

Town Council Meeting Draft Minutes July 23, 2018

The meeting was called to order at 7:00 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

John Winslow of Gray Road spoke about the Route 100 reconstruction project, which was passed by referendum in 2016. He said he hasn't heard any updates since January of 2018. He has asked for updates and not received anything. In conversations with two estimators, he was told road construction costs are increasing roughly 1-2% each month right now. He would like to see something from the Town with an updated schedule.

Town Manager Nathan Poore responded and said the project was delayed due to right-of-way work and scheduling the appraisers. The project is still hung up on that work; there are a couple properties that still need to be addressed. The schedule was to go out to bid this past spring and it has been put off until fall. Construction estimates including excavating have increased and continue to do so. The engineers have suggested that bidding the project in the fall may be better for the Town instead of the summer.

Item 2 Consent Agenda

- **Order to approve the minutes of the June 4, 2018, Town Council Special Meeting**
- **Order to approve the minutes of the June 18, 2018, Town Council Organizational Meeting**
- **Order to approve the minutes of the June 25, 2018, Town Council Special Meeting**

Motion made by Councilor King to approve the minutes; Councilor Asherman seconded.

Public comment period opened; there was no public comment.

Motion carried 7-0.

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

Chair Hemphill reported on ecomaine's efforts to publicize the needs for recycling compliance. There was a article in the Maine Sunday Telegram on July 22. He encouraged people to pay attention to the quality of the recycling waste stream. A list of "do's and don'ts" information is at Town Hall, Transfer Station, and Public Works. Ecomaine also has an app that can be downloaded for people to find out what can and cannot be recycled.

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

Councilor Ferrante gave the report from the committee. They are recommending the appointment of John Adelman and Fred Farber to the Land Management and Acquisition Committee (LMAC).

Councilor Svedlow moved the slate of appointments, Councilor Kuhn seconded. Motion carried 7-0.

Item 5 Public Hearing and Order to approve a new victualer license for The Barn at Smith Farm.

Councilor King asked when the site would be reviewed, before the license is granted or after.

Ellen Planer, Town Clerk, said the owner has been working with the Codes office and has received approval.

Chair Hemphill opened the public comment period.

John Winslow of Gray Road spoke in favor of the application and encouraged the Council to approve both licenses. They have put a lot of work into the property and it will be a benefit to the Gray Road community.

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

Item 6 Public Hearing and Order to approve a new liquor license for The Barn at Smith Farm.

Councilor Svedlow asked if “spirits” is inclusive of wine and beer and was told that it is. He pointed out that there are 3 co-applicants on the application by only one date of birth is listed. He suggested that the applicant should complete this tonight if possible.

Ms. Planer said that would be fixed before it is sent to the State.

Public comment period opened; there was no public comment.

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

Item 7 Update and discussion on the renovation and expansion of the Falmouth Memorial Library.

Martha Clark, President of the Library Board of Trustees gave a presentation and provided a project update. They received a construction estimate in May that was \$2.2 million over budget. In June they began value engineering and identified \$1.2 million worth of reductions that would not jeopardize the integrity of the project. They are here to request that the Town help them cover the remaining shortfall with a \$1 million bond. She explained that the bidding climate has changed dramatically since the original bid in 2014. They had planned for an inflation rate of 5% a year which is standard in the building industry. When they went out to bid the second time, they had issues getting enough bids; in some instances, they only received one bid. Metals and site work costs have increased significantly, and lumber costs have gone up due to several factors such as fires in Canada, invasive bugs and tariffs. A lack of subs and workers has also added to this dilemma. This is not happening just in Southern Maine, but around the state, affecting building projects in Camden/Rockport, Yarmouth’s library project, the Jesup Memorial Library project and even MDOT. Yarmouth’s \$35 million project came back at \$60 million after going out to bid. Site conditions have also had major impacts; soil conditions on the site are poor, requiring more structural accommodations than were expected. It seems that when the 1995 addition was built, the Town granted the Library a waiver on the stormwater standards and no remediation was done. They now have to bring the site up to standard. The type of treatment they have to do, due to the tight site and the soil conditions, does not tie into the Lunt Road

