

**Town Council Meeting
DRAFT Minutes
August 25, 2014**

Meeting was called to order at 7:00 pm.

Roll Call

Councilors Anderson, McBrady, Mahoney, Farber, King and Hemphill were present and answering roll call.

Councilor Goldberg arrived after roll call.

Pledge of Allegiance

Chair Farber led those present in the Pledge of Allegiance.

Item 1 Public Forum

Mike Doyle of Applegate Lane spoke about a lawsuit he has filed against the Town, alleging that the Town has overcharged him for Freedom of Access requests. He argued that the Town is wasting money by continuing to fight his lawsuits.

**Item 2 (a) Order to approve the minutes of the July 14, 2014, Town Council
(Consent Agenda) Special Meeting.**

**Item 2 (b) Order to approve the minutes of the July 28, 2014, Town Council
(Consent Agenda) Meeting.**

Councilor Mahoney moved the consent agenda; Councilor King seconded. Motion carried 7-0.

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

Councilor King said CDC and LPAC are both working on implementation of the land use chapters of the comprehensive plan. They are working on defining the growth and rural areas. They are organizing outreach efforts for this fall and will notify the public when those are scheduled.

Councilor Mahoney reported that school starts next week. He recognized Cooper Higgins, school athletic director, for all the hard work he does.

Councilor Anderson said construction of the Veterans Memorial is under way and on schedule. They have received a good amount of volunteer help. They are hoping to have a celebration on Veterans Day in November.

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

Councilor McBrady moved the order; Councilor Goldberg seconded. Motion carried 7-0.

Item 5 Order to endorse three paving projects in the PACTS 2016-18 Work Program.

Town Manager Nathan Poore explained that there are three projects listed; combined they constitute an overlay project along the entire length of Route 1 except for the two sections between Route 88 and Bucknam Road that are part of the Route 1 project currently underway. The combination of these two efforts will result in an overlay on Route 1 from town line to town line by 2018. A 25% local match will be required and staff will draft recommendations for the Finance Committee to review.

Public comment period opened; no public comment.

Mr. Poore said the total project is \$2.5 million; the 25% local match is included in that number.

Councilor King moved the order; Councilor Anderson seconded. Motion carried 7-0.

Item 6 Consideration of a request from two developers - Tidewater, LLC and JCAP Properties, Inc. - for street acceptance of Farm Gate Road.

Mr. Poore said staff have reviewed the application submitted by the two developers. This project is a good example of what interconnectivity should look like.

Public comment period opened; no public comment.

Councilor Mahoney asked about the public benefit of accepting this road. Mr. Poore said it would allow another connection between Route 1 and Lunt Road.

Councilor Mahoney pointed out that the maintenance of Farm Gate would be responsibility of the Town. Mr. Poore said that is correct.

Councilor Mahoney was concerned with the policy of accepting private roads and private septic systems.

Jay Reynolds, director of Public Works, said the ordinance was amended and a resolution was enacted in 2010 to strengthen the goal of interconnectivity of public streets.

Councilor Mahoney wanted to see the resolution, and to make sure the Planning Board is aware of the resolution. He asked if the residents of Farm Gate were aware that this may now become a through street.

Mr. Reynolds said he believed the residents are aware; there is a homeowners association that will be responsible for some of the amenities and they have already removed some of the signs that would not be allowed on a public street.

Chair Farber asked if there was a requirement for a notice to be sent to abutters along the street. Mr. Poore said there is not.

Chair Farber has some concern about the residents of this street being opposed to this street becoming a through street, considering it has been posted to forbid truck traffic up to this point.

Mike Tadema-Wielandt of Fay, Spofford & Thorndike, representing the applicants, explained that when the street was developed in 2005 it was clear that the developer's intent was for this to be a public street, while the other roads in the subdivision were intended to remain private. He said the residents are fully aware of the developers' intent for this street.

The Council requested that a notice be sent to the residents of the street regarding the street acceptance.

Mr. Reynolds explained that there are a few items that still need to be completed prior to scheduling the order. He asked that the Council schedule the order for September 22. He has discussed that date with the applicants.

Councilor Mahoney felt that would be a Public Works project.

Mr. Poore said they might be able to add clarifying language to the bond order to cover that possibility.

Public comment period opened.

Benita Anderson of Falmouth Road appreciated a community library. She has been a realtor for 25 years, and said a library improves home values. She supported the library expansion.

Faith Varney of Falmouth Road did not support the library moving from its present location. She did support buying the abutting property and the currently proposed library expansion. She also supported building the elevator now, so they could use the basement for book sales and storage and to provide for expansion in the future. She urged the public to vote for the library expansion in November, and to contribute to the expansion fund.

Alison Bishop of Allen Ave Extension loved the proposed expansion. She spoke of how she and her four children use the library, and how the expansion will benefit her family. She urged the Council to support the project and send it to the voters in November.

Ann Schutz of Stormy Brook Road is a member of the Board of Trustees. She and her children use the library, and she could see the need for improved teen space at the library. The expansion of the library will support growing needs. She asked the Council to approve the referendum

Becky Carrier of Stonyfield Lane said her four children use the library, but they do not linger due to her concerns with their noise bothering other patrons. She used the library growing up. The Town's population has grown from 7,000 to 11,000 since she was a child; the Town has outgrown this library. She cannot use the elementary school library, since it serves over 900 children, is not open outside of school hours, and is often full. She asked them to support the expansion.

Public comment period closed.

Item 8 Discussion of a proposed referendum question planned for the November 4, 2014 election and the development of a Memorandum of Understanding with the Falmouth Memorial Library, both associated with a proposed expansion.

Chair Farber thanked the Trustees for all their hard work. She supported funding at 50% as well as allowing \$300,000 for preconstruction costs. She pointed out that a Town Councilor and the Town Manager will be part of the building expansion committee and that, if the construction costs come in under budget, the Town and Library will benefit equally from those savings. The Library will have an owners' representative to help them oversee the construction project.

Councilor King was concerned with the length and structure of the referendum question.

Mr. Poore explained that the bond order, which includes 25 paragraphs, is available for people to review at the polls, but the question itself is only one paragraph. He agreed that the draft question is long, but he wasn't sure how they could shorten it without taking out some of the information the Council had requested.

Councilor Mahoney echoed Chair Farber's comments. He said the goal of the question was to show that both the Library and the Town are stepping up to fund this expansion project.

Councilor Goldberg agreed with Councilor Mahoney and Chair Farber. He said it was the \$300,000 portion that makes this very long, and he asked if that had to be included in the referendum question. He said many people will see this for the first time at the polls, and he felt they might be confused by it.

Jim Saffian, Bond Counsel, said the title of the order becomes the referendum question, and they have discretion with how much they put in the title. They could strip it down, and then either provide a handout to voters or have some other means to give the voters more information on the bond order. He pointed out that the dollar amount in the MOU is off slightly from the bond order; he suggested that they alter the language of the bond order to be “approximately” 50%, in case that number came in close to, but not exactly, 50%. Also they should make sure the dollar amount in the MOU matches the bond order.

Councilor Anderson asked about paragraph 18 of the bond order, which refers to the “cost of land”. He asked if that was boilerplate language, since there was a purchase of land with this project that is not included in project costs.

Mr. Saffian said it is meant to include any unanticipated costs they might run in to during construction. It is permissive not obligatory, so there is a lot of control on what funds the Town will release. It could be streamlined.

Mr. Poore suggested that they could clarify that it is for “additional” land rights and not for land that has already been purchased; they could need to acquire a drainage easement in the future, for example.

Councilor Mahoney said they could take the \$300,000 statement out of the title and include it in the bond order; it would still be binding.

Mr. Saffian said that is correct; it is already in the bond order.

Councilor Goldberg felt they were basically asking the public to approve a number and explaining what it was for. He suggested they take out some of the explanation of how it would happen out of the title and leave it in the bond order.

Councilor Hemphill felt that, as long as the terms are included in the bond order, a simpler message would be more effective. Councilor McBrady agreed.

Councilor Anderson agreed that the central question for the voters is the dollar amount and the percentage. He wondered what the early release funds would be used for, how great the risk was of the project not moving forward, and what the risk was of losing those funds.

