. He didn't see what was wrong with what they currently have.

Jim Ascanio of Brookfield Road asked if the originally proposed solution for the Woodville Road property would only allow right-hand turns into that property and if that was still an option.

Mr. Holtwijk clarified that the new information provides the Council with a new option to consider.

Mr. Ascanio pointed out that the property owner on Woodville only uses that access point once a year or so and they can still access the property with the full channelization. Full channelization provides more safety than horns; he felt safety should be their first priority. He shared a couple of independent studies on the impact of train horns on residential property values with the Council, both of which showed a significant decrease of property values due to train horn noise. He felt the values of the homes in the new quiet zone area at Field and Woodville would offset the costs of the improvements. He said there are penalties for train conductors that blow horns in quiet zones. He urged the Council to support the project.

David Mills of King Real Estate agreed with Mr. Ascanio's comments on property values. He felt the quiet zone would improve the marketability of those properties.

Kelly Fernald of Woodville Road didn't think it was the Town's job to ensure an increase in property values. She has lived on this property since the 1970s, the whistles were blowing then, and the property value has increased since this time.

Julie Rabinowitz of Muirfield Road said an acquaintance of hers was looking to buy a new home and chose not to look at a home in this neighborhood due to concern with the train whistles. She thought rail traffic will increase in the future, with potential overnight service from Boston to Montreal as well as rail service to Lewiston/Auburn. She said the Pan Am freight trains can carry hazardous material, but there is no requirement that the train inform the towns when they might be carrying hazardous material. She argued that channelization improves safety and would prevent an environmental disaster.

John Locke of Parkside Way agreed with Mr. Ascanio's point about property values; many buyers won't even look at homes in close proximity to the railroad. This would be a great investment for the Town and would provide a material payback.

Hank Schmitt of Paddock Way has a petition from neighbors in the Paddock Way, Cavandish and Kilarney area in support of the quiet zone. He felt it was clear that channelization will improve safety, and that should be enough reason to do it. He felt housing values will go up, and that installing these would improve the quality of life in Falmouth.

Elwin Hanson of Woodville Road wondered how many times the train goes through. He wanted them to count the whistles. He wondered if they are going to blow the whistle in Cumberland.

Chair Pierce said Cumberland has decided not to go for a quiet zone, so they will be blowing the whistle there.

Mr. Hanson said he hears 4 whistles in a row when the train goes through. There will not be a quiet crossing in the Field and Woodville area since they will hear the horn from Cumberland, so getting the quiet zone there isn't going to make a difference. He argued that the crossings are safe as they are. He said the field access at the Woodville property would be used more than once a year; he has a hay field and he enters his field several times a year. He said the whistle would provide for safety. He didn't support the proposed improvements.

Al Aucella of Field Road didn't think many of the residents know what channelization will look like and how it would change the character of the streets. He encouraged them to notify the public better.

Tim Farris, a resident of Cumberland, said the Councilors in his town took a wait-and-see approach a year ago. He thought residents went to DOT, and it was determined that trains should not blow at the crossing in the country club, but the train has never complied with that order. He is a board member of the Falmouth on the Green Homeowners Association and said the members of that association are in favor of the quiet zone.

Public comment period closed.

Chair Pierce said the first vote on this issue took place in 2011. Safety has always been her primary focus. The Council at the time voted 7-0 to spend the \$130,000 on channelization. When it became clear that costs would increase, the Council continued to support it. It gave her pause when they found that it would impact a private property owner's access. She still supported the channelization with the access solution at Woodville Road.

Councilor Orestis agreed with Chair Pierce; you can't put a price on safety. He continued to support this, with the modification at Woodville.

Councilor Mahoney didn't think the statistics for channelization are there; there is still risk and people can drive over them since they are flexible. He was concerned with spending a lot of money without a guarantee. The real concern here is noise, not safety. He respected that this is an issue for people who live

closest to it. He wondered about an assessment, similar to a sewer fee, if this is important to a specific area of Town. He didn't see this as a necessary expense from a safety point of view.

Councilor King felt the improved quality of life for some people and the enhanced safety likely make this worthwhile, despite the fact that channelization is unsightly. She thought there would be more train traffic over time, and therefore more whistles. She wondered what they would do with the improvements to Woodville if they didn't meet the standards and lost the quiet zone in the near future.

Councilor Anderson said it is primarily about safety, not quiet. The statistical data shows a 60% improvement in safety. He didn't see any other way to vote but for public safety. If they can improve quality of life and property values at the same time as they improve safety, it is all to the good.

Councilor Anderson read a statement from Councilor Goldberg stating that he supported channelization and that this is core to what is expected of town government.

Councilor Mahoney argued that removing the horn decreased safety for pedestrians. There is a huge trail system between Field and Woodville. There are plenty of kids that travel from here to the school campus, often listening to music on headphones so they can't hear the trains.

Councilor Farber agreed that channelization would not be pretty, but the quad gates are far outside the budget. This is no guarantee for what is going to happen in the future. She supported the partial channelization at Woodville.

Councilor Anderson moved the order; Councilor Farber seconded.

Councilor Anderson said he moved the order with the understanding that the Council supported the partial channelization at Woodville. A majority of the Council agreed.

Councilor Mahoney restated that they would have full channelization at Field Road, and partial at Falmouth, Blackstrap and Woodville. He said that to be safe they should do channelization and have the horns too. He asked if the Town makes the request of the FRA for the quiet zone.

Mr. Holtwijk said that was correct. They would notify the FRA if they want to do the safety improvements, but they don't have to request the quiet zone.

Councilor Anderson said the whistles only blow for vehicle intersections; the pedestrian walking in the woods with ear buds won't hear the whistle at the vehicle crossings anyway.

Councilor Farber pointed out that it is already quiet at Blackstrap and Falmouth. There is no quality of life question at those intersections; it is all about safety.

Motion carried 5-1 (Mahoney).

Item 8 Order to expend \$50,000 for Food Pantry renovations at Town Hall and to accept, upon Cumberland County Commission approval, a \$39,200 Community Development Block Grant (CDBG) for this project.

Mr. Holtwijk said they stand a good chance of receiving the grant, but they are required to match the grant at 20%. The Cumberland County Commissioners will vote on this in the beginning of May; the application has been ranked very high.

Chair Pierce asked what happens if the project comes in for less than estimated.

Mr. Poore said if they project costs less, both the grant and the Town's contribution would be less. The Town would still have to contribute 20% of the total.

Mr. Holtwijk said there will be in-kind match as well as cash match.

At Councilor Anderson's question, Mr. Poore explained that, for a supplemental appropriation, they need the authority to spend the full amount. If they don't receive the grant, they are not obligated to spend the full \$50,000.

Public comment period opened.

Dorothy Blanchette of the Falmouth Food Pantry said they still need to meet with the architects and do their planning. She urged them to settle this tonight.

Public comment period closed.

Mr. Poore suggested the language: to approve a supplemental appropriation and transfer in the amount of \$50,000 from Unassigned Fund Balance for Food Pantry renovations at Town Hall and to accept, and subject to, Cumberland County Commission approval of a \$39,200 Community Development Block Grant (CDBG) for this project.

The Council discussed the wording of the order.

Councilor Mahoney moved the amended order language, Councilor Farber seconded.

Councilor Farber pointed out that this is part of the Town Hall, even though it is for the Food Pantry, and the improvements will stay with the Town Hall.

Motion carried 6-0.

Item 9 Receive the final report for the North of Portland Bicycle and Pedestrian Implementation Plan.

Mr. Holtwijk discussed the plan, which is a collaboration of 5 towns and only provides advice; it does not bind the Town. They have used the final draft of the plan to apply for grant funding for bike lane improvements in Town and have been ranked number 1 out of 11. Improvements will be made in the other 4 towns as well. He discussed the next steps, including posting the plan, continuing collaboration, tracking the grant application, and participating in wayfinding signage for pedestrians and bicyclists north of Portland. Staff will draft a scope of work by the end of this year for a more specific bicycle/pedestrian trails plan for Falmouth. The Town has been approved for some grant funding for a Falmouth-specific update and they hope to start that work in 2015.

Councilor Mahoney asked about the likelihood of full funding for the short-term improvements.

Mr. Holtwijk said there is a required match, but they expect full funding for the remainder. Falmouth is currently first on the list and will hopefully get \$50,000.

Councilor Anderson asked about bicycle detection at the Falmouth/Bucknam/Middle Road intersection.

Mr. Holtwijk said it showed on the map, but was buried in the text for the Johnson Road intersection. It is included in the grant application. If the roundabout is approved for that intersection, bicycle detection would not be necessary, but it doesn't look like that is going to happen anytime soon.

The Council supported moving forward with the plan.

Item 10 Order to approve the FY15 Municipal and School Department Budgets in accordance with the Town of Falmouth Charter, Article 5, Sec 502.

Councilor Farber said the Finance Committee met at length tonight to discuss the \$.02 impact on the mil rate due to the County budget. They determined that they can make an increase in projected revenue based on increased excise taxes and tree growth and keep the mil rate flat.

Councilor Mahoney moved the order, Councilor King seconded. Motion carried 6-0.

Item 11 Ordinance to amend the Falmouth Code of Ordinances regarding the notice requirements for a special amusement permit.

Councilor Farber moved the order, Councilor King seconded. Motion carried 6-0.

Item 12 Order to schedule the Budget Validation Referendum's (BVR) statutory budget meeting to be held on Monday, May 12, 2014, as required by M.R.S.A.1485 & 1486.

Public comment period opened; no public comment.

Councilor King moved the order; Councilor Anderson seconded. Motion carried 6-0.

Councilor Mahoney moved for the Council to reconsider the decision made at the last meeting for the River Point Bridge. Councilor King seconded.

Councilor Mahoney argued that the difference between the 6-foot and 10-foot span was only \$50,000; considering that the bridge was going to last 60-75 years, the money spent on acquiring the property, and the number of visitors that use the property, it was worth the \$50,000 for the larger bridge. He didn't think it was wise or equitable to shortchange this project, given the other projects that have received funding recently.

Councilor King argued that the goal of the *Greening of Falmouth* was to preserve open space; she wondered why they needed a 10-foot bridge. She wasn't interested in a visitor center or a parking lot.

Councilor Mahoney would be happy to put restrictions on building anything over there. He was concerned with upkeep and management over there, as well as occasional access for people who can't get over there on their own.

Councilor Farber was happy to vote to reconsider the project, but wasn't sure she would change her vote.

Councilor Anderson felt their original decision was consistent with what they have done with other projects; they have reduced several other projects as well.

Councilor Mahoney withdrew his motion.

Adjourn

Councilor King moved the order; Councilor Farber seconded. Motion carried 6-0.

Meeting adjourned 9:41 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary