

Town Council Meeting Minutes May 23, 2016

The meeting was called to order at 5:00 pm

Roll Call

Councilors King, Hemphill, McBrady, Anderson, Goldberg and Farber were present and answering roll call.
Councilor Kitchel arrived at 5:15 pm.

- Item 1 Order to go into Executive Session pursuant to the Laws of Maine to discuss the following:**
- **Town Manager's annual performance review, pursuant to 1 M.R.S.A. § 405 (6) (A).**
 - **The nomination of the annual Citizen of the Year Award, pursuant 1 M.R.S.A. § 405.**

Councilor Anderson moved to enter executive session; Councilor Farber seconded. Motion carried 6-0.
The Council returned from executive session at 7:00 pm.

Pledge of Allegiance

Chair Goldberg led those present in the Pledge of Allegiance.

Item 2 Public Forum

Councilors King and Farber recognized Councilor Anderson and Chair Goldberg for their thoughtful service on the Town Council, as this is their last meeting.

Michael Doyle of Shady Lane said the SAD 6 school district negotiated a separation with their superintendent due to a violation of their nepotism rule. Falmouth has an anti-nepotism rule, but it wasn't enforced at Town Landing. It should not be allowed to have family members employed in town.

Anita Liu of Kimberly Lane said the Falmouth Memorial Library has until December 31 to raise \$2.8 million to fund half of the planned library expansion. The Bond was approved by voters in 2014. There will be a fun, free event, called the "Brary Bash" on June 12th, from 1-4pm. There will be bouncy houses, live music, antique cars, antique photo booth, and a lot of family activities. Town Landing Market has generously donated free ice cream for the event, and there will be other food as well. There will also be an announcement on the progress of the capital campaign to date. More events are being scheduled and details can be found on the library's website, the Facebook page, or by emailing thenextchaptercc@gmail.com.

**Item 3 (a) Order to approve the minutes of the April 7, 2016, Town Council
(Consent Agenda) Budget Meeting.**

**Item 3 (b) Order to approve the minutes of the April 11, 2016, Town Council
(Consent Agenda) Special Meeting.**

**Item 3 (c) Order to approve the minutes of the April 25, 2016, Town Council
(Consent Agenda) Meeting.**

Councilor Farber moved the consent agenda; Councilor King seconded. Motion carried 7-0.

**Item 4 Report from Council Committees and liaisons regarding updates on
assignments.**

Councilor King said LMAC took input on the problem of pets on public lands at a public forum. PACPAC and LMAC have worked together to come up with recommendations, and they will take them back to the public on Monday, June 27 at 6:30 at the Lunt Auditorium. She also reported that the CDC's proposed zoning amendments will have an MRA hearing at the Planning Board meeting on June 7. The Harbor Committee has been busy and productive. They are anticipating a new safety boat. The boat cost the Town \$45,000; the remaining cost was covered by grants. The boat will be used for search and rescue and will service other communities; it will be put into service in June.

**Item 5 Report from the Appointments Committee and order relative to filling
various vacancies on Boards and Committees.**

Councilor McBrady moved to appoint Nicole Favreau, to the ad-hoc Route 1 North committee; Councilor Farber seconded. Motion carried 7-0.

**Item 6 Public hearing and order relative to renewal of the victualer licenses
for: American Legion Post, Bernie's Foreside, Bueno Loco, Circle K,
Dockside Grill, Dockside Provisions, Dunkin Donuts, Dunkin Donuts,
Episcopal Church of St. Mary the Virgin, European Bakery, Falmouth
By the Sea, Falmouth Car Wash, Falmouth Congregational Church,
Falmouth Country Club, Falmouth House of Pizza, Falmouth Lil'
Mart, Falmouth Little League, Falmouth Schools Food
Service, Family Ice Center, Foreside Community Church, Grab A Byte
Café, Hannaford Bros., Harmon's Lunch, Holy Martyrs, Hug's Italian
Restaurant, Leavitt & Sons, Liz's Kitchen, Maddens Pub & Grill,
Milly's Skillet, McDonalds, Mother's Mountain, Nina's Variety,
Oceanview , Orchid Thai, Pine State Trading Company, Portland
Country Club, Portland Yacht Club, Professional Catering Service,
Pine State Trading Company, Ricetta's, Rite Aid, Shaw's, Starbucks,
Subway, Subway, Super Scoops, The Foreside Tavern, The
Woodlands, Town Landing Market, Waldo's, Wal-Mart, West
Falmouth Baptist Church.**

Chair Goldberg opened the public hearing.

John Winslow of Gray Road felt the applicant for Milly's Skillet has misled the Council on her status as a mobile food vendor. This food truck is not mobile; the truck was brought to its site by a tow truck, and has not been inspected. It has hardwired electric, propane, and water connections. He wasn't sure where the wastewater goes. The applicant was originally warned about no outdoor seating being allowed, and now there are a half-dozen picnic tables. He wasn't aware of any other mobile vendor with their own street sign. This looks more like a fixed, brick-and-mortar establishment. He encouraged the Council not to approve any further mobile food vendors until they review the ordinance.

Molly Ritzo, owner of Milly's Skillet, said they opened in late April and have had a tremendous outpouring of support for their business. Her ultimate goal is a brick and mortar establishment; the mobile truck was a way for her to get started with lower overhead. When she applied for the permit, she told the Council she would be located at Smith Farm. Since she had the truck towed to the site in November it has been worked on and is fully mobile. She was up front with her needs for water, electric and gas. The current gas tank situation was recommended by the propane company. When she moves the truck, she will use smaller propane tanks. She is trying to establish a following at Smith Farm in particular; she spoke about her work in renovating the farm. The majority of the picnic tables are going out to Peaks Island; she was just using the Falmouth location as a place to store them.

Chair Goldberg closed the public hearing.

Councilor Kitchel asked why the Falmouth Car Wash is on this list. Town Clerk Ellen Planer said the little gas station on the site sells snacks.

Councilor Farber asked what was approved for Milly's Skillet. Town Manager Nathan Poore said they approved a mobile food cart, which included the victualer license.

Councilor Farber asked if there was there anything different that a brick and mortar does in regards to the town in terms of the licensing.

Mr. Poore said if you were to open a new establishment, you would have to go through the site plan review with the Planning Board, including design of the site, storm water, etc.

Councilor Anderson said the Ordinance Committee had a discussion about revisiting the language for "mobile food establishments"; one gray area was the outside seating. While the language does need revisiting, he didn't see any reason not to renew the license.

Councilor Hemphill moved the order; Councilor Kitchel seconded. Motion carried 7-0.

Item 7 Order to approve a new Victualer license for Falmouth Premium Cinema, 206 US Route 1, Falmouth.

Theo Holtwijk, Director of Long range Planning, said Flagship Cinema will open in the former Regal Cinema location as Falmouth Premium Cinema. Interior renovations are underway. This application is for the food they will be serving. They hope to open by June 20.

Chair Goldberg opened the public hearing.

Janet Oprendeck of Flagship Cinemas said the company is excited about the opening and about coming to Falmouth.

Councilor Farber moved the order; Councilor King seconded. Motion carried 7-0.

Item 8 Order to approve a new Victualer license for Café Crepe, 10 Clifton Road, Falmouth.

Chair Goldberg said the vendor would be operating at the farmer's market; Mr. Poore agreed and said the truck would be mobile and would attend other events as well.

Chair Goldberg opened the public hearing.

Ms. Planer said this vendor would not have a permanent location.

Councilor Farber said a vendor can't just park on a public street under this ordinance; they have to be on private property.

Ms. Planer said the ordinance doesn't address that; it doesn't say the vendor has to be in a certain location. The language was written so long ago, it doesn't address the current business model for food trucks.

Councilor Farber asked if there was anything in the ordinance that would prevent a vendor from parking on and selling from the street. Mr. Poore said he didn't think the ordinance addresses this; if it was creating an impediment to traffic, he felt the traffic and parking ordinance might prevent it.

Councilor Farber said this mobile food vendor language has to be addressed soon. Councilor McBrady said the Ordinance Committee has planned to discuss this issue in the next Council year.

Ms. Planer said they have tried to specify on the application when and where the food trucks are going to be.

Councilor Kitchel moved the order; Councilor Anderson seconded. Motion carried 7-0.

Item 9 Ordinance to amend Section 19-1 of the Code of Ordinances, Zoning and Site Plan Review Ordinance, to create a new Retirement Community Overlay District to facilitate the expansion of the Avesta Blackstone housing development on Squidere Lane.