system. They have to remediate Lunt Road. In trying to address the cost overrun, no options were off the table. They have considered moving off site but purchasing land would be expensive and residents have made it clear that they want the library to stay where it is. They considered tearing down and starting over, but they would still have the soil and stormwater issues. They discussed putting the project on hold, but costs could get worse and the current building is failing. They had to close the building three times last year due to sprinkler and furnace issues. They discussed building a smaller addition, but the original referendum was for an 18,000sf addition. That is the smallest addition recommended by the report; anything smaller will not meet their needs. She discussed the value engineering and the modifications they have made to the plan to save money including changing materials, redesigning some areas and eliminating LEED certification fees. The goal has always been to have the building be energy efficient. They also deleted the basement. One of the most important things is the future of the library. The most efficient library space is about 20,000 sf on one floor and they are getting close to that. Any future addition would probably need to be a two-story addition. They are here to ask the Council to consider going to a bond in November for up to \$1 million. They will be postponing going out to bid until late fall in the hope that it will be a better bidding climate since they won't be up against road work or school projects. They will continue to apply for grants; they have received two in the past and are likely to get another one. They will continue their annual fundraising for the operating budget, since they are a non-profit and are required to raise 22% of their budget each year, but they will also strategically fundraise for this effort.

Councilor Svedlow asked how much future grants might be. Ms. Clark said they know about a \$20,000 and a \$50,000 grant for sure. They are looking into whether there are any grants for stormwater.

Councilor Cahan asked if the additional amount includes a contingency. Ms. Clark said yes, it's 5%, which is standard for a project like this.

Councilor Kuhn was concerned that some of the cut items seem to be central to the project, and she wondered if folks who already voted for the project will be concerned with removing them, especially the basement and the LEED fees. Ms. Clark said it would be over \$500,000 to put the basement back in. They could maybe put the LEED certification fees back in with a grant. She is going back and talking with LEED donors; the ones she has spoken with so far do not appear to be bothered by it. She wasn't sure most donors even knew about the basement. She didn't want to do a disservice to any of the donors.

Councilor Hemphill asked if they are planning to build it to LEED standards and not apply for the certification. Ms. Clark said yes in terms of the energy. There are some things in the point system, showers for example, that they would leave out if they were not going for certification.

Councilor King agreed that since it is point based you end up chasing points. She thought there are other certifications that can showcase the building to be energy efficient.

Councilor Svedlow thought LEED certification is the least of the issues. He was sure the building will be energy efficient. His concern was going back to the voters to ask for \$1 million. This is a big number and larger than any contingency that he felt comfortable with. He wasn't convinced that they have done enough to reduce costs to justify going back to the voters. He also was concerned about going out to the voters at the same time as bidding the project. He was concerned that contractors would see the referendum and increase their bids to match.

Councilor King wondered about the timing of going back to donors and applying for grants and the referendum. Ms. Clark said they can go for one grant in August or September, but the other is in the spring next year.

Scott Simons, of Scott Simons Architects, said he is seeing huge inflation on the budgets of all his projects. No one saw this coming. There are school projects looking at 25% increases, and three other libraries looking at 30-33% increases. He has been working with the Town for 4 years now on this project. This project meets the needs not only in square footage, but also other intangible needs such as community needs. It was designed so that they won't need additional staff. It is designed to be a tight envelope; the walls have a R40

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value and the roof is a R60. Operational costs will be minimal due to the efficiency and it will also improve the performance of the existing building. The changes they have made include changing windows to make them smaller and more standard sizes, and changing the stone face to grey brick, which saved \$187,000. He discussed waiting until spring with a trusted contractor; costs will likely plateau at the end of the summer, but they don't think they will go down. The contractors he has spoken to all recommend doing the site work in the fall-winter, when there will be more favorable costs. They are still working on reducing and cutting costs, but they realize that they need some help.

Councilor Svedlow was concerned that they may be building in a bubble. This could be a short-term issue, but it could not which could be risky.

Councilor Cahan asked about the timing for placing this on the ballot. Mr. Poore discussed the timing. The last opportunity for the Council to take action would be the first meeting in September but he would recommend taking action at the last meeting in August. That would mean they should start drafting language now. He didn't think drafting language would be difficult so if they need to discuss it further, they have time.

Councilor Svedlow asked for some data on the proposed bond, how it would affect the mil rate, etc.

Councilor Kuhn asked how this level of increase relates to any other projects coming in town, and whether it was standard or exceptional. Mr. Poore said the only other bid that was put out this summer was for Blueberry Lane, which included reclaim and drainage work, sidewalk, pedestrian scale lighting, etc. The project was budgeted at around \$325,000. The lowest bid they received was almost double that and the highest was triple. Staff decided to put off the project and go back out to bid in the fall rather than come back to the Council. They felt they could get another year out of that road. There isn't much to cut from the scope of work on that project.

Chair Hemphill said the Library has stated that their building is at the end of its life with mechanical failures etc. They have done a lot to evaluate their needs and he is convinced that they have prioritized their needs. Going back to the voters is a big ask and not an action to be taken lightly. Determining if this is a bubble or not is hard to do.

Councilor Svedlow asked if they can put a mandate on updating the boiler and sprinkler system and delay for 6 months or so to see what happens with construction.

Councilor King said people have been asked to make pledges and are ready to donate based on a schedule. There is a risk that the community will not support a bond, but she wouldn't want to stand in the way of the community deciding this. She asked that the bond be structured so there are opportunities for other sources of revenue. She supported the bond if it is done carefully.

Councilor Asherman was anxious about whether there is a bubble, but he supported Councilor King's statement. He was comfortable with this going to a public vote.

Councilor Ferrante understood the angst they are going through; it is hard to let go of something you really want and also hard to figure out when you need to let something go. She wanted to hear more about the bond and would rather take this slow.

Councilor Kuhn wanted to get feedback from the public, perhaps at a forum. She asked what the opportunities are for public input under the timeline. Mr. Poore said it would be required at the meeting at which they consider the order, which would be the second meeting of August. They could also schedule extra public comment at the next meeting if they wanted.

Councilor Cahan supported scheduling additional public comment. She encouraged the Library to continue looking at alternative sites and funding.

Councilor King wasn't sure it was helpful to have additional public comment without a draft of the referendum.

Councilor Svedlow would really like to see the financial analysis. If it is going out to a public vote it is their responsibility to make sure it has been vetted entirely.

Mr. Poore said the bond question would be fairly straightforward and would probably be structured as an amendment to the previous referendum.

Chair Hemphill suggested scheduling a public comment period on this issue for the next meeting.

Councilor Asherman asked to see the financial estimates at that meeting as well.

Councilor Ferrante would like the library to host a workshop to gather more input. Ms. Clark said they are more than willing to do that but was concerned about the tight timeframe.

Councilor Kuhn asked if they can have draft language for the referendum for next meeting. She appreciated Councilor King's point about having something specific to react to.

Chair Hemphill said they have three more meetings to take action for the November referendum. Mr. Poore said they would not have to complete the MOU language in that timeframe. The MOU is more detailed, where the referendum is a bit more basic. He spoke about the language in the MOU with regards to fundraising; the current language is if they raise more, the Town puts less in. The language already built in the MOU may include grant funding as well.

The Council asked to have public comment at their next meeting; an updated presentation from the Library with concrete next steps and more details on fundraising plans, including grants; and updated numbers on the effects of additional borrowing.

