

**Town Council Special Meeting
Minutes
October 16, 2019**

Chair Kuhn called the meeting to order at 7:00 pm.

Roll Call

All Councilors were present and answering roll call.

Item 1 Public hearing and order relative to renewal of permanent food service establishment licenses for: Circle K, Walgreens, European Bakery, and Waldo's.

Councilor Trickett moved the order; Councilor Cahan seconded.

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

Motion carried 7-0.

Item 2 Public Hearing for an ordinance amendment to Section 19-23.11 of the Code of Ordinances relative to extending the time limits for development under the Tidewater Master Development Plan and removing the prohibition on filing for Site Plan Review within the areas known as TF2 and TF3 within the Tidewater Master Planned Development District.

Councilor Hemphill said the ordinance amendment was introduced at a prior Council meeting. Earlier this year, the Town purchased the remaining undeveloped properties within the Tidewater District (TF1, TF2, and TF3). The Town did not buy TF3 which is still owned by Tidewater LLC. The Council decided at that time that instead of renewing short increment expansions of the original master plan it would recommend extending the master plan for an additional ten years and removing the prohibition on the filing of site plan applications for TF2 and TF3. That is the basis for this recommendation.

Chair Kuhn added that the Planning Board had its municipal reviewing authority hearing earlier in October and voted unanimously in support of the Council's approval.

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

The order was scheduled for November 13.

Item 3 Public Hearing on an amendment to the Code of Ordinances, Chapter 11-3, Sections 3-1 and 3-4 that will clarify the definition of a nuisance dog and provide more options to better enforce the ordinance.

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

The order was scheduled for November 13.

Item 4 Introduction of an ordinance to amend the maximum levels of income and expenses for the General Assistance program, Chapter 6, Article 6, Section 6.68, Appendices A-F and H of the Falmouth Town Ordinance.

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

The public hearing was scheduled for November 13.

Item 5 Presentation on Highland Lake Watershed Management Plan action items.

Heather Huntt with Cumberland County Soil and Water Conservation District delivered the presentation. She has been assisting the Highland Lake Leadership team with their efforts to improve the water quality of Highland Lake. She has been working on a ten-year management plan to reduce and limit the amount of phosphorus loading that is going into the lake. She desired input from the Council and the public on the draft management plan action items. There will be a public workshop on October 23, 6:00-7:30 pm at the Cornerstone Church in Windham. She reviewed the draft action items.

Councilor Trickett asked if there were examples of lakes in Maine that had been successful in reversing the kind of conditions that Highland Lake is experiencing? Ms. Huntt said yes, Highland Lake is a case of that nature. In the late 1990s, it had declining water quality trends and there was a lot of effort to try to mediate that. Three large federal 319 grants were received, and planning was conducted, and it was taken off the state's impaired list because it was no longer showing declining trends. However, the water quality is declining once again. They are trying to figure out how things can be done differently this time. One of the draft action items is to address gravel private roads, which can have a large impact on water quality. They also want to look at some of the more challenging sites.

Councilor Trickett asked if there were actions that the Town could take beyond funding or in-kind services that would be helpful, particularly with respect to roads. Ms. Huntt said there are a lot of different things that the Town could do. It's great that the Town is part of the Highland Lake Leadership Team. The Town's financial support and work looking into ordinances are great. Other helpful steps on the part of the Town include helping to try to figure out incentives for the private road associations and Kimberly Darling's septic system survey. The Town has also partaken in the survey work.

Councilor Trickett asked how the Town was doing with enforcing the Shoreland Zoning Ordinance? Ms. Huntt said that she did not know the answer. It would be a good question for the Highland Lake Association.

Councilor Johnson asked how the funding would be allocated. Nathan Poore asked Ms. Huntt whether the total cost in the management plan was the total cost for both Windham and Falmouth? Ms. Huntt said that the estimated costs were still very rough numbers. Those numbers also include match. It is the total cost of the remediation. Chair Kuhn added that it seems difficult to estimate the total cost now as there could be grant money or federal funds. Ms. Huntt said the Highland Lake Leadership Team is interested in applying for federal 391 grant funding; possibly up to three phases of that.

Councilor Asherman added that several action items include in-kind funding. Although in-kind funding does cost money it is not money that has to be raised.

Mr. Poore said the Town is already budgeting \$30,000 as of last year for various Highland Lake expenses. Once we get beyond the planning and investigative stages, we might be able to shift the focus of the funding towards the implementation of the plan.

Councilor Cahan asked if there was a plan to have an annual report back to the Towns. The report could include how things are going, costs, future projections and suggestions for further steps not included in the plan? Ms. Huntt said that is a great idea. There is a plan to create an education and outreach strategy. Education and outreach would be twofold 1) education on phosphorus reduction and 2) education around

the Leadership Team's objectives. Councilor Cahan said she would like to see an annual report back to the Council included in the work plan.

Councilor De Lima said that hopefully having an annual report will keep the Towns from becoming complacent regarding management of the Lake. Ms. Huntt added that this time around there is the addition of the Leadership Team to monitor conditions.

Councilor Hemphill thanked Ms. Huntt. He felt that the effort was very worthy, and that plan shows that a lot could be happening to ensure the stewardship of Highland Lake

If people are interested in commenting on the action items, they should attend the forum on October 23 or reach out to Ms. Huntt or Kimberly Darling.

Item 6 Solar Photovoltaic (PV) Landfill Pre-Bid Presentation

Peter LaFond, Chair of the Recycling and Energy Advisory Committee delivered the presentation. REAC is recommending the placement of a large-scale solar array on the surface of the Town transfer station. There would be 3,800 separate panels elevated about 4 feet about the surface of the landfill. There is about four acres of unused land on the top of the transfer station. In Falmouth, the landfill surface is in pretty good shape, so it presents a good opportunity. Maine is by and large a good location to produce solar energy. Maine's electricity cost is the tenth highest among the 50 states. REAC has been discussing and studying this topic for the last few years and Kimberly Darling has been researching it for even longer. REAC recommends moving forward with this project for several reasons, 1) the cost of the solar panels that would be placed on top of the landfill has decreased 30-40% over the last five years, 2) solar panels have become more efficient at gathering sunlight, 3) state statutes surrounding the placement of solar panels, the use of electricity, the billing, etc. have become more favorable with the passage of LD1711 by the Maine Legislature. The prior legislation limited the size of the solar array capacity and the number of accounts that Towns could have. The old legislation also limited the demand charge offset. Under the new legislation the demand charge can be offset by up to 70%. The Governor has come out in favor of exploring alternative energy forms. Falmouth benefits from an ideal site, better law, and available tax credits. If the solar array can be placed in the next year or so, there is a federal tax credit of 26% of the cost of the entire installation available to the developer. The tax credit is not available to the Town. Other towns have worked out arrangements with solar developers such as power purchase agreements. The federal tax credit decreases every year. REAC wants to save money for the Town and to reduce the carbon footprint of the Town. That is why other towns have done it. The cost was very much a focus of Cumberland's conversation around their array. The next step would be to release the RFP. There is a timeline included with the agenda attachments.

Councilor Hemphill asked how the size of the proposed Falmouth array compares with other towns' arrays? Mr. Lafond said that Cumberland's array is much smaller. He was not sure about the size of South Portland's array.

Councilor De Lima asked which of the Town facilities would be the beneficiaries of the electricity from the solar array. Mr. Lafond said that as it is configured now it would not include the schools. The major power consumer in Town is the wastewater treatment plant. It's account is roughly 550,000 kilowatt hours per year. It will take up a large portion of what is produced. There are several other accounts that are included with the agenda attachments.

Councilor Cahan thanked REAC for their perseverance and hard work.

Chair Kuhn asked about the procedure for the bid process; who would be reviewing the bids? Mr. Poore said it would likely be a combination of Town staff and REAC.

Mr. Poore said that the RFP is the work of a staff team of Ms. Darling, Jay Reynolds, Public Works Director, and Pete McHugh, Finance Director.

Councilor Trickett asked Mr. Poore about the process for releasing the RFP. Mr. Poore said it was important to get it out to the professional associations. There are companies that publish RFPs on bid registries. Solar companies that have expressed interest will receive a special invitation. It will be posted on the finance page of the Town website.

Councilor Cahan suggested using BidSync for advertising. It reaches a national audience. In the RFP, there is a section towards the end under qualifications and experience. Item 4 says, "provide experience with installer safety record, claims history, and judgements, workers compensation experience, and modification rating for the past three years. She asked if judgements included wage theft judgements against the company and if not, could it be something that could be added. Nationally, wage theft is a big issue in the construction industry. She hoped that the Council would take a judgement against a company that was bidding very seriously. Mr. Poore said he would investigate adding that. He has not seen it in the Town's bid specifications, but it makes sense. Councilor Cahan added that if the Town does not have a policy against contracting with companies that have wage theft violations then she would like the Council to consider it.

The Council was in favor of moving ahead with the RFP process.

Item 7 Order to approve a supplemental appropriation from unassigned fund balance for \$23,100 to perform a feasibility study for building renovation, redevelopment, and adaptive reuse of the Tidewater Farmhouse and Barn structures located in the Tidewater Master Planned Development District.

Councilor Johnson moved to take the order off the table; Councilor Asherman seconded.

The motioned carried unanimously.

David Farnum spoke on behalf of the Falmouth Historical Society. Tidewater Farm is a historic property. The Historical Society believes that it represents a unique slice of the Town's agricultural and maritime heritage. The Society would like to see the property preserved if it is feasible. The Society believes that proceeding with the feasibility study is an appropriate step to inform the Town's decision on how to move forward. Regardless of the outcome, the fact that the Town is taking this issue seriously is an important signal of the value that Falmouth places on the historic properties within the town.

Chair Kuhn opened a public comment period; There was no public comment.

Councilor Trickett thanked Mr. Farnum for his letter and public comment. He agreed that it is a significant historic property for the Town. He was struck by something that Ford Reiche said in connection with his lighthouse that he rehabilitated. It was a similar situation in which the federal government looked for various grants and different things that might be done with it and ultimately the only way to preserve it was with private funds. Mr. Reiche pointed out that historic preservation typically is done with private funds. Councilor Trickett felt the proposal that was before the Town was not to engage in historic preservation. The Town is being asked to fund a design for the Falmouth Land Trust for a potential headquarters. The proposal is structured in such a way that the Land Trust really acts as the client. The Land Trust is not particularly interested in keeping the building. They wanted to buy the property with the farmhouse and barn raised and construct their building. There has been a fit and starts process with the Town ending up where it is today unintentionally. The proposal is not responsive to the RFQ that was issued. The process that led to the RFQ was a step back considering what could be done to preserve the building independent of Land Trust usage. He has not heard anyone say that they want to do this. They are just accommodating the Town. This is not his money and while he would love to see the property preserved no one has stepped forward to do that and

there has been no offer of private funds to preserve it. He was struck by the Sebago Technics inspection. While the house and its history are very interesting from a historic perspective, every single item on the inspection report is beyond repair. There is almost nothing in terms of the actual structure or many of the architectural details that are salvageable or repairable. This is Town money and while he would like to see this property preserved, he felt like unless the Town was going to make a radical shift in intention and take back the commitment with the Land Trust, the Town would be wasting \$23,000.

Councilor Cahan agreed with Councilor Trickett's comments. She would be more interested in appropriating money towards being able to use components of the building in a new structure and maybe some signage that indicates what was there. She agreed with Councilor Trickett that the Town would spend the \$23,000 only to learn again that the buildings are not salvageable without significant investment. If the Town is going to put additional money towards this, she would rather it be put towards something that the Town thinks is a feasible way of showing the history and of honoring the building structure.

Councilor Asherman said that at the last meeting he was in favor of moving ahead with the feasibility study. He gave a lot of thought to the issue since then and now felt that the pause button was appropriately pushed; the Town released an RFQ, but the Town and the Land Trust are not in the business of historic preservation. Going ahead with a study will likely result in several options some of which may require additional costs. The Town could end up putting a lot of money in before things really got started.

Councilor Hemphill appreciated the thought and consideration that Councilor Trickett gave to this item. He also supporting moving forward with the feasibility study at the last Council meeting. It is a worthy idea to see what could be done with these buildings. He has since given the topic more thought and had conversations with various individuals and has decided that these buildings are now the Town's responsibility and the Town is not in the business of preserving them. The reason the Town put out this RFQ was to find others who could potentially do this but none of these things happened. He did not think that there was or is interest from anyone to do this sort of work with these buildings. The Sebago Technics report creates a very dismal picture of how these buildings have deteriorated. If there was enough interest to pour a lot of money into a building like this, the buildings could be preserved but there has not been interest. He agreed that going ahead with this feasibility study is not in the Town's best interest. He felt that the best use of these buildings would be to preserve elements of them and hope that some memorial could be erected in the future to celebrate these buildings and/or new buildings erected that would show some faith to these structures.

Councilor De Lima said it is heartbreaking to see the few historic buildings in the Town not be preserved. However, she felt that given the condition of the building's preservation would be a very expensive option. She spoke with the Land Trust about the timeline for their project and they are still in the pre-fundraising stage. It will be potentially years and she was not sure that the buildings would still be standing years from now. The Council was discouraged from taking a tour inside of the building because it is structurally unsound. She liked the idea of preserving elements of the buildings, but she was not sure how that would be accomplished either. There would be some cost to doing that and she did not think that the Town nor the Land Trust was prepared to spend the money. This is a tragedy to some extent but given the way the next few years are going to play out it seems like the wrong point in time to try to preserve these buildings. She wished the Town had seen this twenty years ago when it was more structurally sound. If anyone in the Historical Society has an idea about who the Town can talk with about salvaging elements of the buildings this would be the time to make that happen.

Councilor Johnson said the buildings have been structurally unsound for several years and get worse every year. The safety concern jumped out at him. Each year that the buildings are left unimproved they get more unsafe. He worried because there are people vandalizing the building. At what point does this become a legal liability for the Town. He agreed with prior comments. The safety concern was of the upmost importance.

Chair Kuhn thanked the Councilors for the seriousness with which they considered the issue. She had come to a similar conclusion. She was glad that the Town paused the process when it did, but the Town does not have a partner now and it cannot do it on by itself. She would be willing to consider an appropriation from the Town to secure any salvageable materials and to put together signage to commemorate the early European settlers in the Town and the indigenous peoples' history in that area. Councilor Cahan asked if it would be appropriate to ask staff to come back at a future date with an analysis of a way that the Town could tribute towards that? Mr. Poore said the original option agreement with the Land Trust said the Land Trust had a ten-year option agreement for the property and the price was set based on a prorated amount of the purchase price of all three properties. The agreement also said that the Town was also going to provide \$50,000 towards the demolition of the buildings and handle the mitigation of invasive plant species on the property. That was going to be transferred over to the Trust and the Trust would be responsible for carrying out those items. Since then, there has been some conversation about if there is interest in extraction or salvaging some materials. Considering that this has become a Council issue with regard with historic preservation it may be in the Town's best interest to take over on the demolition piece of it. He could envision a bid process for demolition that might have a bid alternate in it regarding extraction of material. He suggested that the Town could put it out there and see what people could do. It is a safety issue so it may be that the contractor decides to demolish the buildings and then extract what survives. He wanted to get the Historical Society to help. He could see the Town taking over more of that process rather than handing it off to the Trust. Town staff could come back to the Council with the bids and the approach and have the Council decide what direction it wanted to head. If the Council decides to go in this direction, the Town will need to get the option agreement back out with the Trust and evaluate what is still applicable and what might need to be amended. The Councilors agreed that it was a good plan for moving forward.

Motion did not carry. 7-0 opposition.

Chair Kuhn thanked the Historical Society for its work.

Councilor Hemphill thanked everyone who responded to the RFQ.

Item 8 Order to approve the purchase of land for permanent trail rights on the Cross Falmouth Corridor between Community Park and Town Forest.

Amanda Stearns, Open Space Manager, said that an administrative error occurred in which the purchase and sale agreement was approved without having scheduled a Council Order. The prior Council had intended to move forward with the purchase. The Town's trail system is 50 miles. It is part of a regional trail system. The Town's trails connect with those of Portland, Windham, and Cumberland. The Cross Falmouth Corridor is a fourteen-mile trail that extends from the Portland border and joins with the Cumberland corridor. The Town has secured 95% of that corridor permanently either through fee acquisition or easement. The Town has several segments that are unsecure. There are sections that the Town has under licenses, but all licenses are revocable. She referenced a map showing the location of the unsecured trails, the parcel that the Town hopes to acquire, and where the Town would relocate the trail. This would provide a permanent access connection from the Town Forest through the corridor that connects the Town Forest with Community Park. This is one of a list of priority trail connections that she hoped to secure over the coming months and years to complete a permanent access to the Cross Falmouth Corridor. Everything was in place to close very quickly on this property.

Mr. Poore added that there was not an appraisal for this property because it is not an expensive purchase and appraisals cost money especially land commercial appraisals. The Town went with a cost per acre based on what it has seen in similar open space sales. \$12,000 an acre for an acre and a quarter works out to around \$15,000. Ms. Stearns added that it is very typical for the Town to assume the legal and survey costs so that the landowner does not incur expenses.

Councilor Asherman moved the order; Councilor Hemphill seconded.

Councilor Asherman was familiar with the property and the trail systems in Falmouth. He felt it was a great step forward in permanently securing a piece of property that otherwise would be on an at-will license.

Chair Kuhn opened a public comment period; there was not public comment.

Ms. Stearns offered to provide trail tours.

Motion carried 7-0.

Item 9 Order to approve a supplemental appropriation from unassigned fund balance in the amount of \$10,000 to fund senior tax relief awards above the \$50,000 set aside in the FY20 Budget.

Mr. Poore said that today was the deadline for applications to be received. The Finance Department has received 77 applications. Town staff decided to place the supplemental appropriation order on the agenda because the dollar amount requested was getting close to exceeding the budgeted \$50,000 and it was very important to applicants to receive the money before tax bills were due. However, the Town came in at \$49,386. The Council expanded the eligibility from \$30,000 to \$40,000 this year and that brought in eighteen more households. Town staff saw that a lot of the renters are not receiving much money in the refund due to already receiving subsidized housing. The rent itself is not that high so by the Town's policy they are not paying more than what they should in property taxes. Every little bit helps for a lot of these households. Participation increased from 29 total households last year to 77 this year. After the second addition of the Falmouth Focus was published, the Finance Department saw several new applications come in. Chair Kuhn added that the enhanced communications were a cause for the increased participation.

Councilor Cahan was glad that the Town can help seniors remain in Falmouth. She asked for an overview of what the Town did differently this year with outreach. Mr. Poore said the Town added a town-wide mailing, an announcement in the first addition of the Falmouth Focus which was distributed via physical mail, an advertisement in the Forecaster, and social media posts. There were 59 applicants below \$30,000 which was double last year's participation. That has to do with the outreach. Pete McHugh, Finance Director, reported that surrounding communities have seen growth each year as words spreads so Falmouth can expect to see additional growth next year.

Chair Kuhn added that Mr. McHugh offered three in person workshops where applicants could fill out their applications on the spot. Mr. Poore said the Finance Department was willing to have individual appointments with anyone who wanted them even outside of the workshops. They were extremely busy processing all the applications but that they really enjoyed doing it. The staff liked meeting the residents and the residents enjoyed the process with the staff.

Councilor Asherman asked how this will resolve. Mr. Poore said that checks will be mailed early next week if they could be included in this week's warrant. If not, they would be mailed the following week. Chair Kuhn added that this year's uptick will need to be considered during the budget cycle.

Item 10 A discussion about the recent communication survey; an update on the development of a strategic communication plan; and a report on new communication tools and efforts.

Erin Cadigan, Education and Outreach Coordinator delivered the presentation. Ms. Cadigan reviewed the results of the town-wide communications survey that was distributed this summer. She reviewed new

communication efforts that the Town has already implemented including increased postal mailings, the Falmouth Focus newsletter, increased Facebook and Twitter posting and paid advertising, expanded print media, increased frequency of e-alerts, actively promoting “getting connected,” reviewing the website for inconsistencies and outdated information, and increasing consistency between meeting and agenda postings. The Town is working towards developing a communications strategic plan. Next steps are to finalize a communications strategic plan which would be presented at a Town Council Workshop. The plan would be revised and presented to the Town Council. There would also be a public forum. Staff would make final revisions based off input from the public forum. The final plan would be presented to the Town Council.

Councilor Cahan asked whether the town is doing alerts for hazardous weather. Ms. Cadigan said the Town did not do weather alerts for the anticipated storm that evening but had done alerts for boil water orders and a heat wave over the summer. Mr. Poore said that the Town had done alerts in the past for Nor'easters that bring snow. Councilor Cahan said that it would be good to do weather alerts in the future.

Chair Kuhn said that she appreciated Ms. Cadigan’s sensitivity towards having to use discrete methods of communication to reach discrete audiences particularly people who are not accessing information online. She asked about options for people to receive information in printed form. Ms. Cadigan said there was the weekly ad in the Forecaster and the printed copies of the newsletter (available at Town Hall, the Library, and Mason-Motz).

Councilor Cahan said she was in a meeting with a resident of Gray who praised Falmouth’s communications system. She was glad that the expanded communications are not only helping Falmouth residents but people who commute through the Town. Ms. Cadigan said that the Route 100 Project specific e-alerts have been effective in informing commuters.

Councilor Asherman thanked Ms. Cadigan for her hard work.

Item 11 A presentation on Falmouth’s proposed participation in the State of Maine Bicentennial Celebration.

Erin Cadigan, Education and Outreach Coordinator delivered the presentation. The Maine Bicentennial Commission is coordinating programs and projects that commemorate Maine’s anniversary of statehood which is in 2020. The Commission has three goals, 1) to explore Maine’s history from the many perspectives of its multiple past and current populations, 2) to celebrate Maine’s present peoples, places, institutions, and economy, and 3) to envision the public and private actions that will enhance Maine’s future prosperity. Falmouth is in a unique position because the Town has just completed a Tercentennial Celebration. The Town is in a good place to expand upon Tercentennial programming. Recommended programs include a Town Council Resolution supporting the state-wide efforts of the Maine Bicentennial Commission, Bicentennial Banners along Route 1, displaying the Story of Falmouth Traveling Exhibit, expanding upon the work that was done on the Town Hall mural project into an education curriculum. Ms. Cadigan and Theo Holtwijk, Director of Long-Range Planning and Economic Development are envisioning a poster of the mural with a classroom curriculum on the back. They have written a grant to the Bicentennial Commission to help fund that project. Other recommended programs are the planting of a Tricentennial Pine Grove, a Community-Wide Birthday Picnic in Summer 2020, and encouraging and supporting Community Bean Suppers over Statehood Weekend in March. She reviewed the proposed budget of \$16,000.

Councilor De Lima suggested holding the bean supper at the Woods Road Bean Hole.

Councilor Johnson attended a recent meeting of the Conservation Commission. In conjunction with the tricentennial pine grove, the Commission desires to plant 200 trees around the Town. Some will be Town plantings and some will be privately planted. It is a good example of one group that is already doing some

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work. The Falmouth Cumberland Community Chamber of Commerce might want to get involved with the bean supper. There is some good potential collaboration. Chair Kuhn asked if any of the 200 trees would be related to the Tree City USA program or if it was separate. Councilor Johnson said that they could cross over. Some of them are already being planted by Jay Reynolds, Public Works Director, so the Town would not need to plant many more. Chair Kuhn said another event could be to go around and see the trees.

Councilor Asherman asked Ms. Cadigan if she would be coming back before the Council with a resolution. Ms. Cadigan said yes, if that was something that the Council was interested in. Mr. Poore added that a supplemental appropriation order would be needed for the programming budget. It would be funded out of the Oceanview/Natural Gas TIF district.

Chair Kuhn said that she recalled with the Tercentennial that corporate sponsorships were secured. Would that be part of the funding for the bicentennial celebration? Ms. Cadigan said she supposed it could be. She and Mr. Holtwijk applied for the grant for the mural educational curriculum.

Chair Kuhn added that she hopes that the education materials will include a full and inclusive history of Falmouth. Ms. Cadigan said that was her intention.

Next steps will include Ms. Cadigan coming back before the Council with a resolution and supplemental appropriation order.

Adjourn

Councilor Asherman moved to adjourn; Councilor Cahan seconded.

Motion carried 7-0.

The meeting adjourned at 8:56 pm.

Respectfully submitted,

Marguerite Fleming
Recording Secretary