Councilor King introduced this amendment a couple of months ago. The MRA hearing was held and it is now before the Council for approval. In a recent review, the Town and Avesta uncovered some detailed changes that needed to be made before the ordinance is approved. These changes are not substantive and shouldn't interfere with the process, but should be presented.

Drew Wing from Avesta Housing presented the changes. At their last meeting, the Council indicated that they wanted one parking space per unit; the ordinance language was changed to reflect that. They added references to the Master Plan on the rendering, so that they go together. On the conceptual master plan, they specified that the plantings are conceptual and subject to Planning Board review and they added language that the community room and outdoor space is required, with final locations subject to Planning Board review. The goal was to give the Council the confidence that the concept plan they bring to the Board represents the discussions they have had with the Council to date.

Councilor Farber said they are voting on the ordinance changes, not the conceptual master plan.

Amanda Stearns, Community Development Director, said that by adopting the ordinance language they are approving the conceptual master plan by reference

Councilor Farber thought the Planning Board would determine lighting, location of roads, etc.

Ms. Stearns said the ordinance requirements for an overlay district include the submission of a conceptual master plan, which shall include in general terms the location and size of buildings, roads, drives, parking, recreation and other features. This is to give the Council a vision of the development in general terms. The original plan submitted by Avesta included some concrete language. Staff recommended that the language should be clear that the plan is a sample; it is a general vision with the details to be worked out with the Planning Board. The items on this plan that send a clear message to the Board are: 1. location of the building; 2. the rendering depicting the style of the proposed building; and 3. the requirement for the community room and the outdoor living space. Those were items that were clearly important to the Council.

Councilor Anderson thought this is a good project for the Town; while there are some specifics they are approving, there is still ample opportunity for the Planning Board to listen to resident feedback as they always do. The biggest benefit to the existing residents is that this project includes significant renovations to the existing units though he observed that nothing in what they are approving tonight requires them. He asked if there were any assurances that those will happen.

Mr. Wing said the assurance is in the funding: the project is financed by Maine Housing Authority as a preservation of affordable housing as well as the addition of new housing. Funding will not be available if the

existing units are not renovated. They are hoping to move through the Planning Board process this summer, and start construction in November/December. Renovations will happen at the same time as the new construction.

Councilor Farber thanked the residents for their feedback. She hoped their concerns can be addressed as the plan becomes more detailed.

Councilor King said that things like buffering, lighting, emergency access, etc., are a part of the Planning Board's job and she encouraged the residents to provide their input at that stage as well.

Councilor Hemphill moved the ordinance; Councilor McBrady seconded. Motion carried 7-0.

Item 10 Presentation, public comment, and resolution regarding the draft 2016 Falmouth Bicycle and Pedestrian Plan.

Theo Holtwijk, Director of Long range Planning, gave a brief history of pedestrian plans in the Town; the first bike and pedestrian plan was approved in 1996 and a separate trails master plan was passed in 2002. This current update to the plan seeks to incorporate bicycling, pedestrian, and trails into one master plan. The proposed plan has five key elements: 1. reaffirm Falmouth's vision for walking and cycling; 2. harness the community's opinions and interests; 3. prioritize recommended improvements; 4. provide for continued community involvement in implementation; and 5. develop a plan for the next 20 years. A staff team, with assistance from PACTS, a consultant, and input from the CDC, developed the plan. They gathered public feedback from both Falmouth residents as well as key stakeholders.

He discussed the recommended vision for Falmouth in 2035 with regards to walking and bicycling as well as the recommended goals: 1. to implement promotional, educational, and behavioral strategies, and 2. to make physical improvement connections to key locations. He described a few of the locations they proposed for improvement. There are 47 total actions included in the plan, divided into three categories: short term upgrades to be made in the next 5 years; medium term upgrades to make within 6-10 years; and longer term upgrades targeted for 11-20 years out. He highlighted a few of the general recommendations, including making American Disabilities Act (ADA) improvements to the existing sidewalk system as well as install enhanced accessibility trails, protecting easements and trails licenses, restriping lane widths to increase paved shoulder widths, incorporating bicycling signage on roads designated for bike use, and installing bike racks. Another recommendation is to create an informal stakeholder group to review progress and provide feedback on implementation of the plan.