**Item 8 Workshop discussion with proposed Falmouth Center developer
Jonathan Cohen on process options.**

Johnathan Cohen, developer, said he wanted to make sure they are all on the same page for the site. The plaza was built in 1959; it was previously a field with one abutting home. All the homes abutting the parcel were built after that time, and the owners knew it was a commercial zone. There have been numerous studies and charrettes about this site; everyone agrees that something needs to be done with it. When the opportunity came up in January of this year, he jumped at it because he wanted something better for the community. He lives in town and is at the center often. They based their design of the center on the previous discussions and studies. Due to changes in shopping habits, they need more than brick-and-mortar stores. They need a multi-use solution to bring people to the site. The sports field would serve that purpose. They thought the Seacoast program would be a great fit for the community and the school system and were lucky to get it. He spoke about their programs. He said they are asking to move the zoning line approximately 70 yards in order to locate the sports fields on the lowest value property on the site. This would be a low impact development with no impact on the schools and a net positive impact on taxes in the Town. They moved the fields to address concerns and have also addressed lighting and noise concerns. He clarified that this request is not for the bigger master plan development, but just for the sports complex. The project is time-sensitive, and they would like to hear whether they can move this zoning line change forward. He pointed out that he is not asking for public money, but this would benefit the children of Falmouth. They are bringing private funds into this and developing land that has been fallow since 1960. He said they are only looking for approval for this project and not the full development. They can't develop a master plan at this time because they don't have the DOT land under contract yet. It isn't realistic to ask a developer to spend money on a master plan when they have no commitment yet.

Chair Hemphill said the Council proposed a process where they could consider the plan more comprehensively with the turf fields, traffic, lighting, storm water, noise, and the economic viability of the project. They hoped that it would give the Council and the Town a better idea of what the implications were and address some of the concern.

Mr. Cohen felt part of the concern was because they showed the vision for the entire parcel. What is on the table right now is just the playing fields. What the town is asking for regards the entire development. They have put everything on hold in regard to the DOT land. They need an official position from the Town on whether they need a full master plan in order to move forward with the soccer fields. All of these requests are part of the Planning Board process, they are not optional.

Chair Hemphill thought a lot of the concerns and questions are about how this will impact people and he felt those can be adequately addressed. It hard for them to consider just one aspect of the project at a time.

Councilor Ferrante thought the playing fields were the least favored part of the whole thing. She would like to know how this is all going to pan out in the long run. For the most part, the negativity is coming from the playing fields. She was concerned about asking them to expedite the least favored part of the project.

Councilor Kuhn said some of the studies the Council asked for weren't comprehensive for the whole project but more specific to the playing fields. They would address the impact on traffic and the environment.

Councilor Cahan said it's very challenging to make a decision on this one portion. There is a lot to the whole project that would be beneficial for the community. Because of lease conditions, they would be stuck for many years. Her understanding from the last meeting was that the Council wanted Mr. Cohen to master plan the whole thing first.

Mr. Cohen agreed but restated that he cannot do a master plan on land that is not under contract. He would like more public input and to hear from people that support it. He thought the Council was not in favor of doing a zoning change based on what he heard tonight.

Councilor King didn't think the master plan would have to include the DOT land; it could be amended in the future. It could also look at what is likely an arbitrary zoning line, and review whether the whole lot could be VC1.

Mr. Cohen appreciated the input but pointed out that time is critical. The increases in construction costs are a concern, and demand is not likely to go down anytime soon. The likelihood that suppliers will hold pricing long enough to make the project viable is very challenging.

Councilor Ferrante agreed with Councilor King; the plan does not have to include the DOT spur either. She wondered what he can put in front of the Council that is more than just the fields.

Mr. Cohen said getting the whole thing switched to VC1 would make life easier instead of coming in to do a zone change.

Councilor Ferrante asked about the change to the fields. Mr. Poore said there are two changes that have been made. The Council saw the change that moved the building and fields slightly.

Councilor King asked what things they could discuss and the timing. Mr. Poore said with a master plan, the Council will do its best work if they can identify what they would like and don't like and pick the tools needed to work with the public and the developer. It could be quite simple, extending the VC1 line all the way over and then the master plan would only provide things the developer needs, such as the carwash, asking for a larger tenant for the sports building; there may not be much more than that. Then the Council might want to include some items that they want as well.

Councilor Svedlow felt there wasn't much appetite for a stand-alone zoning amendment, but for a more comprehensive plan.

Councilor Asherman said he was personally in favor of this project and he would like to see the athletic fields in there somehow. He didn't think the master plan approach is kicking the can down the road. He felt they were interested in pursuing this and fitting the athletic complex in as a part of it.

Chair Hemphill thought some of the concerns were addressing these impacts, getting a better handle on how traffic could work. They aren't asking for final answers, but a way to address concerns on potential impacts.

Mr. Cohen felt those things would be addressed at the Planning Board. He thought they were getting lost in the bigger project rather than addressing the fields, which are designed to go into the lowest value land on the site.

Councilor Svedlow pointed out that Mr. Cohen didn't propose soccer fields, but the entire development with the soccer fields first. The Council has said they aren't comfortable doing it that way.

Councilor Ferrante wanted to see the site maps that show where the fields have changed. She understood that the developer needs a timeframe, but she said the Council needs more than just information on the soccer field. It didn't feel right to her to say yes to something without hearing more about his future plans.

Councilor Cahan needs to see an environmental report that shows different aspects and a traffic impact before moving this forward.

Councilor Kuhn was concerned about statements that the entire development is in jeopardy because of this "black and white" ultimatum regarding the fields. There has been a lot of interest from the Council and the community for the rest of the project.

Councilor King pointed out that he cannot get a zoning change from the Planning Board; the Council is the only one who can grant that. She felt it would benefit both the Town and the developer to continue the process.

Mr. Cohen said he will work with his team and regroup and see where we can go from here.

Item 9 Ordinance to amend the Code of Ordinances, Chapter 8, relative to food service establishments.

Mr. Poore said this is a rewrite of ordinance language to address all food services. It originally started as a food truck matter, but staff rewrote the whole section.

Councilor King said this amendment cleans up the code of ordinances tremendously.

Councilor Kuhn asked why the fee is higher for mobile food vendors.

Councilor King said it compared to other towns and cities and reflects processing. Councilor Svedlow said the town has to review the site every year for a mobile food vendor; a fixed location doesn't have to be reviewed annually.

Councilor Svedlow moved the ordinance; Councilor Cahan seconded. Motion carried 7-0.

Item 10 Order to amend the Town's fee schedule for food services.

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

Councilor Cahan moved the order, Councilor King seconded. Motion carried 6-0. (Svedlow absent)

Item 11 Introduction of amendments to the Code of Ordinances, Chapter 8, regarding temporary signs.

Chair Hemphill explained that the proposed ordinance was changed to address a request from the Farmers' Market to allow signs in the esplanade on Route 1 in a limited fashion.

Councilor Asherman was satisfied with the change. Mr. Poore said they had reviewed it with the Farmers' Market and they were satisfied as well.

Councilor Kuhn clarified that the provision doesn't only apply to the Farmers' Market; it applies to anyone who wants to do this.

A public hearing was scheduled for August 27.

Item 12 Order to vote for MMA Legislative Policy Committee.

Chair Hemphill said Councilor King has agreed to serve in this capacity again this year.

Councilor King said that normally there are two representatives from Senate District #25 and those representatives have to be either an elected official or a municipal officer. Unfortunately, this year, there has been no one nominated from the 5 other communities in the district. She asked if anyone on the Council wanted to join her as a write-in candidate.

Mr. Poore said he contacted Gray, Cumberland and Yarmouth and no one had any interest. The deadline for submitting the ballot is August 2.

Councilor Cahan agreed to add her name as a write-in candidate.

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

Councilor Svedlow moved to vote for Councilors King and Cahan. Asherman seconded. Motion carried 7-0.

Item 13 Order to vote for MMA Vice President and Executive Committee Directors.

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

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

Adjourn

Councilor Svedlow moved to adjourn; Councilor Ferrante seconded.

Meeting adjourned at 9:22pm.

Respectfully submitted,

Kimberly Darling
Recording Secretary

Melissa Tryon
Executive Assistant