

# **Town Council Meeting Minutes November 27, 2017**

The meeting was called to order at 7:02 pm.

## **Roll Call**

All Councilors were present and answering roll call.

## **Pledge of Allegiance**

Chair Hemphill led those present in the Pledge of Allegiance.

## **Item 1 Public Forum**

Steve Hundley of Brookfield Road spoke about two-and multi-family development in the RA and RD zones. Septic systems for multi-unit homes will be extensive and should have safeguards. According to his interpretation of the ordinance, he believed that a single duplex would require a cluster system. If done properly those will consume a fair amount of space; they should consider that when they establish minimum lot sizes. He recommended that the portion of the RD zone that is west of the interstate and will never have septic be excluded from the two-and multi-family development.

## **Item 2 Consent Agenda**

- **Order to approve the minutes of the October 2, 2017, Town Council Special Meeting.**
- **Order to approve the minutes of the October 11, 2017, Town Council Special Meeting.**
- **Order to approve the minutes of the October 23, 2017, Town Council Meeting.**
- **Order to certify the November 7, 2017 Election results.**

Town Clerk Ellen Planer discussed the election results. The Town saw close to a 50% turnout.

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

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

Councilor King said the Tercentennial celebration will kick-off this weekend at Very Merry Falmouth and discussed the many events scheduled.

Councilor Svedlow said the Harbor Committee met recently to discuss possible ordinance amendments regarding winter sticks and private boat rental.

Chair Hemphill said ecomaine is looking for nominees for their eco-excellence awards. The nomination deadline is in January.

Councilor Farber said CDC will meet on Thursday, December 7 at 7:00 am to talk about Route 100; they will meet again on December 21 at 5:30 pm to discuss temporary signs.

Councilor Ferrante said that FEIC will hold a business forum at Portland Country Club on January 30; all are welcome to attend.

Councilor Kitchel said the budget process is underway; the Finance Committee will meet again on December 13 at 5:00 pm.

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

Councilor Svedlow moved the slate of appointments.

Board of Zoning Appeals: Alexander Pratt – Alternate Member

Conservation Commission: Richard Bicknell

Harbor/Waterfront Committee: Peter Dion

Land Management & Acquisition Committee: Christopher Kittredge

Parks and Community Programs Advisory Committee: Ian Duggan and Joel Glass

Chair Hemphill recommended the appointment of Nathan Poore, Kimberly Darling and Nancy Lightbody to the Highland Lake Leadership Team.

Councilor Svedlow amended his motion to include Chair Hemphill's recommendation. Councilor King seconded the motion.

Town Manager Nathan Poore said the Highland Lake Team's process will be heavily technical to begin and since the work needs to start immediately, they don't have the time to go through the normal appointment process. All meetings will be posted and open to the public.

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

Councilor Farber asked how long the leadership team will operate; Mr. Poore said it is focused on the task of updating the water quality plan and reviewing the town ordinances to see if there are amendments that need to be made to avoid impacts to the water quality. He thought there will be need for an ongoing, long-term partnership in order to maintain the water quality and that this will likely become a standing committee.

Councilor Farber advocated for bringing the Team into the existing structure in order to formalize it before the end of the Council year.

Motion carried 7-0.

**Item 5 Order to authorize the Town Manager to execute agreements with the Maine Department of Transportation to release property rights in order to facilitate the rehabilitation and construction of the Lambert Street Bridge on Blackstrap Road.**

Mr. Poore said the land in question is connected with the public boat launch. There is a temporary easement across the boat launch, permanent rights to land that is underwater, and some taking of property that the DOT has been using anyway.

Councilor Farber asked if the agreement includes language that requires them to restore the boat launch if there is any damage.

Lucky D'Ascanio, Director of Parks & Community Programs said she discussed concerns about the boat launch with regards to tree removal. The DOT has to apply to the DEP for any disturbance; they have agreed to replace any trees they remove with native species in order to stabilize the area.

Councilor Kitchel asked what they are doing with the bridge; Ms. D'Ascanio said they are rehabilitating the bridge, not replacing it. Most of the work is being done to the pylons in the river.

Mr. Poore said the bridge has scouring issues on the supports and that is where most of the work will be.

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

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

Chair Hemphill asked if the work will take place in 2018; Ms. D'Ascanio said it will be from July 15-September 30, 2018.

Councilor Farber asked if anyone has contacted Portland Trails; Ms. D'Ascanio said she would.

**Item 6      Order to authorize the Town Manager to execute a quit claim deed for Map U69, Lot 105.**

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

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

**Item 7      Order to approve a supplemental appropriation of \$2,125 from unassigned fund balance for the Human Service Committee.**

Councilor Ferrante said she attended the Human Services Committee meeting where they determine which agencies/organizations will receive funds from the town and how much each receives. They were short by this amount from filling all the requests.

Councilor King said the total requested from all the 13 agencies is \$23,125.

Councilor Farber asked how this is budgeted, calendar year or fiscal year. Ms. Planer said it is fiscal year; they underbudgeted this year. There was an agency that hadn't made a request in a number of years that came forward with a request.

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

Councilor Farber wanted to discuss increasing this line item in the budget; it has only been raised once in her time on the Council. The Town isn't even keeping pace with inflation, not to mention the needs.

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

**Item 8      Discussion of a proposed amendment to the Council Rules, Policy Two regarding the appointments procedure.**

Councilor King said there are two pieces to the proposed amendment. The first considers extended terms of service. There are volunteers that have served for many years on committees that don't have term limits; out of the 15 standing committees, only 4 have term limits. The proposed amendment would not institute term limits, but would create a process that, after serving two 3-year terms, a committee member would re-interview with the Appointments Committee along with new applicants for the seat. This would put the long-term member on equal footing with new volunteers. The committee feels it would be healthy to have some turn-over as well as some carry-over on committees. The second proposed amendment would align the rules with the Appointments Committee's current process; the rules state that the chair of the committee should be invited to be a part of the appointment of a new member, which is not the Appointment Committee's current practice.

Councilor Farber stated her support of the amendments. She said the Town is very lucky in the number and quality of the people willing to volunteer. It is hard to turn good people away because there are no available slots. It would also open the opportunity for people to move between committees.

The order was scheduled for December 11.

**Item 9 A report from the Town Manager on the Browntail Moth forum and a discussion about next steps.**

Mr. Poore said the public forum on November 9 was well attended with 35-40 residents along with staff, the State Entomologist and a pest expert. The discussion that evening was that this was an issue for people, and residents asked the Town to take a role in combating the moths, including the use of pesticides. Mr. Poore is recommending a process of spraying trees in the public right of way similar to that taken by neighboring towns. Residents would be allowed to opt-out of spraying along their property. Property owners who want to spray their property could “piggy-back” on the Town’s public spraying contract and hire the Town’s contractor at the Town’s rate. Professional pest control companies are experts at using the minimum amount of pesticide to affect the pests and avoid shellfish impacts. Mr. Poore said the Town has contracted with Lucas Tree to do an inventory of nests in trees in the right of way on all public roads east of I295, and some areas west, compile their data and cross reference with the state aerial data and reports gathered from local residents. That inventory will take place in the next week. We don’t know how big the area will be, how many roads would be sprayed, or what the cost would be. Since this work is not in the budget, there will have to be a supplemental appropriation once the cost is known. There are very few contractors that do this type of work and they will be fully booked soon, so the goal is to have a contract by the end of 2017.

Councilor Jones said Freeport dealt with this earlier this year near the schools. They used a horticultural oil to treat the problem instead of a pesticide.

Marty Folsom of Lucas Tree said they have found that oils are not that effective with browntail moths. There are a number of different products that they can use and he discussed several of the different types. They use a product called Conserve; it is a low-level toxicity pesticide and is toxic to bees only when wet. They do the application early in the morning, so that it is dry in the day. If there are flowering trees they won’t spray. Any applicators licensed by the State of Maine would do the same. The setback from waterways is 50 feet for hydraulic spraying; it is 250 feet for aerial applications.

Councilor King asked if parasitic methods are used anymore; Mr. Folsom said there is a beetle that they used in Europe but anytime you introduce something like that there would be all kinds of ramifications. There is a bacteria that moves in when there is a lot of wet weather. It was very wet last May and there was some collapse. He pointed out that Bath, Brunswick and Topsham was 10 times worse than Falmouth last year. When it is wet, it encourages the bacteria and causes a collapse. They have tried to increase the bacteria but you can’t do that in the wild.

Councilor Farber supported the plan, but pointed out that there will need to be a level of public involvement. Treating the Town’s street trees won’t be effective. She wondered about how they encourage the public to be involved and treat their own property. She asked about getting the garden clubs on board, and how to educate the public. She thought a lot of people’s frustration last year was not knowing what they were dealing with and how to counteract it.

Mr. Poore agreed that everyone has to be on board. He said the public is getting educated. He spoke about the Town’s efforts to reach out to the residents in the affected areas.

Councilor Svedlow supported the plan. He has had the caterpillars on his property and they are awful.

Mr. Folsom said the State of Maine’s website has a lot of information on the Browntail Moths and how to deal with them. The cooperative extension can be helpful as well. He said homeowners can prune out nests anytime from now until April.

Councilor Kitchel agreed with Councilor Svedlow; he had an infestation on his property and had some success with spraying from the ground. He asked what happens to the hairs when the nests are sprayed.