Once the draft recommendations were in place, they went back to the stakeholders and the public to weigh in on assigning priorities to the actions. The CDC reviewed the draft in March and made some tweaks.

The resolution tonight shows support for the vision of the plan, but does not necessarily mean the Council supports all the recommendations. It also does not approve funding. Passing the resolution would mean the Council agrees to use the plan as a working/reference document. Town staff would then prepare a draft work plan of actions to take in the next two years and bring it back to the Council for review.

Chair Goldberg opened a public comment period.

Andy Jones of Ledgewood Drive, chair of REAC, said he bikes to work when it's nice out. Biking is good for the environment, good for the health of the individual, and good for the community. He urged the Council to adopt the resolution.

Chair Goldberg closed the public comment period.

Councilor King thanked everyone for their input; it took a lot of stakeholders a lot of time and organization. She thought it is a great update of the 2003 plan. She supported the idea of forming a stakeholder group to monitor implementation of the plan.

Councilor Kitchel spoke about the widening of Route 88 many years ago, which made it safe to walk or ride a bike. As a bicyclist, his primary concern is security and safety. He encouraged any and all efforts to enhance the safety of biking in Falmouth. He was very interested in establishing a stakeholder/advocacy group in Falmouth.

Chair Goldberg read the resolution into the record.

Councilor Farber moved the resolution; Councilor Hemphill seconded. Motion carried 7-0.

Item 11 Presentation by the Falmouth Conservation Commission of their ongoing invasive species control plan.

Nancy Lightbody, co-chair of the Conservation Commission, gave a presentation on the work the Commission has done with regards to eradicating invasive plant species in Falmouth. The Commission has been working on three major aspects of their goal to control invasive species; 1. education; 2. expansion of existing town ordinances; and 3. eradication of invasive plants on town owned lands and along road rights-of-way. She discussed their educational efforts, and said that they will host a public education workshop on June 28th. They have worked to include more plants on the list of invasive species contained in town ordinance, and are working with the CDC on plans regarding the placement or removal of fill, and a new ordinance requiring that a subdivision is invasive-free before the acceptance of a new public road. Last fall, they hired a company with expertise on eradication of invasive species for a pilot project to control invasives in West Falmouth. The project was a success – thousands of invasive plants were eradicated. This year, the Commission seeks to expand their efforts to the middle part of Falmouth; an informational meeting will be held at the library on June 13, with the same company that provided the service last year. This year's efforts will also include reviewing the areas treated last year, to control those plants that were missed the first time.

Bob Shafto, Open Space Ombudsman, presented before and after photos of some of the areas that were treated last year.

Councilor Farber asked for confirmation that the funding for the second year of eradication was included in the budget. Mr. Poore confirmed that was correct.

Councilor Farber wondered if it was worth the effort if they don't include the plants on private land. Ms. Lightbody said this effort accomplished a great deal; they have to start somewhere. The Conservation Corps works on the public lands throughout the year.

Jerry Goodall, co-chair of the Commission, said they will control it in the visible parts of town, in the public lands and along the roadside. If they can keep it under control in those areas, they will be happy.

Sarah Boudreau, Commission member, asked the control company about what happens after control measures are taken. She said it doesn't take long for the native plants they are hoping to encourage to come back.

Mr. Shafto said that, while Maine is slightly behind in recognition of this problem, he felt that awareness and support for this work will build as time goes on. In response to Councilor Kitchel, he explained that the control measures consist of spraying an herbicide called Glyphosate. It is not persistent; in 40 days it's pretty well gone. Normally one application will do the trick, but some plants need multiple treatments, such as knotweed. The long term impact is less detrimental. The best time of year to apply is during the fall.

Ms. Lightbody pointed out that they chose the company they contracted with because they have a direct spray nozzle that allows them to apply the herbicide precisely, and not spray large areas.

Adjourn

Councilors Goldberg and Anderson thanked their fellow councilors and staff for all their work during their tenures on the council, and encouraged their fellow residents to consider serving the Town.

Councilor Kitchel moved to adjourn; Councilor Farber seconded. Motion carried 7-0.

Meeting adjourned at 8:50pm.

Respectfully submitted,

Melissa Tryon

Recording Secretary