

Town Council Meeting Minutes March 27, 2017

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

Roll Call

All Councilors were present and answering roll call.

Pledge of Allegiance

Chair Farber led those present in the Pledge of Allegiance.

Item 1 Public Forum

No one spoke at public forum.

Item 2 Order to approve the minutes of the February 15, 2017 Town Council (Consent Agenda) Special Meeting.

Order to approve the minutes of the February 27, 2017 Town Council Meeting.

Chair Farber opened the public comment period; there was no public comment.

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

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

Councilor Kitchel reported that the Conservation Commission has held two fact finding sessions regarding the use of pesticides in town. They have met with businesses and municipal departments, and are holding another meeting with residents on April 12. The Commission gave the keynote address at the annual meeting of the Maine Invasive Species Network group regarding invasive terrestrial plants. LPAC is looking to update the open space plan; they are currently debating the type of survey they are going to do.

Councilor King said the Library's annual silent auction is ongoing; there are 150 handmade items up for bid.

Councilor Svedlow said there was a large turnout at the Harbor/Waterfront committee meeting last week; there was a good discussion about the proposed ordinance amendment and fee schedule change. He recommended that there should be better communication from the committee to mooring permit holders about upcoming committee meetings. The committee is also addressing fishing from the floats.

Councilor Hemphill said LMAC will meet again on the second Tuesday of April; their last meeting was cancelled due to snow.

Mr. Poore said the Finance Committee met today to hear presentations on the town and school budgets. The town budget has been revised down slightly. He discussed the reductions that were made and said that municipal revenue sharing was under-estimated. He said there are some changes they would like to make to the capital plan in order to cover the cost of the new fire truck and avoid borrowing any money. These changes wouldn't affect this year's rate, but would begin to have a positive impact next year. It would require

some money from fund balance, but the impact on the fund balance would be small and would not impact the town's credit rating. He discussed some security upgrades they want to make to the fire department buildings. This would cost \$64,000 and would come out of the capital plan next year. He announced that the annual public presentation of the Municipal and School budgets is next week, April 5, at 7pm at the elementary school.

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

Chair Farber recused herself from the item as she is related to the volunteer. Councilor Hemphill served as chair.

Councilor Svedlow moved the appointment of Aubrey Farber to LMAC; Councilor Kitchel seconded.

Councilor Hemphill opened a public comment period; there was no public comment.

Motion carried 6-0.

Item 5 Public hearing and an order to approve a new liquor license for Ocean View at the Lunt School.

Steve Brustein, general manager of food services at Oceanview, explained that they have been doing catering for clubs, local organization and groups. Some groups have asked for the ability to have beer and wine at their events.

Chair Farber opened the public hearing; there was no public comment.

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

Item 6 Update from the Tercentennial Committee and a Resolution to support the budget for the Tercentennial celebration.

Mr. Poore said there was discussion about this project at the last Finance Committee meeting. Funding would come from the TIF district and not tax revenue. The budget presented is the last funding request for the project. He said the Committee thought the Council had some concerns about the size of the budget, so they met last week to discuss ways to scale back their plans. They have reduced their budget by \$50,000 by scaling back some of the planned events and some of the marketing.

Maria Kuhn and Candice Power, members of the committee and Class of 2018, spoke in support of the committee's revised budget. They spoke about the Committee's outreach to stakeholders; the input the committee received from the public has guided their plans for the tercentennial. The public expressed a desire to not only have a party, but to educate residents about the Town's history and to have an long-term impact on the community, including legacy projects, building community by hosting events, networking between businesses and non-profit organizations, and encouraging economic development. The committee has drafted a series of events to address these requests. The Committee has also been sensitive to the costs, and have therefore scaled back their budget request while preserving their ability to have a lasting impact on the community and residents.

Chair Farber opened a public comment period; there was no public comment.

Councilor King appreciated the report and the revised budget.

Councilor Hemphill is the liaison to the committee. He was happy for the revised approach to a successful celebration and he supported the request.

Chair Farber liked the information about the work that has been done to date, how other communities have celebrated their anniversaries, and how this plan tied into the goals of the economic development report as well as the comp plan.

Councilor Ferrante spent a lot of time reading and digesting the report, and she was grateful for the work. She appreciated the budget cuts. Her ideas of how to celebrate Falmouth are much simpler and less expensive. She asked the Committee to think hard about how to celebrate Falmouth without spending so much, especially on the marketing.

Councilor Kitchel was happy with the budget cuts while maintaining a number of fun events. He thought the budget would continue to go down since he wasn't sure every event would come off.

Mr. Poore explained that they are asking for support for this budget prior to the approval of the full budget because they need to go out and ask for sponsorships as soon as possible. In order to ask for money, they need to show a clear strategic plan. The Committee feels that they can't wait another month to do that work.

Chair Farber pointed out that this calls this out and makes a clear statement about their commitment to it; the budget would be approved as a whole.

Councilor Svedlow moved the resolution and read it into the record; Councilor King seconded. Motion carried 7-0.

Item 7 Ordinance to amend the Subdivision Ordinance, the Street Acceptance Ordinance and the Zoning and Site Plan Review Ordinance to address invasive terrestrial plants.

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

Item 8 Ordinance to amend the Subdivision Ordinance related to underground utilities in subdivisions.

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

Item 9 Ordinance to amend the Zoning and Site Plan Review Ordinance to clarify the minimum net residential area required per lot in the VMU District.

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

Item 10 Introduction of an amendment to the Zoning and Site Plan Review Ordinance to categorize the Falmouth Memorial Library as a municipal use.

Chair Farber said the Library has asked the Town to consider accommodating limited library services at Town Hall during the library's renovation. This amendment would classify the library use as a municipal use, to allow it to function at Town Hall.

Councilor McBrady asked how long this would be for; Mr. Poore said it would last for the year 2018. This is preliminary while they research the details of what would be required. The Town has reached out to both the food pantry and the church. This is a "just in case"; the Library is researching several options and no decisions have been made.

Councilor King spoke with staff on whether this would be a temporary shift; staff said no, since a municipal use is either wholly or partly funded by the municipality.

Mr. Poore said this is no different than if the Town wanted to add departments and staff to the building; as long as they don't add to the footprint of the building, they don't need to go through site plan review. The library use would not be any more intensive than a municipal use and this is not a relaxation of the standards.

Chair Farber said this also would not change anything related to the construction of the new library building.

Councilor Hemphill said this is a formal reclassification and shows support for the library.

The public hearing was scheduled for April 24.

**Item 11 Ordinance to amend the Code of Ordinances, Coastal Waters
Ordinance in order to decrease the number of dinghy permits.**

Chair Farber opened a public comment period.

Craig Baranowski of Halls Hill Road was concerned with the distribution of permits. In 2015, there were 43 residential permits and 20 residential permits issued. With the new limits, 3 of those residents would not receive a permit. He thought there might be a situation where a resident couldn't get a permit but a non-resident could. Even though the non-resident pays more for their permit, it doesn't compare to what the resident pays to support the community. Also, there is no flexibility in how to distribute the permits. He suggested they set the number of permits they want to assign, set a certain number aside for non-residents, and then when the residents have purchased theirs whatever is left could be sold to non-residents.

Roger Marin of Woodward Lane, has had to climb over the dinghies and it is not safe. He felt the town could afford another dinghy dock. There is room for one, the cost would be small and could be covered by all the fees, there would be room for the dinghies to tie up, and they wouldn't have to reduce the number of permits. He also said the Town could offer a launch service. He said it is hard to haul a dinghy to the harbor every time he goes; it is heavy and there is no place to park it.

Joel Jensen of Cole Street said it took him 3 years to get a mooring and it is way out at the edge of the mooring field. Without a dinghy and outboard motor, it would be almost impossible to get to his boat. He couldn't row all that way. He understood raising the fee, but reducing the number would make it much harder for him to get a permit. He thought there should be some thought about folks that are in the outer ring, and maybe they should have first refusal for permits. He liked the idea of an additional dock. He didn't mind signing something stating that he would hold the town harmless.

Scott Klauss said his mooring is pretty far out. Rowing the town dinghy that far out is difficult, and climbing out and getting into his boat is also difficult. He was surprised that there was no other solution to the number of dinghies in the mooring. He didn't mind paying more for the permit if they could then add another float.

Scott Thurston of Ayers Court uses the Town Landing daily, and has held a mooring for 30 years. He has fallen in the water due to the overcrowding at the floats. He supported the idea of another float to add more room for the same number of dinghies. He said other communities have a land storage system and he thought that would work here. A vertical rack would allow people to drag their dinghies up the beach and store them without taking up a lot of room. They could then launch from the beach and free up space on the floats.

John Winslow of Gray Road attended the Harbor Committee meeting. He said there was no dialogue at the meeting. One attendee at the meeting was from Massachusetts and only uses his dinghy one month a year; if the permits were transferable, others could use his permit for the other two months. He thought they could come up with some creative solutions to achieve public safety and still allow people to have their dinghies.

Faith Morse of Cumberland was concerned about the reduction for permits for non-residents. Her mooring is way out and she couldn't row a town dinghy that far. If they make access to the mooring field impossible, they will lose the people holding those moorings. She was concerned that there was no consideration for where moorings are located; a person with a mooring 100 feet off the float could get a permit and not her. She thought there should be some consideration for distance, age, etc.

Marty Bruno of Watts Farm Lane said Harbormaster Twombly does a great job and the town is lucky to have him. The parking down there is an issue; he thought people felt that the \$15 parking ticket for a day of boating is a bargain and people are ignoring the parking rules. He would like parking to be better enforced. He agreed about the crowding and safety of the dinghies; he said all the resident permits were sold last year, and there were some left for non-residents. He thought 45 residents/15 non-residents would be a better ratio. If they adjust the policy, he asked them to adjust it so that it doesn't negatively affect residents.

Richard Craven, a member of the Harbor Committee, said he looks at providing open access to the water. The committee looked at different solutions to determine why they have a problem. The best solution would be to add more docks, but that is a significant cost and not something they can do right away. He didn't like reducing the number of dinghies but understood that it has to be done. He supported the change.

Richie Garrett of Birch Drive is also on the committee. He didn't disagree with any of the comments. The committee doesn't treat ordinance changes lightly. They were made aware of a public safety issue down there and they have studied it for two years. He agreed that there is an issue for people at the far end of the field. The committee met last week and affirmed their support for this change. He said if there are many people who use the Town Landing without a dinghy permit, he didn't see why others couldn't as well. He felt this was the best solution they could come up with.

Keith Noyes of Gray Road said it was crazy to get permits on dinghy day for the first few years, with people waiting outside at 4am. If they reduce the number, that will happen again. He spoke about the town dinghies; he said there are better options that would be safer and easier to maintain.

Chair Farber closed the public comment period.

Councilor Ferrante asked if people have to row the town dinghies; Mr. Poore said yes. There are five of them.

Councilor Kitchel said the recommendations are well-thought out. Given that they have a large anchorage, and there are a number of people who want dinghies, he wondered why they would reduce the number. He supported the addition of another float. They could use the additional fees to pay for it. The distance to the furthest mooring is about half a mile. He said that was a very long row, especially if it is choppy; that could be treacherous. The town dinghies aren't the best. He supported getting better, more stable dinghies. He supported the suggested dinghy rack as well. He was concerned if someone paid for a mooring and didn't have access because they couldn't get a dinghy permit. He said the Town should consider a fee-based launch service. He didn't think limiting the number of dinghies is a good solution. The harbor is a major town asset, and he felt they should invest in it.

Councilor Svedlow said this is an acute safety problem with a number of creative solutions. The Committee has done a good job evaluating this issue. He thought this needs more work, more public engagement and more dialogue. He would like to see more town dinghies. He was in favor of slightly reducing the number of skiffs for this year in order to address the acute need, and then revisiting it at the committee's fall meeting to see if it addressed the safety issue and discuss other ideas with the public.

Councilor King agreed with Councilor Svedlow. She said there is also a concern with people carrying their skiff down the hill. She thought people in the outer ring of the mooring field should have some special consideration. She understood that many people get permits and then don't use their dinghies, which then get filled with water and clutter up the floats. Considering this, she thought reducing the number of permits makes sense. She thought it was appropriate to have flexibility between resident and non-residents and would like to address access for people on the outer edge of the field.