Mr. Folsom said the time to treat is in May; the earlier the better. This prevents the caterpillars from molting. The hairs that are already in the environment can stay for several years. Hairs from this past spring can impact people raking today, and it can take years for those hairs to dissipate. He recommended washing up the dead caterpillars after they have been sprayed to prevent the hairs from spreading.

**Item 10 Ordinance to establish a new moratorium on retail marijuana establishments and retail marijuana social clubs.**

Councilor Svedlow moved the ordinance; Councilor Kitchel seconded.

Councilor Svedlow asked for an update on the legislation at the state level.

Teresa Pierce, state representative for Falmouth, spoke about the bill that was passed by both houses but vetoed by the governor. They will start work on a new version of the bill in January and they are trying to provide guidance to the towns quickly.

Motion carried 7-0.

**Item 11 Order to approve a one-story, 985 square foot building addition to the Family Ice facility at 20 Hat Trick Drive.**

Mr. Poore said the Council approved something similar in 2015. Family Ice is required by the building lease to come to the Council for approval of any changes to the building.

Teresa Pierce of Waites Landing Road explained that this was a joint project with Greely and Falmouth, but they are now proposing one locker room to house the Falmouth Girls Hockey Team during their season, and then be used by the FIC during the off-season. They have made sure there is room for Greely to come forward with a locker room for their girls when they are ready.

Godfrey Wood of Woodville Road is the President of the FIC Board of Directors. The board operates both the FIC and the Casco Bay Hockey outdoor rink. When the facility was built, there was no girls hockey in Falmouth. They only built a locker room for the boys. They have new funding and leadership for this project and feel it is the time to move forward.

Councilor Farber asked why the proposed locker room increased in size since the last time. Ms. Pierce said the ordinance changed to allow minor site additions up to 1000 sf without going to the Planning Board. This is a better size.

Councilor Farber asked about the size of the boys' locker rooms; Mr. Wood said they are bigger, but there is no way they can make this one bigger on the site. Ms. Pierce felt it is similar size.

Councilor Farber said the size was an aspect of the conversation last time and there was an issue of fairness. She asked if it is the site or the ordinance that prevents it from being the same size. Ms. Pierce said it is the site; there is room to add to the back of the building, but making it much bigger would impact the drive that leads to the machinery. She said this is the right thing to do even though it isn't fully equal.

Councilor Kitchel asked if there are visiting locker rooms; Ms. Pierce said there are 4 visiting locker rooms, a Falmouth boys room, a Greely boys room, and a figure skating room. Mr. Wood said they evaluated the other rooms, but they weren't big enough for the girls' teams and would take away from the facility's rental business. He said fairness was key in their decision to move forward.

Andy Hyland of Port City Architects said there are a lot of features in the girls' room – the shower layout, and a coach's room – that meet the intent of Title 9 and will make it a nice facility. Along with maintaining truck access along the back they want to avoid having to do a lot of site work which would increase the cost.

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

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

**Item 12 Discussion on ordinance provisions related to maximum lettering size in certain zoning districts.**

Mr. Poore explained that one of the ordinance sign provisions limits the font size of wall signs. New tenants at Falmouth Shopping Center have expressed concern about that limitation; the building is far back from Route 1 and they felt that size lettering would be difficult to read at that distance.

Councilor Ferrante distributed elevations that showed proposed signs with and without the limitation. The current font size limitation was based on buildings placed within 20 feet of the road; she suggested either removing the restriction for buildings greater than 20 feet from the road, or removing the limitation altogether. She pointed out that the Ocean State store takes up a large portion of the shopping plaza and the sign size would be very small in comparison.

Councilor Farber asked if this proposal would be for VC-1 only or town-wide; Councilor Ferrante thought it would be town-wide.

Councilor Farber asked if the 15-inch letter size was part of the recent amendments; Mr. Poore said it was. There was no font size restriction in the previous ordinance; there was a minimum size to ensure readability.

Councilor King agreed that this building is very far from the main road and the restriction makes it difficult to see the sign from that distance. She thought it was reasonable to take this into account, but didn't think they should change the treatment of all signs.

Chair Hemphill felt this was the maximum distance a building would be from the road in Falmouth. Councilor Ferrante thought most towns tie it to the size of the building they are renting. She wouldn't have a height restriction at all; she supported keeping the limit on the overall sign to 64 square feet. Some businesses have their name within the logo.

Councilor King said one question is how broad they want to apply this, which districts they want to include.

The Council discussed ways to address the issue, including considering the building's distance from the road and whether to address the VC district or all commercial districts.

Councilor Ferrante said Ocean State Job Lots wrote a letter to the Town and are not ordering their sign until this is settled. She asked if there was a way to move this forward while also doing some research.

The Council discussed how best to move forward. The item was referred to the CDC and they will discuss it at their next meeting.

**Adjourn**

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

The meeting adjourned at 8:56 pm.

Respectfully submitted,

Melissa Tryon  
Recording Secretary