

# Town Council Meeting

## Minutes

### June 3, 2020

Chair Kuhn started the meeting at 9:00 am.

#### Roll Call

All Councilors were present and answering roll call.

#### **Item 1      Emergency ordinance to temporarily suspend certain provisions of the Falmouth Code of Ordinances relating to outdoor eating areas and outdoor retail display to assist businesses suffering economic loss due to COVID-19 in a manner consistent with the Governor's re-opening plan.**

Chair Kuhn said this ordinance would allow restaurants and retail establishments to operate outdoors. She said that the ordinance creates an expedited process for approval. She said the Planning Board approved the emergency ordinance at its meeting on June 2. Chair Kuhn reviewed changes made to the emergency ordinance since it was introduced at the May 27 Council meeting.

Councilor Cahan asked if businesses were successful with outdoor operations and wanted to continue in July whether the emergency ordinance could be renewed. Ethan Croce, Community Development Director, said that the Council could renew the ordinance if it finds that the emergency still exists. Mr. Croce said that the enactment of this ordinance would not prevent businesses from proceeding through the standard Planning Board or BZA process to establish permanent rights for outdoor eating areas and outdoor display areas. Councilor Cahan asked about the reasoning for the date change. Mr. Croce said the date was changed to July 22 based on conversation at the last Council meeting in which some councilors suggested a check-in before 60 days. Councilor Cahan asked for clarification that the Council could have a check-in without the ordinance expiring in July. Mr. Croce said the Council could schedule a meeting at any point to extend it. Chair Kuhn said she would suggest that the Council have regular check-ins as this gets implemented. Councilor Cahan said she was in favor of the longer date with check-ins so that businesses understand that it is the Council's plan to maintain the ordinance through the summer.

Mr. Poore said that July 20 is the last possible date that the Council could renew beyond the 60 days without having a special meeting. He said July 22 was chosen so that if the Council decided not to renew the ordinance business owners would have two days' notice.

Councilor Johnson supported extending the ordinance as long as possible because of the investment necessary on the part of businesses. He was satisfied with the timing based on Mr. Poore's explanation.

Councilor Trickett said there was limit to the amount of reliance that restaurants could have regarding the ordinance timing as the Council could repeal it at any point. He felt so long as we are in a situation where there are restrictions on businesses' abilities to operate due to COVID-19, the Council would be interested in extending the ordinance indefinitely. He thought it made sense to have a periodic check-in because the permits were being issued without any real process or public engagement opportunity. He felt it was very important that staff as well as the Council retain the ability to modify or repeal the ordinance.

Councilor Johnson asked about how many applications had come in and what the process looks like. Mr. Croce said that the Town had received four applications to date. He said all the applications had been forwarded to the departments who would be reviewing the applications. He said staff had provided review comments to some businesses that needed to adjust their applications. He hoped that the applications could

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be turned around quickly so that the businesses could begin operating as soon as possible. He said the process entailed the businesses submitting their forms to the Community Development Department, the applications being distributed to the reviewing staff, sending any comments to the applicants, and then issuing the approval.

Chair Kuhn asked that a staff update be placed on the June 15 agenda.

Councilor Trickett motioned; Councilor Johnson seconded.

Chair Kuhn opened the public comment period.

Amanda Farrington representing JP's Bistro said that business owners were not clear on the approval process. She said that they had not received confirmation that their application had been received and were not clear what the next steps would be.

Mr. Croce said that the Town had received JP's Bistro's application.

Councilor Cahan expressed support for the motion. She was in favor of the later date because she wanted to give a clear message of the Council's intent to support businesses throughout the summer. She supported the motion as is because she did not want to hold anything up. She was glad that the Council had the flexibility to help guide businesses and that Mr. Croce was working on getting everyone up and running as quickly as possible.

Councilor Hemphill felt this was a reasonable accommodation to help the local businesses. He felt that the provisions serve the community and staff well. He looked forward to successful implementation.

Councilor Asherman said he would have preferred a longer date but after hearing Mr. Poore's comments about the July 20 meeting felt it was a good compromise. He said hopefully the applications will be turned around quickly and businesses can open today or tomorrow.

Andrea Casanueva asked if the Town could confirm receipt of Dockside Grill's application.

Christopher Dyer asked how approved applicants would be notified.

Mr. Croce said that the Town had received Dockside Grill's application and that applicants would receive written confirmation of receipt as well as a copy of the approved permit. He said staff would also reach out via phone prior to sending out the approved applications. He said that the Town had also received applications from Ricetta's and Bueno Loco.

Councilor Trickett felt the flexibility and speed with which staff would be approving applications would likely result in unintended impacts. He wanted to make sure that the Council was onboard with supporting the staff if conflicts arise. He said it was one of the reasons why he wanted regular check-ins and an earlier date. Chair Kuhn said if difficulties arise that cannot be easily resolved Council leadership was willing to meet with business owners and residents.

The motion carried unanimously.

## **Item 2            Staff report on protest activity in Portland.**

John Kilbride, Police Chief, said that the events in Portland have caused the Portland Police Department to need mutual aid assistance. He said on Monday evening ten Falmouth police officers were assigned to Portland with the primary responsibility of protecting the police station. He said the building was a target for criminal mischief. He said Falmouth officers were not on the protest line. He said the Falmouth Police Department was covering all the calls for service west of the interstate along with calls for service in Falmouth. He said the Department had almost everyone deployed. He said that they finished around 4:00 am. He said the Department was on standby Tuesday evening. He said the protest that evening was peaceful. He said there was an officer assigned to the emergency unit response team. He said there would be protests throughout the week. He said it was fluid where the protests would be. He said the Maine chiefs and the local chiefs would be holding a press conference that day at Portland City Hall at 11:00 am.

Councilor Johnson asked about the Department's safety when assisting Portland regarding the level of training that officers had received. Chief Kilbride said all officers received training at the Maine Criminal Justice Academy. He said that the Falmouth officers are well trained and disciplined and receive financial support for trainings. He said that the Department purchased ballistic shields and helmets for officers to carry in their cars in the event of active shooters. He said the Department does not have riot gear and is not trained to handle riots. He said not many police departments in Maine are trained in riots as it does not happen often. He said the State Police have troopers who are specially trained in handling riots.

Councilor De Lima thanked the Department. She asked about the Falmouth Police Department's policies surrounding restraints and use of excessive force. Chief Kilbride said putting a knee on someone's neck is not trained in Maine and is not a policy of the Falmouth Police Department or any department in Maine. He said restraints are handcuffs, hand controls, arm controls, and less lethal applications. He said any type of force application that is used to make an arrest must be documented with a special form which is reviewed by two supervisors and the Police Chief. He said there are several means through which citizens can file complaints. He said any report of excessive force or officer misbehavior is investigated by internal affairs.

Councilor Cahan thanked the Department. She said that she wanted to make sure the Town was doing its part to help solve the structural issues causing the protests. She hoped that soon the Town could evaluate the full Town's policies and procedures. She also suggested implicit bias training. Chief Kilbride said that all Falmouth officers participate in implicit bias training. Another training was scheduled prior to the pandemic and would be rescheduled for later in the summer. He invited the councilors to attend officer trainings and offer feedback.

Chair Kuhn said that she had a lot of confidence in the Department because she has seen the way they work and adopt emerging trends. She felt it was incumbent on every community to look at structural issues and evaluate whether systems are in line with the community's values. She suggested that the Council take this up at its work plan retreat in July and come up with a plan for how the Town can open a dialogue about these different practices. The councilors agreed.

Councilor Trickett said he had never seen a police department that did a better job of developing relationships with residents. He felt that the issues we are dealing with are structural and driven by shared expectations of police and whether those need to be evaluated. Chief Kilbride said he was always looking for ways to improve the Department and felt it was a unique opportunity to take what the Department does right and things it can do better outside the walls of Falmouth.

## **Adjourn**

Councilor Trickett motioned to adjourn; Councilor Cahan seconded.

The motion carried unanimously.

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The meeting adjourned at 9:53 am.

Respectfully submitted,

Marguerite Fleming  
Recording Secretary