Councilor Hemphill thought the proposed ordinance addresses the public safety issue, but wondered about a different ratio on the reduction to meet the needs of residents vs. non-residents.

Councilor Ferrante wasn't convinced reducing the number of dinghies would solve the problem. She liked some of the ideas that were presented tonight. She urged the committee to hold meetings at a time when it was convenient for the public to attend.

Councilor Kitchel thought the issue was with the inflatable dinghies, which are larger than the standard dinghy. He said one anchorage he researched charges more for them.

Councilor Svedlow said the Committee is thinking about new floats and a different configuration for next year. Dinghy day is next Saturday so there is some urgency here. He also supported adding one more town dinghy.

Alan Twombly, Harbormaster, said they allowed motors on dinghies which opened the door to the inflatables. The proposed reduction mirrors the number of dinghies that were at the landing last year. People buy the permits and then sit on them. If all the dinghies that had permits were there, there would really be a crowding problem. There do not have room on the beach for a dinghy rack. The average dock is 20 feet long; he didn't think it would address the issue and it would displace 6-8 moorings. A while ago someone tried a private launch service, but the business failed. They allowed dinghies to have motors to allow people to reach the outer moorings. There are mooring holders that do not have permits but bring their dinghies to the landing whenever they come down.

Chair Farber said they have 90 allowed permits and only 70 at the floats. Hm. Twombly said they have 60-70 dinghies at the float at the height of the season; people are buying a permit and holding onto it.

Chair Farber asked if the permit is attached to the dinghy; Hm. Twombly said that is correct. It is a sticker. He said it would not be practical to add motors to the town dinghies. They have gone to 10-foot Walker Bay dinghies, which are wider and more stable than the 8-foot ones they had.

Councilor King was concerned with people at the outer edge of the field. Councilor Hemphill said those people could bring their dinghy every time, though there is a parking issue.

Hm. Twombly said there are 300 moorings; if they issue 90 dinghy permits, that means less than 1/3 of mooring holders have a dinghy permit. The other 2/3 are still getting out there. This isn't an issue of access, but of convenience.

Councilor Kitchel suggested they amend the proposed ordinance to 45 resident/15 non-resident dinghy permits. Councilor Svedlow suggested adding some language requiring that it be reviewed annually by the committee.

Mr. Poore said lowering the number of permits beyond the proposed might be a substantive change, which would require another round of public comment. If they want to change the number, he suggested 50/20.

Mr. Poore asked if there is an effort toward encouraging dinghy sharing. Hm. Twombly thought there was. Mr. Poore wondered if they could promote that while they figure this out.

Councilor Kitchel asked how town dinghies are funded; he supported adding a couple. Hm. Twombly said they are proposing to add another one, and they could add one after that if they saw a need. If they approve the 70 permits overall, he thought that would keep them where they have been the last few years and it would be manageable.

Councilor King asked if there was a way to be flexible with the resident/non-resident ratio. Hm. Twombly said if a non-resident gives up their mooring, it would go to a resident on the wait list. At this point, they are 2/3 resident, 1/3 non-resident.

Mr. Poore suggested adding language to the proposal so that if there are any non-resident permits available on April 30, they could then be offered to residents at the resident rate.

Chair Farber supported the committee reviewing this change this fall after the boating season. She agreed with Councilor Ferrante's concerns that this will not solve the problem.

Councilor King moved the ordinance with the language changed to read as follows: *Effective January 1, 2007 a valid skiff registration sticker must be affixed to any skiff stored at the town wharf or any approved adjacent storage area. Not more than fifty (50) resident skiff registration stickers and twenty (20) non-resident skiff registration stickers shall be issued annually. If there are any unused non-resident permits available after April 30, they may be issued to residents at the resident fee.*

Councilor Kitchel seconded. Motion carried 6-1 (McBrady).

Item 12 Order to amend the Falmouth Harbor Fee Schedule.

Chair Farber opened the public comment period.

