

Town Council Meeting Minutes November 25, 2019

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

Roll Call

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

Pledge of Allegiance

Chair Kuhn led those present in the Pledge of Allegiance.

Item 1 Public Forum

Chair Kuhn opened the public forum.

Keith Noyes said that he enjoyed the fifth issue of the Falmouth Focus newsletter.

Valentine Sheldon of Route 88 thanked Chair Kuhn for her leadership in moving the comprehensive plan update process forward and for her promise of transparency and inclusiveness. He discussed a FOIA request that he had recently submitted regarding communication related to the LPAC vacancies. He expressed concern that there were emails and text messages missing from Town's response to the request. He was also concerned that Town business was being conducted on private cell phones. He was concerned about how the Appointments Committee was operating and felt that governance language is needed. He urged the Council to adopt ordinance language regarding internal communications.

Lee Hanchett of 21 Stone Ridge Road complemented the Council on its plan to include a range of voices in the comprehensive plan update process. He felt that recent Council workshops demonstrated the Council's desire to get it right this time. He felt that the Council needed to learn from previous comprehensive planning mistakes: 1) the public does not just mean developers, 2) surveys must not use questions that bias the answers, 3) study other towns comprehensive plans and learn from what they have done. He felt that comprehensive plans must include impact studies; aesthetics matter too. He felt that a comprehensive plan does not need to be a marketing piece and that a plan created by a majority of Falmouth citizens does not need to be sold to anyone. He felt that decisions about growth should not be influenced by non-residents and that the consultant must realize that they are working for and being paid by the citizens of Falmouth and not the Town Manager or the Council.

Bill McKinney thanked the Council for holding its November 18 workshop at which it discussed the comprehensive plan update process. He expressed concern related to the Council's desire to hire a consultant to lead the vision and values process and potentially the comprehensive plan update. He felt that Town staff knew the Town best and could lead the process. He said that Falmouth has more planning staff than Cumberland and Yarmouth combined. He supported the staff's good work and was confident that they could handle the comprehensive plan update without hiring a consultant. He said that the consultant the Town has hired to date charges a very high hourly rate which was more than he felt taxpayers should be expected to pay for. He felt that Cumberland and Yarmouth's planners could provide guidance. He felt that a new committee should be formed to replace LPAC as soon as possible. He felt that public input is in valuable and should be encouraged at every level. He recommended that the homeowner comments gathered at the March gathering at the Middle School should be considered in developing the vision and values statement. He urged the

Council to make their constituents' requests their congressional focus going forward. He urged the Council not to overcomplicate the process.

Chair Kuhn closed the public forum.

Item 2 Consent Agenda

- **Order to approve the minutes of the October 16, 2019 Town Council Workshop.**
- **Order to approve the minutes of the October 16, 2019 Town Council Special Meeting.**
- **Order to approve the minutes of the October 17, 2019 Town Council Workshop.**
- **Order to approve the minutes of the October 28, 2019 Town Council Meeting.**

Councilor Asherman moved the orders; Councilor Johnson seconded.

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

Motion carried 6-0.

Item 3 Report from staff, Council committees, and Council liaisons regarding updates on assignments and projects.

Councilor De Lima said that FEIC has been conducting outreach to area business leaders regarding the Falmouth Business League concept. PACPAC is working on an assessment of recreational spaces. Lucky D'Ascanio, Director of Parks & Community Programs presented a nationwide survey of parks which provides comparison data on the parks and recreation spaces and resources of towns of similar size. The Committee asked Ms. D'Ascanio to compare how Falmouth ranks with similar towns on the key measures. She felt that having this information would provide a nice way to talk about who we are as a community regarding our parks, open spaces, and recreational activities. Chair Kuhn asked if that information would be presented to the Council at some point. Councilor De Lima said yes. She felt very proud looking at some metrics that the Town compared well on. She said that the Finance Committee has had two meetings. The first meeting was to review the schedule of meetings over the course of the budget cycle. The Committee discussed meeting more frequently. Pete McHugh, Finance Director reviewed the year to date performance relative to the budget and projections for the end of the year. The Committee discussed the School Department budget and whether it would be possible to begin meeting with the School Department earlier in the budget cycle. She and Chair Kuhn met with the Chair of the School Board. It will be difficult for the School Department to up their timeline, but the Council and School Board are working to become more integrated so that everyone is on the same page by the end of the budget process. The first joint meeting with the School Board will be in December. The Councilors are looking to minimize any impact on the tax rate. She said that there was a meeting earlier in April where the Council began to discuss the impact of the Fire and EMS staffing on the budget. The Town is lacking in volunteers and will likely have to hire full time positions. That could be a significant expense, but it is still in the early stages of discussion.

Councilor Johnson said that the Retail Marijuana Ad Hoc Committee had its first meeting. He read the Committee description from the Town website. The agenda included selecting a chair and reviewing the October 16 Council Workshop discussion. The Committee discussed whether retail marijuana fits into the Town of Falmouth including testing, cultivation, extraction/processing and retail. Members of the public attended in addition to the Councilors. He appreciated the public input. The Committee will meet again in January. People can file permit applications with the state beginning on December 5. The Committee desires to go slow and be very diligent but did not want to miss the tide in case there are potential financial implications from which Falmouth could benefit. Chair Kuhn clarified that the December 5 date is not a deadline but the opening date. Councilor Johnson said that was correct. Chair Kuhn asked if there was a

deadline for Falmouth to opt in? Councilor Johnson said there is no deadline. He said that the Committee recognizes that surrounding towns are opting in and are considerate of where Falmouth lies in the economic sphere.

Councilor Asherman said that the Ordinance Committee is working on a pesticide and fertilizer ordinance which could include permitting and an education component. The Committee hopes to present it to the Council shortly after the new year . The Committee has also been working on short-term rental regulation. The Committee has conducted research into what other towns are doing as well as what is going on in Falmouth.

Chair Kuhn said that is typical this time of year that the boards and committees will be working on projects that will then be brought forward to the Council and the public in the new year.

Councilor Trickett said that the Community Development Committee is working on reviewing the Town's ordinances concerning indoor kennels. There has been demand for expanding the options for providing overnight kennel services. The Town's ordinances are currently fairly limited in what is allowed and available. The Committee is researching other town's ordinances and there is a lot of overlap with state law which also regulates kennels. The Committee is also working on formalizing a process for evaluating zoning amendment requests. There have been a few requests this year and he understands that the Town typically receives multiple zoning change requests each year. Rather than evaluate these requests on an ad hoc basis without a consistent approach, as part of the work plan, the Council discussed wanting to have a more formal process. The Committee hopes to have something to present to the Council in the next few months.

Councilor Hemphill said that ecomaine is recognizing champions of sustainability in its member communities through the 2020 eco-Excellence Awards. ecomaine will accept nominations until Friday January 31, 2020 through the webform at ecomaine.org. Nominees can be businesses, schools, non-profits, or individuals and will be selected based on the effectiveness, increased awareness, community impact, and ease of replication of their sustainability programs or initiatives. The awards ceremony will be held in March. He encouraged people to submit nominations.

Nathan Poore said that the Council re-approved the rate of growth ordinance this summer. At that time, the Council said it was interested in having a more in-depth discussion about it. The discussion was intended to be held this fall but will likely not happen until winter. Staff are going back 15 years to make sure that the Town has solid data on residential growth. There are some nuances in the data entry and different software platforms. Staff felt like the data that the Town had was decent but there was some room for error, so staff are trying to perfect it. He expected that staff would be able to provide a report to the Council within the next few months.

Item 4 Report from the Appointment Committee regarding various vacancies on Boards and Committees.

Councilor Hemphill said that the Appointment Committee has not met since the last report out. The Committee is working to populate the new Community Wellness Committee. The Committee's charge is to determine strategies and best practices to inform and promote wellness for Falmouth residents. The Committee will also be tasked with distributing Town funds to area social service agencies. The Appointment Committee has received a few applications and is interested in hearing from more people in the community who are interested in this committee. Applications can be submitted through the Town website.

Item 5 Orders to adjust/transfer funds regarding the FY2020 budget.

Mr. Poore said that the first order is asking for permission to purchase the vehicle off year. In the last budget, a position was added to the Fire and EMS Department. Unfortunately, the capital plan did not keep up with that to provide a vehicle for the new position. Staff are asking to move the purchase of a vehicle up to this fiscal year. There is not a specific amount yet because the Fire Chief is trying to be creative with trading some vehicles around. He anticipated that it would be around \$35,000 or less. The second order is a transfer from the Street CIP Fund to the Public Works Vehicle CIP Fund in the amount of \$65,000. That is due entirely to the purchase of the street sweeper which was \$35,000 over budget and a \$30,000 increase in the price of dump trucks due to steel prices and tariffs. The Town has purchased the street sweeper but has not yet purchased the truck. The third order is for a police vehicle. The Police Chief is interested in moving into hybrid model Explorers. Transitioning to the new model will require fitting the vehicle with new equipment instead of moving the equipment from the old cars. In the end, it is going to have enough fuel savings to more than pay for itself but, currently, the Town is looking at a balance issue to initially get into the vehicles. This will be a process where the whole fleet should be transferred over within the next five to six years. This is another transfer but this time it is a supplemental appropriation from unassigned fund balance to the Police Vehicle CIP Fund. Chair Kuhn asked over what period of time the new police vehicles would pay for themselves? Mr. Poore said he thought it was around two years. Chief Kilbride will review the full analysis in at the beginning of the year when the Council reviews the CIP budget.

Councilor Trickett asked for clarification that the dump truck has not been purchased. Mr. Poore said that there was an error on the agenda. The dump truck has not been purchased.

Councilor Asherman asked what the Fire and EMS Fund Balance was? Mr. Poore said that it is the Fire and EMS capital improvement fund. Councilor Asherman asked if the first two orders were moving money from one CIP to another? Mr. Poore said that the balance for the first order is enough to handle the purchase without a transfer. The second and third orders need transfers from other funds.

Councilor De Lima moved the orders; Councilor Johnson seconded.

Chair Kuhn opened the public comment period.

John Winslow expressed concern that it is only five months into the fiscal year and the Town is already using unassigned funds to balance the budget. He expressed concern about RFPs that the Town has recently released such as an SUV for Public Works, the solar array and consultants for the revaluation project and the comprehensive plan vision and values process. He expressed concern related to the timing of the revaluation project and the Fire and EMS staffing study. He expressed concern about recently created Town staff positions and the hiring of consultants. He was concerned that the town was heading towards another tax increase. He said that he had not been receiving e-alerts.

Chair Kuhn closed the public comment period.

Councilor Trickett said he was worried about the Town's budget next year, but that said, these costs are transfers within the budget not new appropriations. He asked for clarification that these costs do not materially impact the actual budget for 2020. Mr. Poore said that was correct. Councilor Trickett said that the dump truck cost jumped out at him; the enormous price increase with tariffs. He wondered if the Town was buying something at an artificially heightened level right now. He asked Mr. Poore if the dump truck was something that the Town budgeted for and that the Town was just dealing with a price increase? Mr. Poore said yes. He asked if there were any significant time constraints if the Town was to wait until early 2021? Chair Kuhn asked how much of the \$65,000 is attributable to the sweeper that has already been purchased? Mr. Poore said \$35,000. Councilor De Lima said she liked the idea of deferring the sweeper if the Town could

do without it, but she felt that it was uncertain when the tariff situation would end. She reminded the Council that an additional public works staff member was hired to do snow removal. She asked Mr. Poore if not purchasing the plow truck would create a mismatch between personnel and equipment? Mr. Poore said that Jay Reynolds, Public Works Director, and Pete McHugh, Finance Director, could answer those questions but were not available to attend the meeting.

Councilor Asherman said that the second order was a transfer between the Street Improvement Fund to the Public Works Vehicle CIP Fund. He asked how the transfer would impact the Street Improvement Fund? Mr. Poore said that it would be hard to answer that question right now because it depends on several factors including how the TIF plans are funded and new updates to the paving schedule. He said that staff were trying to avoid using fund balance; the goal was to transfer funds if possible.

Councilor De Lima said that in her experience, the Town staff are thoughtful individuals who are not rushing to make decisions. She trusts staff not to make frivolous requests. She was in support of these recommendations. Councilor Trickett agreed with Councilor De Lima's comments. He believed that staff are focused on making sure the Town is not wasting money and that resources are being allocated in a way that minimizes unnecessary costs. Regarding hiring consultants, the staff work to make sure that the Town is spending money on discrete projects in a way where a permanent staff member is not being added when it is appropriate to have a consultant for short-term or ad hoc project. He felt that the Council needed to be careful not to get too into the weeds in terms of operations and internal departmental budgets. He hoped that Mr. Poore would follow up with Mr. Reynolds and continues to make sure that the Town is allocating resources as efficiently as possible, but he did not want to create a situation where the Town was deferring capital expenditures. He supported the orders. Chair Kuhn said she felt the same way; she was prepared to support the staff recommendation. Councilor Hemphill agreed.

Motion carried 6-0.

Item 6 Order to approve a supplemental appropriation from Unassigned Fund Balance in the amount of \$45,000 to fund the Town's enhanced and ongoing communications efforts.

Mr. Poore reviewed the costs that the \$45,000 was needed to fund. \$13,500 was needed to cover the weekly Forecaster ads for the rest of the year. That is not the entire cost. Some of the cost is being funded through the TIF development plan. \$15,000 is needed beyond what was originally budgeted for staffing. \$16,500 is needed for additional printing costs related to the mailings and first edition of the Falmouth Focus. Communications was not a budget line item going into this year. Town staff now have a lot more information that will inform the creation of next year's budget.

Councilor De Lima moved the order; Councilor Asherman seconded.

Chair Kuhn opened the public comment period.

John Winslow of Gray Road said he was confused about the staff portion of the communications budget. He asked why additional money was being appropriated for staffing costs. He expressed concern about the budget not being presented to the public. He was concerned about another increase in property taxes.

Valentine Sheldon of Route 88 felt it was great that the Town is working to improve its communications efforts. He also desired to see the budget breakdown. He asked about the balance of the undesignated fund. He felt that the communications plan should have been presented before funding was appropriated. He expressed concern that new communications methods were being implemented based off the survey

responses when he said only 6% of the households in Falmouth responded to the survey. He wanted to see more outreach. He suggested mailing a print version of the newsletter.

Bill McKinney suggested that the item be tabled until Town staff have answers to the Councilors' questions about how the money was being transferred between accounts.

Chair Kuhn clarified that about a third of the requested funds will go to staffing costs. She said that is because the Town hired a new staff member who was not there before; a part-time employee specifically to do this work. She said that the Town plans to mail a print version of the newsletter twice a year with the tax bill. The mailings costs thousands of dollars. There are print copies of the newsletter available at Town Hall, the Library, and Mason-Motz. It is an unusual situation to be developing communications methods outside of a plan and the regular budget process. She said that the Council told staff not to wait while the communications plan was being developed to implement new communications processes. To some extent this is money already spent because it is what the Town did for the first six months. Going forward it will be part of a plan that is properly budgeted for. Councilor Asherman said none of the three items surprised him. The Council has been spending a tremendous amount of time discussing communications and the cost of various alternatives such as adding staff, increasing the advertising budget for the weekly Forecaster ad, etc. at Council meetings and workshops over the last four or five months.

Councilor Trickett asked if the requested \$45,000 was anticipated to fund these communications initiatives through the end of fiscal year 2020? Mr. Poore said yes. Councilor Trickett asked if this was the only appropriation that the Council will be making outside of the budget for communications? Mr. Poore said yes. Councilor Trickett said the Council has not only been discussing communications at meetings and in workshops but has received public comment at meetings, in emails, and through the survey. The Council has gotten a lot of feedback. Before tonight, he had not heard anyone say that the Town should not be implementing the new communications initiatives. He has heard feedback that the Town could do a better job with the Falmouth Focus or other content criticisms but has not heard that this is not money well spent. He felt that this \$45,000 was some of the best money that the Council has spent. He felt that the hiring of a part-time communications director was an effort by Mr. Poore to minimize the incremental cost increase by just spending the amount that was needed to be able to have effective communications. This is what it costs to do the kind of communications that the Town is being asked to do. Going forward, he hopes that the Council continues to assess whether the mix of communications tactics that the Town is using are the most effective. He was curious to see whether it is a good use of money to do the weekly Forecaster ads. He was proud of what the Town has done with this money and will do. He did not think it was very much money over the course of a year given the change in the level of communication that the Town has done with its residents. This does not reflect the tremendous amount of work, time, and thought that has been put into this by staff, the Council, and volunteers over and above the incremental cost of hiring someone new and paying for things like advertisements, postage, and printing.

Councilor Hemphill felt that the Town has been responsive to community input. He felt that the money that has been spent is a good value and that the Council is being responsive.

Chair Kuhn did not feel that the Council could go back on the new communications initiatives now as the Council has received so much positive feedback. She felt that it was much needed and a good improvement.

Councilor De Lima agreed with Councilor Trickett's comments. She felt that at some point because of the cost it will be worth reevaluating the weekly Forecaster ads. She urged residents to subscribe to the online version of the Falmouth Focus. She recognized that some residents like the Forecaster ads because they read the Forecaster and it is one place to get all their news, but it is a costly approach.

Councilor Johnson felt that because the money being requested is largely to fund staffing and the tools needed to execute the communications plan, if the Council changed the amount of funding it would provide a staff person but would not give the staff person any resources to do their job. He felt it was totally appropriate and trusted staff guidance.

Motion carried 6-0.

Item 7 Order to accept the donation of land and to authorize the town manager to execute the transfer of real estate.

Mr. Poore said that staff amended the order that afternoon. He had not thought that a supplemental appropriation for the closing cost was needed because he thought that it was well funded for in the Open Space Fund. He decided that afternoon to amend the order to include a supplemental appropriation because the Open Space Plan does not identify this acquisition, so Council authorization is needed. The amended order now says to accept the donation of land, execute the town manager to authorize all documentation to convey the land to the Town, and then a supplemental appropriation for \$3,000. The Open Space Fund has a significant balance so it can handle this expenditure.

Amanda Stearns, Open Space Manager, said that the amount of money needed for the closing costs is uncertain because it is unclear at this time how much title work will be needed. The property is being donated by two different family members that received the property through two different estates so there may be additional legal work that needs to be done. She agreed with Mr. Poore that if the Council decides to approve the order at \$3,000 that would be conservative in terms of making sure that enough money is appropriated in order to pay the closing cost. She said that the Suckfish Brook Conservation Area is on the east side of Mast Road. She referenced a map included with the agenda. The area is in both Falmouth and Westbrook. The Town owns a substantial acreage in what is now known as Suckfish Brook Conservation Area. The other half is owned by Westbrook. Those were both purchased through grant programs. The donated land is around a one acre and has no frontage on Mast Road but abuts both a portion of Westbrook's property and the Town's property and contains some of the same wetlands/bog complex. It is primarily wooded and is vacant. The McDermott family approached the Town several years ago but decided not to pursue the donation and now they are back before the Town asking that the Town accept the donation of the property. It has been surveyed.

Councilor De Lima asked what the benefit to the Town was to have it the property versus not have it. Ms. Stearns said the property contains habitat that is like the conservation area that the Town already owns. The only other value that it has is to the abutting property owner. If that owner were to decide to purchase it, they could develop a portion of the property. If the Town accepted the donation it would keep the property as a buffer. There is a short trail that can be entered through Westbrook with an observation deck that overlooks a bog. There is an opportunity to put a woods experience trail from Mast Road into the observation deck. It is being offered to the Town and it is in its natural state so there is nothing that the Town would have to do with it. The family who is offering the donation worked very closely and very positively with the Town to purchase the Suckfish Brook Conservation Area as well as the Suckfish II area on Highland Lake. All in all, it has a slight benefit to the Town but is also an ask of a Landowner who has worked very closely and positively with the Town to conserve important habitat in this area.

Councilor Asherman was familiar with the property. The access from Mast Road goes in through Westbrook's property to get to the Falmouth property. This could allow a trail to be built on Falmouth property. There is an old logging road that the Town could use to build a trail.

Councilor Trickett asked about the shape of the parcel. He asked if the parcel was the family's entire parcel or if they also owned the adjacent parcel. Ms. Stearns' said that the family only owns the parcel that is being

offered for donation. She did not know why the parcel was shaped the way it is. Councilor Trickett asked if to access the property from Mast Road one would have to cross the abutting lot? Ms. Stearns said yes, however, the Town has a very good relationship with Westbrook with regard to its conservation area and public access is across Westbrook's land so while the Town could pursue access from the abutting lot, she did not believe it was necessary. Councilor Trickett asked if other than improvements to the property such as building a trail did owning the property impose any incremental cost on the Town? Ms. Stearns' said it would be very difficult to measure any incremental cost to the Town.

Councilor Johnson asked if it was feasible that a trail could be built from Southwest to Northeast along the corridor? Would there be a benefit to potentially having a trail there? Ms. Stearns said she thinks that there could be a trail there. A portion of it is wetlands so the Town would have to be careful about how that was done. She thought that around 50% of the property is upland but was not sure about the exact location of the wetland boundaries. She said that one of the things that the Town is trying to do through its conservation properties is to provide more of a natural experience. There are no plans to build a trail in there right now. That would be something that LMAC would review and determine if it made sense at a future date.

Councilor Asherman moved the order; Councilor Hemphill seconded.

Chair Kuhn opened public comment.

Claire Langlois said that she was the executor of her mother, Patricia McDermott's estate. She represented the McDermott family in these various donations and sales. The family sold 93 acres to the Town which was mostly funded with federal grants. The family sold 35 acres to the City Westbrook. Westbrook has a permanent easement that has been granted to Falmouth near the property currently up for donation. When she was working on the Westbrook sale, she was not sure if it was going to go through so she kept the property currently up for donations so that she could access the land. She felt it was important for the Town to have access to the land and to control what the abutters do. The family conducted a complete title search and she issued a deed which was signed by the conservator. She did not think it would cost the Town very much money, but the deeds are confusing to read. She hoped the Town would accept the land. Councilor Johnson asked for clarification that the strip of land that Ms. Langlois has been holding on to was the property in question. Ms. Langlois said yes. She could sell it to the abutter but would rather that the Town have it.

Chair Kuhn closed public comment.

Councilor Hemphill thanked the family. He was familiar with the property and felt that it was a great asset. He strongly recommended that the Council agree to acquire this very generous donation.

Motion carried 6-0.

Item 8 Order to go into Executive Session pursuant to the Laws of Maine, 1 M.R.S.A. § 405 (6) (C), to discuss negotiations of a proposed agreement regarding the use of privately-owned property for public purposes.

Councilor Hemphill motioned the order to enter executive session; Councilor Trickett seconded.

Motion carried 6-0.

The Council entered executive session.

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Respectfully submitted,

Marguerite Fleming

Recording Secretary