

# **Town Council Meeting Minutes August 12, 2019**

Chair Kuhn called the meeting to order at 7:04 pm.

## **Roll Call**

Councilors De Lima, Johnson, Asherman, Kuhn, Trickett, and Hemphill were present and answering roll call. Councilor Cahan was absent.

### **Item 1           Public Hearing on an amendment to the Official Zoning Map to rezone the property at 168 US Route One (map/lot U51-001-C) from RB to VC2.**

Chair Kuhn provided an update that the Planning Board held a municipal reviewing authority hearing on August 6, 2019. The Board voted unanimously to recommend that the Council approve the proposed change.

Chair Kuhn opened the public comment period.

Jack Kaminski of MacKenzie Lane, President of Falmouth Woods Homeowners Association, said that the Homeowners Association is still interested in the 2016 zoning issue. The Association hopes that the Council is still considering RB, where the neighborhood is located.

Chair Kuhn closed the public comment period.

Councilor Hemphill stated that it seems clear that this is an anomaly. He was glad that the Council can address this issue and correct the “scrivener’s error.”

The order was scheduled for the August 26 meeting.

### **Item 2           Public hearing and order relative to renewal of permanent food service establishment licenses for: Falmouth by the Sea, Hannaford, and Nouria Energy Retail Maine.**

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

There was no Council discussion.

Councilor Asherman moved the order; Councilor Trickett seconded. Motion carried 6-0.

### **Item 3           Public hearing and order to approve a new permanent food service establishment license for JP's Bistro.**

Chair Kuhn noted that JP’s does not yet have a state issued license for this location, but it does have approval for the year for its prior location in Portland. The applicant must obtain a valid state license before opening. All the other approvals have been secured.

Councilor Asherman stated that he is familiar with the Portland location and that it is a great business.

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

Councilor Asherman moved the order; Councilor Trickett seconded.

Councilor Trickett asked for clarification on the process for issuing the state license. Nathan Poore clarified that the Council's approval is contingent on the issuance of the state license.

Motion carried 6-0.

**Item 4 ecomaine internship program update and presentation**

Margot Chirayath and Lexis Anderson delivered a presentation on their eight-week summer sustainability internship. The program was a collaboration between ecomaine and the towns of Falmouth, South Portland, Windham, and Scarborough aimed at educating residents about recycling contamination. The goals of the project were to 1) lower contamination rates, 2) make information about recycling more available for residents, and 3) clarify recycling guidelines. The interns began their summer with a two-week training led by ecomaine staff during which they toured the ecomaine facility and practiced tagging bins as a group. The training equipped the interns to be able to explain the importance of working to eliminate contamination to residents. Ms. Chirayath and Ms. Anderson visited the Flats and Stapleford neighborhoods over the first five weeks of the summer. They visited around 615 houses (15% of the total households in Falmouth) in these two neighborhoods. The tagging process involved looking into residents' bins and placing colored tags on the bins (red, yellow, green) based on levels of contamination. The interns found the tagging process to be effective. The amount of contamination within the yellow tagged bins decreased significantly over the summer. 488 houses received at least one week of education over the course of the program. 287 houses received at least three weeks of education. The interns had face-to-face interactions with over 100 residents over the course of the program. Reduce, Reuse, Recycle education was a large component of the program. Ms. Chirayath and Ms. Anderson described the contamination issues they encountered. Paper towels were the most common contaminant found in the bins. Paper towel fibers are too short to be broken down to be made into new paper. The amount of paper towels in the bins declined over the course of the program. Plastic bags and plastic film are not recyclable because they clog the sorting machines. Contamination must be manually removed from the machines. Ms. Chirayath and Ms. Anderson felt that face-to-face interactions with residents most contributed to the program's success. They provided suggestions for future Town recycling initiatives including 1) greater emphasis and education on drop-off locations for plastic bags, 2) increased compost program education, 3) public commitment to better recycling, and 4) increased education on the waste hierarchy.

**Item 5 Order to increase the income eligibility for Senior Property Tax Relief to \$40,000 annual income.**

At the July 22 meeting, the Council requested an increase in the program income eligibility threshold from \$30,000 to \$40,000 so that more Falmouth residents could be eligible for the program.

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

Councilor Asherman moved the order; Councilor De Lima seconded.

Councilor Trickett discussed concerns about last year's low participation rate. He suggested reviewing the way in which the benefits are calculated. Under the current system calculation, the average benefit is very low for renters which does not incentivize applying. The average renter benefit will decrease if the eligibility cap is increased. Councilor Asherman stated that, at the July 22 meeting, he suggested running several advertisements in the newspaper. Chair Kuhn added that Pete McHugh stated in his presentation at the July 22 meeting that other towns' participation rates had nearly doubled in the second year as the program became more well-known. She felt that the Town needs to increase awareness and hopefully increase participation among people who need it the most but that there are also people who would have benefited from assistance who had just barely exceeded the limit. It seemed unfair to turn those people away when there were unused allocated funds. At the July 22 meeting, the Council discussed the possibility that, if the total amount of funds

became exhausted, it could consider more equitable ways of dividing up the funds. Councilor Johnson felt that the discussion at the July 22 meeting helped raise awareness about the program. He felt that this incremental adjustment allows for a broader group of people to engage with the program. While the Council probably needs to do more to increase the benefit, he believes that the word is out there and will continue to spread. Councilor De Lima mentioned that staff plan to run ads in the Forecaster in addition to the article. Overtime the program will be much more widely known about. Councilor Hemphill stated that he hopes the Council and staff's efforts to publicize the program will yield higher participation this year.

The Council asked Pete McHugh, Finance Director, to come back before the Council if requests exceed the allocated funds. The Council can then decide whether to allocate the funds in a different way or perhaps increase the amount of available funding.

Motion carried 6-0.

**Item 6            Ordinance to amend the Code of Ordinances, Section 2-25 Compensation, to update councilor compensation.**

Councilor Johnson moved the ordinance; Councilor Trickett seconded.

Mr. Poore said that the \$75 per meeting is for the Councilors' participation in the two Council meetings each month.

Motion carried 6-0.

**Item 7            Order to allow individual town councilors to submit requests for expense reimbursements, not to exceed \$75/month, retroactive to July 1, 2019, until June 30, 2020. Such authorization to expire on June 30, 2020.**

Mr. Poore described how, throughout the last budget cycle, Town staff and Councilors discussed allocating enough money to fund an increase in Councilor compensation. Councilor Trickett determined that the Charter does not allow Councilors to receive an increase in compensation during the same year that the increase is passed. The purpose of the order is to allow Councilors to be reimbursed for expenses during the present fiscal year. Mr. Poore described examples of reimbursable expenses including mileage and communication expenses. The finance department has reimbursement forms.

Councilor De Lima asked for clarification. Since the updated compensation of \$75 per month is for attending the twice monthly meetings, is the travel expense also limited to Council meetings or could it be used for other committee meetings? Mr. Poore said any travel associated with Council duties including visiting a constituent, attending a training session, or other regional meetings would be reimbursable.

Chair Kuhn opened a public comment period.

Jack Kaminski of 7 Mackenzie Lane asked for clarification on the amount of money that Councilors will be able to receive in reimbursement. Chair Kuhn clarified that Items 6 and Item 7 pertain to two different fiscal years. The order will allow Councilors to seek up to \$75 a month for reimbursable expenses during this fiscal year. It will cease to be available on June 30, 2020. When the new fiscal year starts, the rate for attendance at the twice monthly Council meetings will increase to \$75. There will be no reimbursement once the ordinance takes effect.

Keith Noyes stated concern that Councilors will be able to seek reimbursement this fiscal year rather than waiting for the compensation increase ordinance to take effect next fiscal year.

Chair Kuhn closed the public comment period.

Councilor Trickett asked what was the total budget allocation made for this fiscal year? Mr. Poore said \$2,000 per councilor and \$3,000 for the chair. Councilor Trickett asked whether someone on staff will be reviewing Councilors' expense requests and determining whether they are appropriate to be reimbursed. Mr. Poore stated that staff would review submitted expenses and would require receipts for any expenses other than mileage. Councilor Trickett asked what determined whether an expense was eligible for reimbursement. Mr. Poore said that he talked with the town attorney about up to 25% of cell phone or internet bills. Councilor Trickett asked if Councilors could currently submit for reimbursement for expenses related to longer trips such as to Augusta. Mr. Poore said Councilors have not previously asked for reimbursement but such trips, if for Council business, would likely be reimbursable. He noted that the Maine Municipal Association often reimburses trips related to the state legislative session. Councilor Trickett had mixed feelings about the order. He was in favor of increasing Councilor compensation to \$75 per meeting because it promotes citizen participation. He felt that the expense reimbursement seemed like a way to spend allocated money that would otherwise not be spent. It would only be in effect for a year and Councilors can already seek reimbursement for special situations related to town business.

Councilor Johnson said that mileage reimbursement for longer trips or for several trips around Town would be under the \$75 per month cap. He felt that the money would serve as a resource for people to serve on the Council. The budget was allocated last year; the vote did come from the current Council so the current Council cannot take advantage of the increase, which he thinks is admirable. He supports the order if it helps current or future Councilors afford to sit on the council.

Chair Kuhn clarified that the order was not intended to be an end-around. It is an anticipated outcome that was discussed during the budget season and is based on good policy reasons such as allowing Councilors to pay for babysitters in order to attend meetings. She felt that it would largely be without impact because most Councilors are not likely to seek reimbursement. She felt it was appropriate for the Council to do everything it could to improve access. Councilor Hemphill agreed.

Councilor Hemphill moved the order; Councilor Johnson seconded. Motion carried 5-1. Councilor Trickett opposed.

**Item 8            Discussion about a proposed ordinance that will clarify the definition of a nuisance dog and provide more options to better enforce the ordinance.**

John Kilbride, Police Chief, presented proposed ordinance language aimed at enhancing the Police Department's service level to both the community's dog owners and people who are affected by the nuisance calls that it receives. The Police Department currently answers around 350 calls for service dealing with animal issues. There are currently between 700 and 800 dogs licensed through the town and another 25% that are not licensed; around 1,000 total dogs. The proposed ordinance language is based upon research on other communities. The animal control officer has worked in other communities and felt that similar language to the proposed ordinance worked well. The current language is subject to interpretation. The Police Department has found that residents subjected to a nuisance dog are often too intimidated to serve as complainants. The proposed language allows law enforcement officers to serve as the complainants and to witness animals' behavior. This would also defend the owners of the animals who might be wrongfully accused. The proposed definition of nuisance dog establishes an objective stance; a timeline based on the amount of time that the animal was barking unprovoked. This allows the animal control officer to take appropriate measures based on objective information and to serve as the complainant and decrease the likelihood that neighbors would fail to report the nuisance animal due to intimidation. The proposed language puts the onus on the Police Department to be the ones that are coming forth with the complaint. It allows fairness for both sides.

Councilor De Lima asked about whether the ordinance would include dogs chasing cars into the street. Chief Kilbride said that dogs running into the street is covered under maintaining control of the animal. This

ordinance is aimed at addressing nuisance barking dogs. Councilor De Lima asked about the ordinance \$50 fine. Chief Kilbride does not intend to change the fine structure. He said that the animal control officer would issue a warning on the first violation and would issue a civil summons for \$50 on the second. This would be ongoing. Owners rarely refuse to comply.

Mr. Poore added that staff realized earlier that evening that an additional document with a change to the proposed definitions was not posted. The document addresses the detailed definitions of a nuisance dog. The change clarifies that a nuisance dog is one that barks for at least twenty minutes consecutively.

The Council decided by consensus to move forward with introducing the ordinance amendment.

Councilor Trickett volunteered to introduce the ordinance amendment. He pointed out a grammatical issue with the amendment to Section 3-4. He would work on correcting the grammatical issue as a component of introducing the ordinance amendment.

**Item 9            Order to authorize the Town Manager to enter into a Purchase and Sale agreement amendment on 40.11 acres of land abutting the Falmouth High School property.**

Mr. Poore said that one of the thresholds in the purchase and sale agreement was to submit a survey before the execution of the agreement. The survey was completed in a timely manner but changed slightly due to the ongoing Planning Board application that the seller is putting together. It reduced the size of the property from 40.5 acres to 40.11 acres. The town had a provision in the purchase and sale agreement to monitor whether there would be any movement in the size of the acreage because, during the first purchase and sale agreement, the acreage changed more than expected. At that point the seller had a better idea of how much acreage they needed with the Planning Board application, so it seemed reasonable. The Town thought that the access easement that it was buying from Field Road would be all inclusive for vehicles, utilities, pedestrians, etc. There was a misunderstanding between the seller and the Town on what the access easement would be. The Town and the seller have reached a tentative agreement that, in exchange for clarifying the access easement to be all inclusive before creating a new foundation for the acreage at 40.11 acres, the Town would waive the \$5,000 reduction in the sell price. The seller would potentially like to discuss design standards for the access easement. When Mr. Poore talked with the seller this afternoon, they realized that there was not enough time to have that conversation and to get the Council up to speed in advance of tonight's meeting. The seller now has more time because she received preliminary planning board approval on August 6 and will be on the October meeting agenda. The order will be tabled until the August 26 meeting. The amendment will be the same with the exclusion of the \$5,000 reduction in the project price.

**Adjourn**

Councilor Hemphill moved to adjourn; Councilor De Lima seconded. Motion carried 6-0.

The meeting adjourned at 8:08pm.

Respectfully submitted,

Marguerite Fleming  
Recording Secretary