John Winslow of Gray Road was opposed to the increase; he said it was wrong to increase fees to discourage people to take out permits. If they go to this the new fee schedule, they will take in an additional \$1000 to provide access to fewer dinghies. He asked why commercial fishermen are not subject to the dinghy permit fee; they add wear and tear to the docks and facilities. He asked the Council to review the entire fee schedule to look at how they are treating commercial mooring holders.

Chair Farber closed the public comment period.

Councilor Kitchel supported the increase; he felt it was in keeping with what other communities have done. He agreed that they should discuss why the commercial users don't pay a dinghy fee.

Councilor King felt the goal of the fee was to encourage behavior change, and to improve safety. She didn't think the change in fee is a large concern, based on what she has heard. If it isn't much of a concern, it wouldn't be effective to change behavior. It might be a good idea to be in keeping with other areas on the coast.

Councilor Ferrante didn't support the fee increase at all.

Councilor Kitchel didn't think the proposed fees were unreasonable; caring for the town dinghies is expensive.

Councilor Svedlow suggested going up to \$75 for residents and \$150 for non-residents, and then consider a further increase next year.

Councilor Kitchel moved to increase the permit fees to \$75 for residents and \$150 for non-residents; Councilor Svedlow seconded.

Councilor Hemphill asked if there were revenue considerations for the increase.

Hm. Twombly said the purpose of doubling the fee was to discourage those people who were buying permits and not using them. He didn't think an incremental change was enough to prevent that.

Motion failed 0-7.

Councilor Kitchel moved the original order; Councilor McBrady seconded.

Hm. Twombly said Mr. Winslow brought up a great idea; a mooring that isn't used during a season can be considered abandoned. They could do the same thing with the dinghy permits and then reissue it to someone else. This might accomplish the same goal without raising the fee.

Mr. Poore asked if this ability is within the existing ordinance; Hm. Twombly said no. It would require an amendment. The Council discussed the potential of an amendment; Councilor Svedlow said the Harbor Committee could look at it.

Motion failed 3-4 (Ferrante, King, Farber, Svedlow opposed)

Item 13 Order to authorize the Town Manager to accept a Warranty Deed conveying title to the 40' ROW at the end of Twin Ponds Drive.

Chair Farber opened a public comment period; there was no public comment.

Councilor Hemphill asked if any of the residents have submitted any comments or concerns; Mr. Poore said no. The Town sent cards to all the residents on the road.

Councilor Kitchel moved the order; Councilor McBrady seconded.

Councilor King asked about the conveyance. Mr. Poore said the Town holds an easement; the paper street is temporary in nature. The Town reached out to the fee holder and he agreed to transfer it to the Town. The Town will maintain the original restrictions, including the restriction on parking, but allow bicycles.

Councilor King asked if there was any payment for this. Mr. Poore said no, actually Mr. Chase thought he had already done it.

Councilor Hemphill clarified that the term "fee" in this case refers to ownership, not money.

Motion carried 7-0.

Item 14 Introduction of amendments to the Code of Ordinances, Use of Parks & Public Grounds, to address pets in parks and public lands.

Chair Farber said that LMAC and PACPAC have been working on issues related to pets in open spaces. There have been a couple of public forums, and LMAC presented its recommendations to the Council. Council sent this to the ordinance committee for review. She pointed out that this reflects some specific recommendations on specific properties.

Councilor Kitchel voiced his support of the proposed language. Councilor Hemphill said dog owners and land users have had opportunities to comment on different regulations. He also supported this.

The Council raised some concern about the language; they felt the requirement of leashes within 300 feet was not clear.

Lucky D'Ascanio, Director of Parks and Community Programs, said they could reword it so that it is clearer.

Chair Farber asked who would be responsible for enforcing this; Mr. Poore said there is a progressive fine and the animal control officer is responsible.

Councilor Ferrante asked what happened to the sanitation piece; Ms. D'Ascanio said that was not part of the ordinance change, but was direction for staff to review and make suggestions. That is still being discussed in committee.

A public hearing was scheduled for April 24.

Adjourn

Councilor Hemphill moved to adjourn; Councilor Ferrante seconded. Motion carried 7-0.

The meeting adjourned at 9:31 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary