

Town Council Meeting

August 24, 2015

Minutes

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

Roll Call

Councilors King, Hemphill, McBrady, Anderson, Goldberg and Farber were present and answering roll call. Councilor Kitchel was absent.

Pledge of Allegiance

Chair Goldberg led those present in the Pledge of Allegiance.

Item 1 Public Forum

Michael Doyle of Shady Lane spoke about the Police Department. He was concerned about heroin sale and use in Town.

Item 2 Report from Council Committees and liaisons regarding updates on assignments.

Councilor Anderson said the SCAC held a stakeholders meeting last week to receive input on their draft recommendations; about 30 people were there. The committee will incorporate input from this meeting into their final report, which they plan to present to the Council in September.

Councilor Farber reported on the ad-hoc zoning committee; both modules of the administrative rewrite of the ordinance have been delivered by the consultant and staff and the committee are reviewing the first module. They would like to come to the Council with the whole package at once, instead of bringing each module separately. They expect that this will be done before next June.

Item 3 Report from the Appointments Committee and order relative to filling various vacancies on Boards and Committees.

Councilor McBrady said the committee recommends the following appointments.

- Jason Cole – Planning Board alternate
- Jeannie Madden – Tercentennial Committee
- Dave Gagnon – LMAC representative to the Hurricane Farm committee

Councilor King moved the slate of appointments; Councilor McBrady seconded. Motion carried 6-0.

Item 4 Report from staff regarding the proposed tax rate for FY2015/16 and solicit guidance from the Council regarding the final rate and proposed overlay amount.

Town Manager Nathan Poore explained that, while the Council doesn't have the authority to set the tax rate (such authority belongs to the Town Assessor), staff is interested in Council guidance at this time. During the budget process, the mil rate was set at \$14.73. After the referendum vote, the School Board was notified that there was more state aid for education available. The Board voted to return some of that money to the taxpayers. After recognizing increased valuation, Assessor recommended a rate of 14.66 based on last year's

overlay amount. Mr. Poore and Finance Director Pete McHugh thought they could go to 14.65 with a \$50,000 overlay. Since then, the staff discovered that BETE could not be included in the TIF. As a result, staff now recommend a mil rate of \$14.63 with an overlay of \$65,869.

Councilor Farber asked for more information on the overlay.

Mr. Poore said the overlay is the amount that is left over once you set the tax rate; it needs to be over zero. This money is used for abatements or errors in valuation if any are found throughout the year. If there is any left at the end of the year, the money goes to the unassigned fund balance. Historically, the town's overlay has ranged from \$25,000-\$200,000 with the higher number in a revaluation year.

Councilor Anderson wondered how the \$65,000 compares to the last few years. Mr. Poore felt it was probably average to what the Town has done in past years.

Gary James, County Assessor, said the portion they use for abatements has ranged from \$10,000-\$25,000 over the past few years. If they were to get hit by a major commercial appeal it could be very costly. The Town has budgeted around \$65,000 in the last five years.

Councilor Anderson wondered why they budget three times the amount of overlay they typically use. Mr. James said Falmouth's overlay is the lowest of the four towns he works with. The other towns typically have \$150,000 or so in overlay. He felt this was a wise overlay amount.

Mr. Poore said the commitment will be made to the state tomorrow. Bills should be out in three weeks.

Item 5 Public Hearing on an amendment to the Code of Ordinances Div. II-2-3-12. Economic Improvement Committee to update the charge and membership of the Falmouth Economic Improvement Committee (FEIC).

Councilor McBrady explained that this change would allow the FEIC to continue its work on implementing the economic development plan and to retain the two additional members that were added during the drafting of the report.

Public hearing opened; no public comment.

Order scheduled for September 16.

Item 6 Public Hearing on an amendment to the Zoning and Site Plan Review Ordinance Sec. 19-23.11 Master Development Plan Time Limits, in order to extend the Tidewater Master Plan Development District an additional six months.

Councilor Hemphill said the Council extended the district for six months earlier this year to allow the Town and developers time to discuss the future of the district. They are now asking for an additional six months to work on a significant list of amendments.

Public hearing opened; no public comment.

Councilor Farber pointed out that this amendment suspends any approvals on work on TF-2 and TF-3. She wanted assurances that this would be completed well before April 2016.

Councilor Hemphill said they have made it clear to the developers that additional requests for extensions would not likely be approved.

Order scheduled for September 16.

Item 7 The Recycling and Energy Advisory Committee (REAC) to present a recommendation on policy options regarding single-use disposable shopping bags.

Cathy Nichols, REAC member, presented the history of the project and the committee's work on research and education around single-use disposable plastic bags. She discussed the impact of plastic bags on the environment; once a bag is created it doesn't go away. Over 150 US municipalities have regulations, either fees or bans, and many countries around the world have banned them as well. They have interviewed over 45 Falmouth businesses that would be impacted by an ordinance. She discussed a list of necessary exemptions including meats, produce, deli, dry cleaners, leaky foods, separation of cleaning goods and food products, and food assistance programs. In the first year, they would institute a 5 cent fee/bag on larger retailers. The fee would remain with the retailer to offset increase in costs. In year 2 there would be a total ban on all plastic bags, with an optional fee on paper bags. This phase-in approach would allow businesses to use up current inventory and allow for time to educate the public. She discussed the feedback they received from local businesses as well as some of the lessons they learned from the Portland ordinance.

Councilor King wondered if the fee was designed to create a transition from current policy to a full ban. The small businesses don't want to do the recordkeeping involved in the fee, and she wondered if the larger stores will even charge the fee. She supported moving forward with the ordinance, but wondered if there were any other transitional methods.

Ms. Nichols said businesses are not going to act until they are supposed to. The fee matches them up with Portland.

Councilor King wondered if a 5 cent rebate or credit per reusable would be a better method. Ms. Nichols said they spoke with Portland, and they thought it was too complicated. She hoped the stores might do those themselves.

Councilor Anderson asked what impact the Portland ordinance has had and whether it has reduced the use of plastic bags. Ms. Nichols thought they would have some data by the end of the year.

Councilor Anderson asked what other things could be done during year 1 to encourage the use of reusable bags. Ms. Nichols said there is a requirement for stores to have a recycling bin for thin-film plastic. The fee system partners them up with their neighbor.

Councilor Anderson said it was laudable to exempt the food assistance community in consideration of the financial impact, but he wondered how to provide reusable bags to them.

Councilor Farber pointed out that they are only talking about fees for a year. She worried that exempting that portion of the market would prevent the change the behavior. She felt the fee and publicity of the fee would prepare everyone for year two's full ban. In considering next steps, she felt a public forum would be more productive with a fully crafted ordinance from staff and the ordinance committee.

Chair Goldberg asked for a definition of "leaky food". Ms. Nichols said it focuses on take-out food specifically, but not all take-out food is leaky.

Chair Goldberg asked how they developed the "larger store" list. Ms. Nichols said it is based on size; it applies to stores greater than 10,000 square feet.

Chair Goldberg wondered if this list is a true indicator of the volume of bags a store uses.

Chair Goldberg felt that Wal-Mart has a broader customer base than a local grocery store, and it may be harder to reach their customer base with their public outreach. Ms. Nichols said the local store manager is looking into how to get the information to their customers.

Chair Goldberg wondered about the carbon footprint of the reusable plastic bags, and was grateful they found a local New England business to supply the bags they are purchasing with the grant money.

Councilor King agreed with Councilor Farber; she felt it would be better to go to the public with an ordinance.

Councilor Anderson said the ordinance committee has discussed this; he felt there should be extensive opportunity for public comment on this. He wanted to get public comment on the REAC proposal before they go to the expense of writing an ordinance. The public would have another chance to weigh in on any ordinance that was drafted at the required public hearing.

Councilor Hemphill thanked the committee on their excellent work on this project. He agreed with Councilor Anderson's proposed process.

The Council discussed next steps. A public forum will be held prior to introduction of an ordinance.

Item 8 Update from staff regarding possible development of one or more large solar array projects on town land and/or buildings and order to appoint a Town Attorney to assist the Town with the development of legal documents and partnerships to facilitate the use of federal tax credits related to solar projects.

Mr. Poore said he has been working with Energy and Sustainability Coordinator Kimberly Darling for over a year to review alternative energy possibilities. Federal tax credits are available but are expiring soon. They have reviewed several town owned locations for possible solar array installations, including the landfill. The Town, as a non-profit entity, is not eligible to receive federal tax credits so a third-party structure would be necessary. This third party would pay to install the panels, receive the tax credits, and own the array for 20 years, after which time they would turn them over to the Town. They have reviewed other towns and non-profits that have explored similar projects, including the Maine Audubon. They are recommending appointing Ben Lund from Brann & Isaacson for his legal and technical advice to help the Town draft a RFP and design a third-party partnership. If they can get a RFP out this winter, construction could happen next summer. It is possible a solar installation on the roof of Town Hall could supply all of the electric needs for the building. The potential installation at the landfill, despite a limit on its size by state statute, could likely supply a third of the Town's municipal needs.

Public comment period opened; no public comment.

Councilor McBrady asked for information on the tax credits. Mr. Poore said the private company that builds and invests in it gets a lease from the Town and receives the credits. They build in enough profit to get the return on investment as quickly as possible.

Councilor Farber asked if there is another municipality that has been able to do this with a third party entity. Mr. Poore wasn't aware of any others in Maine, but there have been others around the country.

Councilor Farber pointed out that this is new territory, and there is some risk involved. Mr. Poore agreed, but said they can depend on the experience of the non-profits. The Town's experience shouldn't be that different. He pointed out that the motivation for this was the Council's commitment to the 2% reduction in emissions per year. The Town has added a lot of energy demand with new facilities and new square footage and has almost stayed neutral, but will have to take bigger steps to meet that commitment.

Councilor McBrady asked if they have investigated the potential for solar. Mr. Poore said a company that installs solar panels said this roof is perfectly situated.

Councilor Anderson said he thought this was new territory for us, but there are large solar farms around the country and he felt this was a good idea.

Councilor King wondered how the scale of investment compares to what was made at Audubon. Mr. Poore said it is a completely different structure – the Audubon has 4 high-tech panels that move to track the sun. The Town is talking about smaller, lighter weight panels.

Councilor King wondered if this could be a solar farm administered by ReVision, like some others around the state. Mr. Poore said this is likely to be similar to that.

Councilor Farber said the power generated would be directed to municipal use only, and not open for others to purchase credits like a farm.

Councilor King wondered if it could be opened for other nonprofits to purchase credits. Councilor Farber said the size of it is too limited. Mr. Poore thought it was limited to 10 meters. The Town is a big enough energy user that it can't meet all their own needs but the benefit will be passed through to all taxpayers.

Councilor Hemphill moved to appoint Ben Lund of Brann & Isaacson as a town attorney; Councilor King seconded. Motion carried 6-0.

Item 9 Discussion of a proposed change to Council rules section 16.H, regarding "motion for the previous question".

Councilor Farber said this rule was used incorrectly a couple years ago; revision of the section was added to the Council's workplan last year. She presented a proposed revision and asked the Council for comment. The Council discussed the rule, the proposed revision, potential changes and the process moving forward.

Item 10 Order to go into Executive Session pursuant to the Laws of Maine to discuss and consider negotiation parameters associated with the Maine Association of Police contract renewal, pursuant 1 M.R.S.A. § 405 (6) (D).

Councilor King moved to enter executive session; Councilor Farber seconded. Motion carried 6-0.

The Council entered executive session at 9:02 pm and did not return.

Respectfully submitted,

Melissa Tryon

Recording Secretary