Chair Farber clarified that the Town would only be responsible for 50% of that \$300,000, if the project didn't go forward.

Mr. Poore asked about the language that limits the project to be “substantially as designed”. It is included in the bond order as well, and he wondered if they wanted it included in the question.

The consensus of the Council was to change the referendum language to: *Order authorizing up to \$2,810,000 of the Town's Bonds to finance one-half the cost (not to exceed \$2,810,000) to renovate and expand the Falmouth Memorial Library, to be matched by additional funds to be provided by the Falmouth Memorial Library Association through a capital campaign and other fundraising efforts. up to \$300,000 of which Bonds may initially be issued for preliminary design, architectural and engineering costs and the balance of which Bonds may not be issued until the Falmouth Memorial Library Association has collected sufficient additional funds to complete the Library Project substantially as designed.*

Councilor Goldberg asked if the limit of \$2.8 million adds more risk. Leaving it out would allow them some more flexibility to finish the project.

Councilor McBrady asked to what extent the project can be scaled back without going back to referendum, in the event they haven't raised enough money.

Mr. Saffian said the charter requires a capital improvement over a certain amount to go to referendum. Adding anything to this would require them to go back for voter approval. If the intersection

improvement gets characterized as part of this project, and they want to bond for those improvements, they should think about how they want to do that.

Chair Farber said this is not just about bonding, but about spending. This authorizes both bonding and spending.

Mr. Saffian said in that case they would be stuck with the referendum limitation, unless they build something into the order.

Councilor McBrady asked what happened if it comes in less; Mr. Saffian said that would be allowed. It would have to go forward “substantially as designed” according to the language, but that would be a judgment call. Most of these projects do not have that condition and so coming in under the approved amount isn’t an issue.

Councilor Mahoney wondered if they could put the intersection improvements into the Town’s budget as a capital improvement. He asked if that would get included into this project or not, and whether it would require them to go to the voters.

Chair Farber said the only reason they would need to square off that corner would be if the Planning Board requires it as part of this project. That ties it to this project, and any spending related to the project would have to come in within this \$2.8 million.

Councilor Mahoney said if it is not required by the Planning Board but it still makes sense, it would not be part of this project. It would become a town project and would be paid separately. If it becomes a condition of the Planning Board approval, they could deal with it then.

Mr. Poore said the additional traffic from the library would not be the only trigger to squaring off the intersection; it has been identified as a good idea anyway. He thought the Council could address it in the next budget cycle as an independent project, but suggested a vote by the Council to synchronize it with the library project.

Councilor King pointed out that the \$300,000 is intended for architectural drawings, and not for fundraising.

Councilor Anderson was concerned with the private fundraising; the Town’s share is directly related to the private fundraising and he wondered how to get comfortable with that risk. He felt \$2.8 million is a real stretch, and he wondered if they were setting the project up to fail by reaching too high. He said the Council has two options to minimize the risk: either increase the amount contributed by the Town, or reduce the cost of the expansion now. If the fundraising came in higher, they could add items back in to the project.

Chair Farber said the further they move down the design process, the better the understanding of the real costs. Decisions about reduction could be made at that time. There may be ways to trim, though they may be limited by the “substantially as designed” language. If they don’t provide the \$300,000 up front, they would be pushing the project out by at least 2 more years. There are capital issues in the building currently that they are pushing off while planning the expansion. If they increase the time until the expansion take place, she wondered what additional costs they would incur to keep the current building running.

Mr. Porada said they have been putting together an updated plan for capital expenditure needs if the current building remains. He didn’t have the numbers with him tonight, but could get them. He said the sprinkler system is essentially being held together with band-aids and could become a problem. The mold issue is currently contained, but there is a risk that it could infiltrate the whole building.

Councilor Mahoney was in favor of increasing the bond amount to \$3.1 million and increasing the Town’s share to 55%. That would bring the Library’s contribution in line with the \$2.5 million in the

feasibility study. He felt a 55/45 split was reasonable. He felt this project is the best product at the best price. He didn't support paring it down now. He agreed with Councilor Anderson's concern with the risk with the fundraising. He felt they all want the project to succeed.

Councilor King thought increasing the range reduced the risk of losing the preconstruction costs; if the Town is willing to make sure the project moves forward, the early work will not be lost.

Councilor McBrady wondered why they would consider offering more than what the Library is asking. He wanted to simplify the referendum, matching the Library's contribution with what they can raise. He felt that raising \$2.8 million privately will be difficult. He felt strongly that the Town should only match 50%. He was concerned that the costs will creep up in the two years before this project gets started. He felt they should be designing a \$5 million library, if the study says they can raise \$2.5 million.

The Council discussed any potential opportunities for reducing the cost of the project.

Chair Farber wondered if they were creating their own hurdle with the "substantially as designed" language. If the Library can only raise \$2.5 million, the Town is then limited to the matching \$2.5 million, and this language wouldn't allow them to revise the plan down to a \$5 million library.

Mr. Poore agreed that removing that language would allow them more flexibility. Changing the language to "approximately 50%" would allow more flexibility as well.

Mr. Saffian agreed and suggested they could add "*substantially as designed, as determined by the Town Council*" to provide flexibility to a future Council as well. That would give them the ability to make revisions in the future.

Councilor Goldberg supported adding flexibility into the bond order. Councilor King agreed; if the order is rigid and fundraising falls short, there will be a lot of costs, time delays and problems as a result.

Councilor Hemphill would like to see the project go forward as designed but didn't want to allow enough flexibility that the fundraising falls short. He felt they should specify that the cost be matched at 50%.

Councilor Anderson felt they could legislate a lower cost without deciding how that should be achieved. He supported removing the "substantially as designed" language.

Councilor Mahoney thought they had the ability to determine what "substantially as designed" meant. He supported ending the question after "other fundraising efforts" and leaving it at \$2.81 million. He felt saying "one-half" instead of 50% would allow them some flexibility in the case that the percentage came to 50.05% for example.

Chair Farber supported ending the question after "other fundraising efforts" and softening the "substantially as designed". She didn't see the point of reducing the project at this point.

Councilor King suggested removing the "not to exceed" language. She wondered about the details of the \$300,000.

Mr. Porada said they have general details, but not a breakdown of individual costs.

Councilor Goldberg supported Chair Farber's suggestions and staying with the 50/50.

Chair Farber agreed with Councilor King's suggestion of removing the "not to exceed" language; it seems redundant since they are already authorizing the \$2.8 million. Councilor McBrady agreed.

Councilor Anderson argued that this project was originally \$5 million, and included the purchase of the adjacent property. It is now projected at \$5.6 million, and doesn't include the property purchase. He was asking to reduce the amount of the increase over the \$5 million.

Mr. Porada explained that the original numbers prepared by Scott Simons Architects (SSA) were based on average cost per square footage last fall. That came to \$5.05 million. This spring, SSA hired Conestco to send the plans out to construction companies for more precise estimates. That is what led to the \$5.6 million cost; it isn't that anything was concealed initially, but that the original estimate was a rough estimate. Removing the Kowalsky property was in response to the opinion of some Councilors that it shouldn't be included. The purchase of that lot will be covered by the Library, and should not be included in the project.

Councilor Mahoney said the scope of the project hasn't changed; we now have a more reliable cost estimate than we had before. Mr. Porada agreed, and specified that the total square footage has actually decreased from the originally proposed plan in November.

Chair Farber said the basement was added to the plans since the preliminary cost estimates. Mr. Porada said that was correct but explained that there is a significant grade change from the parking lot to the intersection; they can either install a basement or bring in a lot of fill to address that grade change. Either way, they have to spend some amount of money to address that issue.

The majority of the Council agreed that the wording should be changed to allow the Town to match the Library at 50% of the cost, up to \$2.81 million, and work in more flexibility on the design. They would like to shorten the title.

The order was scheduled for September 8 and the Council will take public comment at that time. A public hearing on the referendum will be held on September 22.

Adjourn

Councilor Goldberg moved to adjourn; Councilor King seconded. Motion carried 7-0.

Meeting adjourned 9:40 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary